ALERT

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CalChamber
CALIFORNIA CHAMBER OF COMMERCE

CalChamber Still Opposing Health Care Tax Proposal

Amendments made this week to add more specifics to the health care tax proposal moving through the Legislature have not reduced the **strong opposition** of the California Chamber of Commerce to **AB 8 (Núñez; D-Los Angeles)**.

AB 8 imposes a tax on employers who can't afford to provide health care coverage to fund health care coverage for those who don't currently purchase it.

The bill sets up a government-run health care system for employees who don't receive health care from their employers financed almost exclusively by a payroll tax on all employers who don't spend a certain level of funding on employee health care.

Tax Hikes Likely

AB 8 grants an unelected government bureaucracy— the Managed Risk Medical Insurance Board (MRMIB), unpaid appointees of the Governor and Legislature — the authority to increase the employer tax to whatever level it deems appropriate to pay for the comprehensive benefit package in the proposal.

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CalChamber Supports Trade Mission to India

The California Chamber of Commerce is urging its members to indicate their interest in joining Governor Arnold Schwarzenegger on a trade mission to India this fall.

California is one of the 10 largest economies in the world, with a gross state product of more than $1.5 trillion. International-related commerce accounts for approximately one-quarter of the state's economy.

The India trade mission will promote California products and services, encourage foreign investment and expand cultural and educational ties with the world's second most populated country.

Trade and commerce form a crucial component in the rapidly expanding and multi-faceted relations between India and the United States. From a modest $5.6 billion in 1990, the bilateral trade in mer-

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CalChamber Leads New Information Network to Prevent Heat Illness

The California Chamber of Commerce is urging businesses and associations to join a new network that will disseminate information to employers and employees to help prevent heat illness.

The Heat Illness Prevention Network (HIP Network) is a voluntary public/private partnership with California businesses and trade associations and the state Division of Occupational Safety and Health (Cal/OSHA). The network was established to increase the knowledge of both employers and employees about the importance of heat illness prevention in creating a safer working environment in California.

The network will disseminate timely information provided by Cal/OSHA, and encourage the implementation of the recommended prevention measures.

Heat Illness

Heat illness occurs when the body's temperature control system is unable to maintain an acceptable temperature. Under normal circumstances, the body cools itself by sweating. When high temperatures and humidity prevent the body from releasing heat efficiently, however, a person's body temperature can rise quickly, causing numerous symptoms. If left untreated, high body temperatures can damage the brain and other vital organs

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Inside

Labor Law Corner

Final Pay for Exiting Employees Easiest With Direct Deposit, Check

Dale Louton
Senior Helpline Consultant

We have an exempt employee who is being discharged tomorrow, which happens to be the end of the payroll period and payday for our exempt employees. I have submitted the payroll for direct deposit that will pay salary in full, but not accrued vacation that will be due. What issues am I faced with?

Effective January 1, 2006 with an amendment to Labor Code Section 213, final wages earned and unpaid at the time an employee is discharged or quits, may be paid by direct deposit to the employee's account — if the employee has authorized direct deposit. However, the time limits for making final pay available to the terminating employee still must be observed.

Direct Deposit for Final Pay

Labor Code Section 201 requires that discharged employees be paid immediately. You will have satisfied this requirement by paying salary by direct deposit.

The vacation wages also must be paid at the time the employee is discharged. These wages can be issued by check or cash. Either way, a deduction statement must be issued on payment. You will have satisfied your obligation to pay wages and vacation wages immediately on discharge and avoided any waiting time penalties under Labor Code Section 203.

The next separation circumstance that you are faced with may not be as easy to resolve. For instance, if the employee is discharged halfway through a pay period, direct deposit is probably not practical because of the cost of special payroll handling. The employee should receive a paper payment covering wages and vacation wages.

Time Limits

Payment of wages for employees who quit is covered by Labor Code Section 202 and is different than those who are discharged. An employee who gives at least 72 hours of notice to quitting must be paid on his/her last day of work.

An employee who quits without giving at least 72 hours notice must wait 72 hours, return to his/her place of employment and request wages. Labor Code Section 202 gives the employee the option of receiving final wages by regular mail if he/she so requests and designates a mailing address.

The employer then has 72 hours to mail final wages to the former employee. Although not required by the code, it is recommended that you get in writing the request to mail the check.

Again, these situations generally are not conducive to direct deposit because of the cost of special payroll handling for a single check. If the employee requests that the final wage check be mailed, the employer is obligated to mail the check.

Failure to pay separating employees in accordance with Labor Code Sections 201 or 202 can result in having to pay the employee a penalty equivalent to up to 30 days' wages under the provisions of Labor Code Section 203.

The Labor Law Helpline is a service to California Chamber of Commerce preferred and executive members. For expert explanations of labor laws and Cal/OSHA regulations, not legal counsel for specific situations, call (800) 348-2262 or submit your question at www.hrcalifornia.com.

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E-mail: alert@calchamber.com.
Home page: www.calchamber.com.

Seminars/Trade Shows

For more information on the seminars listed below, visit *www.calchamber.com/events.*

Business Resources

Looking Good on Paper. Wilcox Miller & Nelson. Sacramento, September 11. (916) 977-3700.

CalChamber Calendar

International Luncheon Forum with Korean Ambassador Lee Tae-Sik: August 28, Sacramento.
International Luncheon Forum with Ambassador Doug Hartwick: September 5, Sacramento.
Water Committee: September 6, Dana Point
Tourism Committee: September 6, Dana Point
Fundraising Committee: September 6, Dana Point
Board of Directors: September 6-7, Dana Point
Ad Hoc Climate Change Policy Committee: September 7, Dana Point

Improving Health Care Access, Quality: Targeted, Market-Based Approach Better

Political leaders in Sacramento have made health care a top priority, but their prescriptions for universal coverage are founded on several myths. Rather than risk creating a new, unrestrained entitlement program, the Governor and Legislature should instead focus on targeted, market-based approaches to bringing health coverage to those without.

Myths

● **Myth 1:** *The uninsured are a "hidden tax" on California business.*

Advocates claim the uninsured create a significant "cost shift" onto private payers that could be eliminated by providing universal health coverage. Further, since private payers are mostly employers, resulting cost savings would more than offset payroll taxes proposed to finance new coverage.

But according to a new study by the California Foundation for Commerce and Education, government underfunding of Medicare and Medi-Cal are major drivers of private health care costs, but the impact of uncompensated care for the uninsured is minimal: fully paying hospital costs of indigent patients would reduce private payers' costs less than 1 percent.

The Governor's strategy to beef up Medi-Cal reimbursements is sound. But the notion that raising taxes on employers who do not provide health coverage would result in lower costs on all other employers is simply wrong.

● **Myth 2:** *The uninsured are an enormous drain on health care resources, especially emergency rooms.*

Implicit in the "hidden tax" argument is that the uninsured overuse health facilities. But according to the California Healthcare Foundation, communities with high levels of uninsured residents generally have lower rates of emergency room use than other communities. In fact, Medi-Cal enrollees are more likely than others to use the emergency department inappropriately.

There are likely many health care and societal benefits from increased coverage for the uninsured, but reducing private payer premiums is not one of them.

● **Myth 3:** *Health coverage for the uninsured can be financed by taxing businesses that do not offer employee health coverage.*

Guest Commentary
By Loren Kaye

Only in California would the solution for the erosion of employer-provided health insurance be to tax employers who do not provide health insurance.

Both the Governor and the Democratic legislative leadership have proposed financing their coverage expansions with a payroll tax on employers who do not provide a specified level of health care coverage for their employees. These proposals just do not add up.

Numbers Don't Add Up

According to the UCLA Center for Health Policy Research, three-quarters of the uninsured are in households that would qualify for a state health care subsidy under the Democrats' plan. Eighty percent of the uninsured are in families with full-time workers.

As these mostly small business employers choose to "pay" instead of "play" — sending their uninsured employees to the state-run health care pool — the state will wind up with far more in insurance premium obligations than in revenues to pay for those premiums.

Here is one example: The median health care policy purchased by a small business for a family costs $846 a month. The state could drive a deal for a policy in the lowest 25 percent, which is $675. A $16-an-hour worker (about double the federal poverty level for a family of three) would generate about $215 in employer taxes. Even with some amount from the employee, those contributions would cover less than half of the insurance premium.

So who would pay for this shortfall? The only plausible answer is ever higher payroll taxes or insurance premiums. And with health care inflation running at about double the rate of payroll growth, there is no way to sustain a subsidized health insurance program without chronic tax increases.

Prioritize

How to reconcile the legitimate need to improve health care access with the burdensome cost of new programs?

Political leaders should prioritize resources on two immediate needs: addressing the most vulnerable Californians — the relatively few uninsured children and individuals with uninsurable medical conditions — and insisting on structural changes to create incentives for more appropriate and efficient delivery of care, more transparency in health care costs and outcomes, and empowerment of the ultimate health care consumers.

This approach has a far better chance of increasing health access and improving health outcomes without damaging the California economy.

Loren Kaye is president of the California Foundation for Commerce and Education, a non-partisan, non-profit corporation that functions as a "think tank" for the business community in California and is affiliated with the California Chamber of Commerce. This commentary first appeared in The Sacramento Bee on August 17. The foundation maintains a website at www.cfcepolicy.org.

CFCE
California Foundation for Commerce & Education

Transportation Bond Use Funded in Final State Budget

The 2007-08 state budget adopted this week continues important commitments to state transportation funding as approved by California voters.

The budget fully funds Proposition 42, the California Chamber-supported initiative voters approved in 2002 to dedicate gasoline sales tax revenues to transportation purposes.

In addition, the budget and two accompanying "trailer" bills provide supplementary funding and authorization for spending revenues from Proposition 1B, the $19.9 billion CalChamber-supported bond measure voters approved in November 2006.

Even after voter approval, use of the funds depends on the Legislature actually appropriating the revenue. The California Transportation Commission is the state agency charged with passing out the money.

Lawsuit Limits

Part of the agreement on the 2007-08 state budget involved approval of legislation to limit the authority of the state Attorney General to file lawsuits challenging county general plans' compliance with provisions of AB 32, the climate change legislation signed last year to reduce greenhouse gas emissions.

The legislation, SB 97 (Dutton; R-Rancho Cucamonga), exempts any project funded by Proposition 1B from any legal challenge relating to meeting the objectives of AB 32 before the California Air Resources Board adopts regulations implementing the legislation. SB 97 will "sunset" in 2009.

In addition, projects funded by the levee and flood control bond (Proposition 1E, also approved by voters in November 2006) are to be exempted from such legal challenge.

Proposition 42

Proposition 42 is fully funded with a transfer of $1.48 billion from gasoline sales tax revenues to the Transportation Investment Fund to fund Proposition 42 projects. Of this, $602 million will fund projects in the Traffic Congestion Relief Program; $702 million for projects in the State Transportation Improvement Program (STIP); and $176 million for public transit.

In addition, $83 million in Proposition 42 funds that were loaned to the General Fund to help balance the budget during the earlier crisis will be repaid.

On the other hand, $1.3 billion in public transit revenues, including $827 million in "spillover" revenues due to higher gasoline prices, were reduced and redirected to reduce the General Fund deficit for 2007-08. In 2008-09, half of the spillover funds would be used to support General Fund programs.

Proposition 1B Allocations

The 2007-08 budget provides $4.2 billion from Proposition 1B revenues for STIP projects, corridor mobility projects, State Highway Operation and Protection Program projects, local streets and roads, transit capital projects, trade corridor air quality projects and school bus retrofit.

An additional 527 engineering positions were added to Caltrans to begin design and engineering for new transportation projects; 90 percent (477 positions), are to be hired as state employees and 10 percent (50 positions), contracted out to private engineering firms.

Staff Contact: Dominic DiMare

CalChamber Leads New Information Network to Prevent Heat Illness

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and, ultimately, lead to death.

Indoor workplaces also can pose a risk for heat illness, especially in times of triple-digit temperatures.

Join HIP Network

The CalChamber is inviting associations and employers to join the HIP Network and help protect employees from the risk of heat illness. HIP Network members are encouraged to:

- Provide current contact information to Cal/OSHA in order to receive vital heat illness prevention information;
- Promptly share heat illness prevention information from Cal/OSHA with the organization's members or employees;
- Recruit other members to the network; and
- Track communications through the network to members or employees.

The HIP Network was founded by the CalChamber, California Manufacturers and Technology Association, California Farm Bureau Federation, Associated General Contractors of California, Western Growers, California Restaurant Association and the California Hotel and Lodging Association.

To join the network, fill out and submit the form at ***www.calchamber.com***.

Tools to Prevent Heat Illness

To help employers prevent heat illness, the CalChamber has created the *Preventing Heat Illness* mini-book which complies with the new Cal/OSHA training requirements and is full of clear, medically accurate illustrations and plain-language, bilingual content for easy reader comprehension. The 5-by-5 inch mini-book easily fits in a vehicle, toolbox, office desk, or jacket or pants pocket. Each mini-book comes with a wallet card that employees can carry with them.

The mini-book was prepared with input from Cal/OSHA, which labels it a valuable resource and compliance tool for outdoor workers and supervisors.

The CalChamber also recommends that businesses post the *Heat Illness Safety Poster*, which features realistic illustrations and lists key symptoms, signs and treatment for heat illness.

To purchase the mini-book or poster, visit ***www.calbizcentral.com*** and go to the health and safety section.

More information on heat illness is available at ***HRCalifornia.com*** or the Cal/OSHA website, ***www.dir.ca.gov/dosh.***

Staff Contact: Marti Fisher

Senate to Consider Legislation Reversing Workers' Comp Savings

A recent study by the California Workers' Compensation Institute (CWCI) found that a California Chamber of Commerce-**opposed** "job killer" bill would significantly increase temporary disability costs and drastically cut savings arising from the 2004 workers' compensation reforms.

AB 338 (Coto; D-San Jose) undermines workers' compensation reforms and increases temporary disability costs in workers' compensation claims by increasing the number of weeks benefits can be paid, and by creating a disincentive to use utilization review to enforce medical treatment guidelines.

Reform Package

The reform legislation, CalChamber-supported SB 899 (Poochigian; R-Fresno) of 2004, made fundamental changes in the way the workers' compensation system determines the level of injury and the amount of disability assigned to an injury and created a new medical network to provide quality, cost-effective care to workers.

The reform package ensured that medical treatment follows nationally recognized guidelines and set clear parameters for what is acceptable treatment for injured workers in the system, while also reducing excessive litigation.

The reforms contained in SB 899 limited temporary disability payment for a single injury occurring on or after April 19, 2004 to no more than 104 compensable weeks within two years from the date of the first permanent disability payment.

More Weeks of Benefits

AB 338 allows temporary disability benefits for a single injury occurring on or after January 1, 2008 to continue for up to 156 compensable weeks within five years of the injury date.

The CWCI study found that AB 338 would boost temporary disability costs by an estimated 11 percent and cut temporary disability savings generated by SB 899 in half.

The institute estimated aggregate temporary disability payments would total $1.076 billion under the current two-year cap, but the amount would increase by 11 percent to $1.194 billion under AB 338.

Shifting the date for the temporary disability time clock to the date of injury would reduce the percentage of total temporary disability paid within two years of the trigger date from 81.7 percent to 72.7 percent, while increasing the percentage of temporary disability payments made more than two years after the trigger date from 18.3 percent to 27.3 percent, the study concluded.

Action Needed

AB 338 will be considered next by the full Senate. Ask your senator to **oppose** AB 338. For an easy-to-use sample letter, visit ***www.calchambervotes.com***.

Staff Contact: Jason Schmelzer

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It seems virtually certain the payroll tax will have to be increased substantially, well beyond what most employers pay in health care costs today.

A look at the makeup of the uninsured in California quickly demonstrates why it is likely that the benefit package in the new government health care program would require revenues from a much higher tax rate than the 7.5 percent of Social Security wages contained in AB 8.

Other than people with a pre-existing condition, the vast majority of Californians without health insurance are individuals employed in lower-wage jobs. Neither they nor their employers can afford to buy health care coverage.

Any employers who already pay at least 7.5 percent of payroll for health care and think the legislation wouldn't apply to them need to be greatly concerned that the tax ultimately will exceed their cost of delivering health benefits, given that just the revenue from employers of low-wage employees will be insufficient to fund the program.

The employer mandate and health insurance purchasing pool would go into effect in 2009 (rather than 2010, as in the previous version of the bill).

Illegal Tax

If the employer tax is enacted by just a simple majority vote — which Democrats claim they can do, having labeled the tax as a "fee" — it will violate the state Constitution. When voters approved Proposition 13 in 1978, they placed in the state Constitution not only a cap on property tax increases, but also the requirement that all tax increases be approved by a two-thirds vote of the Legislature.

AB 8 also appears to violate federal law. The federal appellate court ruled that a "pay or play" scheme in Maryland violates the federal Employee Retirement Income Security Act (ERISA), which prohibits states from adopting legislation that requires multistate employers to have different obligations from state to state in how they deliver health care to their employees.

Action Needed

Employers throughout the state have been voicing their opposition to AB 8, with local chambers of commerce helping direct opponents to the CalChamber grassroots system, generating more than 10,000 letters to elected officials.

AB 8 awaits action in the Senate Appropriations Committee. Contact committee members and your senator and urge them to **oppose AB 8**. Sample letters are available at ***www.calchambervotes.com.***

Staff Contact: Marti Fisher

CalChamber Gears Up to Sponsor Model Anti-Counterfeiting Legislation

The California Chamber of Commerce will be joining with the U.S. Chamber of Commerce to promote adoption of model state anti-counterfeiting legislation in the coming year.

A successful fight against intellectual property theft must be waged at both the federal and local levels, CalChamber policy advocate Kyla Christoffersen told a Los Angeles audience at an August 20 U.S. Chamber event launching a week of activities to promote awareness of issues relating to counterfeiting and piracy.

Critical to Economic Growth

Christoffersen noted that Governor Arnold Schwarzenegger has said that intellectual property piracy is a leading issue "critical to the future growth of California's global economy."

California is among the 10 largest economies in the world and is the top exporting state in the nation.

California ranks first among the 50 states in research and development, accounting for more than one-fifth of total U.S. research and development.

Given the state's position in the world economy, California has a lot to lose when it comes to intellectual property theft. In fact, the California economy loses $34 billion per year to counterfeiting and piracy.

Federal Efforts

On the federal front, California depends upon the federal government to enact both strong federal standards and to enter into international trade agreements and treaties that will protect California companies from intellectual property theft overseas, Christoffersen said.

Without these protections California industries lose, not only significant market opportunities, but also the ability to benefit other parts of the globe with California products.

For example, some of the equipment and goods produced by California industries could help developing countries address pressing needs — such as reducing greenhouse gas emissions, improving agricultural methods, and saving lives through improved medicines and medical equipment.

Without adequate protections against intellectual property theft, Christoffersen commented, California innovators will be reluctant to share their products with developing countries.

The CalChamber appreciates and will continue to support efforts by the federal government and the U.S. Chamber to enact greater protections at the federal level, such as last year's enactment of the Stop Counterfeiting in Manufactured Goods Act, H.R. 32 (Knollenberg; R-MI).

The CalChamber also applauds Governor Schwarzenegger for prioritizing intellectual property protections in many of his recent trade missions to other countries.

Within California

Christoffersen pointed out that it is important that California supplement federal efforts and resources with its own, to protect companies that choose to locate or do business here.

California is a major entry and assembly point for many counterfeit goods. In recent years, numerous private enforcement actions have had to be brought against California companies engaged in illegal duplication and distribution of DVDs, CDs, software and the like.

Fortunately, in recent years, California has already adopted legislation to help prevent piracy, including in the film and recording industries.

This year, model trademark legislation has been moving through the Legislature to bring California trademark law into greater conformity with federal standards.

Also worth noting is the Los Angeles decision to establish itself as a model city in combating intellectual property theft. This may inspire many other California cities to follow suit.

CalChamber Bill

The model state anti-counterfeiting bill that the CalChamber plans to sponsor will provide greater protection against counterfeiting by closing some loopholes in California law that have made enforcement in some areas difficult.

Adoption of the model state legislation would bring California up to par with recently adopted federal standards to combat counterfeiting.

Staff Contact: Kyla Christoffersen

CalChamber-Opposed Land Use Mandate Awaits Action in Assembly Committee

A California Chamber of Commerce-**opposed** "job killer" bill that holds transportation funds hostage and mandates new land-use requirements, is awaiting action in the Assembly Appropriations Committee suspense file.

SB 375 (Steinberg; D-Sacramento) limits increased transportation capacity and affordable housing, and thwarts the intent of voters who approved broad-based transportation bonds, by blocking use of these funds except for narrowly defined "infill" development projects.

The CalChamber is part of a coalition of more than 30 members, including local government, business and transportation groups, opposing the bill.

SB 375 develops stringent, state-imposed new growth guidelines that would erode local control and hamper needed housing and other economic growth. By mandating stringent new guidelines that must be developed through regional councils of government, SB 375 in effect puts the state, not local governments, in charge of all new growth and development in California.

SB 375 establishes unworkable, complicated and sweeping changes to local land-use decision-making that effectively have the state dictating where and how communities grow, irrespective of local needs and concerns. These unreasonable guidelines would have a negative impact on the housing and economic growth that California needs.

AB 32 Benchmarks

With the signing of AB 32 (Núñez; D-Los Angeles) in 2006, climate change mitigation has become a priority for California. SB 375, however, moves ahead of critical AB 32 implementation benchmarks. The state needs to take sufficient time to develop and understand AB 32 implementation guidelines before considering drastic new land-use changes like SB 375 that could conflict with or have a negative impact on AB 32 implementation. Cities, counties and regional councils of government already develop responsible planning and transportation guidelines that take into account and mitigate environmental impacts of new growth.

Holds Funds Hostage

SB 375 holds transportation funds hostage as a means of forcing cities and counties to comply with a state-imposed definition of a "preferred growth scenario." The "preferred growth scenario" prescribed by SB 375 is a building moratorium that would immediately and permanently take vast areas of land off the table for housing, commercial and other types of economic growth.

SB 375 is too complicated and tries to accomplish too much in too little time. Despite the massive and complicated changes and potential impacts, there has not been a coordinated or thoroughly vetted debate on SB 375. Rushing this bill through during the last weeks of the legislative session could have drastic unintended consequences on the stated goal of reducing emissions, as well as on California's economy.

Action Needed

Ask members of Assembly Appropriations and your Assembly representative to **oppose SB 375**. To join the business coalition against this bill and have your organization or company's name listed on the coalition letter, contact Jason Schmelzer or visit the CalChamber's grassroots page at ***www.calchambervotes.com***.

An easy-to-use sample letter also is available on the grassroots page.

Staff Contact: Jason Schmelzer

CalChamber Supports Trade Mission to India

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chandise goods has increased to $31.9 billion in 2006, representing 470 percent growth in a span of 16 years. U.S. exports of merchandise to India increased from $7.9 billion in 2005 to more than $10 billion in 2006, an increase of more than 25 percent.

The top four major items of export from California to India are: computers and electronic products, transportation equipment, manufactured goods and agricultural products. Computers and electronic products made up more than 30 percent of the total California exports to India. California exports of these items grew from $ 1.3 billion in 2005 to $1.6 billion in 2006.

Luncheon Forum

The CalChamber is hosting Ambassador Douglas Hartwick from the Office of the U.S. Trade Representative on September 5 for an international trade luncheon to discuss trade relations between the United States, California and India.

Register Interest

The CalChamber is urging members to indicate their interest in joining the trade delegation.

Governor Arnold Schwarzenegger will lead the trade mission to India in November. The California Business, Transportation and Housing Agency is recruiting a trade delegation to accompany the mission. California businesses interested in participating must fill out the application and plan to travel November 11-16. All applications of interest must be submitted by October 5 at 5 p.m.

Please note: space is limited. Filling out the application of interest is required, but does not guarantee participation. To fill out an application of interest, visit the Business, Transportation and Housing website at ***www.bth.ca.gov***.

Staff Contact: Susanne Stirling

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