

Economic Stimulus Package

Workers' Comp Reform

Skyrocketing workers' compensation premiums are needlessly draining billions of dollars from more positive pursuits, forcing employers to cut from other aspects of their business, including employee benefits, raises and jobs. The Chamber believes reforms are needed to control medical costs, fix the handling of permanent disability benefits and vocational rehabilitation, stop fraud and reduce litigation.

Medical Costs

- Official Medical Fee Schedule for Outpatient Surgery Centers. Outpatient surgical centers are not covered under California's Official Medical Fee Schedule. These facilities should have maximum payment levels set for surgical procedures.
- Medical Utilization. While comparison studies of medical costs in California show that average prices per medical service were in line with other states, medical costs in our workers' compensation system increased by 24 percent between 2001 and 2002. We must have effective controls on the over-utilization of medical services.
- Chiropractic Utilization. A study by the Workers' Compensation Research Institute (WCRI) showed that the average number of chiropractic visits an injured worker would receive in other states was 15 visits. California's injured workers on average have 34 visits per claim. Controls should be placed on what has become the number one medical specialty payment under the workers' compensation system.
- Physical Therapy Utilization. According to the WCRI, physical therapists were involved in more cases under California's workers' compensation system than in the median state in the study. Injured workers made 39 percent more visits to physical therapists per claim compared to similar injuries in other states. Controls should be placed on physical therapy services to ensure that patients are receiving important healing but not over-utilizing these services.
- Encourage the use of Health Care Organizations for Workers' Compensation. Existing law allows licensed health care service plans to register as a health care organization (HCO) to provide cost-effective medical benefits to injured workers. Unfortunately, this option is underutilized due to statutory hurdles. Impediments to the increased usage of HCOs should be removed.

Permanent Disability

While California's weekly benefit levels are constantly disparaged as being some of the lowest in the nation, California actually pays high benefits for each injury. A report by the WCRI comparing California to 11 other states shows that while California is second to last in weekly benefit levels, it pays the second highest benefits per indemnity claim. Indemnity benefits per claim on average rose 8.5 percent each year between 1994 and 2000.

- Tightening Permanent Disability Eligibility. More than 50 percent of all workers' compensation injuries that result in seven days or more of lost time from work become permanent disability cases. California must ensure that only serious injuries that have lifelong earnings impact qualify an injured worker for permanent disability benefits. We must also ensure that permanent disability ratings take into account prior injuries suffered by the worker in determining how much disability is awarded.
- Averaging of Objective, Subjective and Work Restrictions in Personal Disability Injury Ratings. California currently handles permanent disability claims by giving each claim three ratings based on objective medical findings, subjective evidence and poorly defined "work restrictions" that affect future earnings. Whichever rating is the highest becomes the basis for the rating. It would make more sense to average the three ratings for each injury and properly define "work restrictions." This ensures that an injury will be judged using all medical evidence.

Other Reforms

- **Stopping Fraud.** California's workers compensation system is confusing and lacks accountability, allowing fraud to run rampant. Penalties for fraud should be increased to send a clear message that any participant in the system who commits fraud will suffer severe consequences.
- **Vocational Rehabilitation.** Vocational rehabilitation programs are not working. Last year the Legislature acknowledged this problem by allowing workers to opt for a \$10,000 cash-out instead of using this system. This change in law will only drive more injured workers to choose the cash-out, thereby increasing costs to employers. This program should be voluntary for employers and the \$10,000 "cash-out" should be deleted.
- **Alternative Dispute Resolution Process.** The successful program that allows the construction industry to use an alternative dispute resolution process for solving problems in the workers' compensation system should be expanded to include other employers.
- **Reform Administrative Penalties.** Administrative penalties under the workers' compensation system are providing a perverse incentive for applicant attorneys to chase minor paperwork violations and turn them into large awards. These penalties are based on a percentage of the total injury award instead of a flat fine or a fine based on the amount of the delayed payment. These penalties should be reformed.

Do No More Harm

A significant boost to the jobs climate and perceptions of the ease of doing business in California would be a clear resolve by lawmakers to "do no more harm" and stop passage of more costly mandates, such as the multibillion-dollar tax hike proposed to fund health care.

More than 50 pending bills are candidates for the "job killer" list and the Legislature needs to put a moratorium on those harmful proposals.

Guard Against Hidden Tax Hikes

Approval of taxes disguised as fees must stop. A constitutional amendment should be placed on the ballot to require that taxes disguised as fees be subject to a two-thirds vote requirement.

Stop Extortion Lawsuits

Frivolous lawsuits exploiting weaknesses in Section 17200 of the state's Unfair Competition Law have plagued businesses throughout the state. Small operations, such as nail salons, auto repair shops, restaurants and other minority-owned businesses, have been particularly hard hit.

Needed reforms include reining in the questionable legal practices of firms that file lawsuits with high numbers of blank spots for defendants, to be filled in at a later date with additional businesses; prohibiting a private right of action for unfair competition suits against employers of 50 or less unless harm can be shown; limiting attorney fees for unfair competition suits; and limiting private suits when regulatory agencies have already gotten involved.

Extend Manufacturers Investment Credit

More than 200,000 manufacturing jobs in California have disappeared in the last two years alone. The manufacturers investment credit (MIC), similar to credits offered in 48 other states, is an important tool for encouraging businesses to expand or update California facilities. The Chamber's recent Business Climate Survey revealed that a high number of California business have been offered various tax credits and other incentives to relocate to neighboring states.

Extending the MIC will help keep California competitive and spur job creation by sending the message that the state wants businesses to locate and invest here.

Control Unemployment Insurance Costs

To prevent a multibillion-dollar rate increase in the employer-paid unemployment insurance (UI) tax, the

administration and Legislature should temporarily suspend the third year of the recently enacted benefit increase until the shaky UI Trust Fund regains solvency. The latest fund forecast shows the balance of the fund, nearly \$6 billion in 2001, plummeted to less than \$1.7 billion in 2003.

Reform California-Only Overtime Law

California remains the only state in the nation with a complex deviation from the federal overtime pay rule, which allows flexibility within a 40-hour work week. Rescinding California's eight-hour overtime rule to bring the state back in line with the rest of the nation would be the best solution.

At the very least, the administration and Legislature should conform California's definition of a management worker (exempt from overtime) to match the federal law. This will eliminate many of the class action lawsuits being brought against California employers.

Reduce Energy Costs

Legislators should cease attempts to return the state to its pre-1996 energy regulatory structure when California paid some of the highest electricity prices in the nation.

In addition, the Public Utilities Commission should adopt a rate reduction package to lower energy rates in proportion to the increases endured by ratepayers during the recent pricing crisis.

Recapture Transportation Dollars

The state must act to recapture dedicated transportation funding to create construction jobs and provide congestion relief. Projects to maintain and improve the state's transportation network can provide a quick jump-start to the economy.

Balance Budget

Uncertainty over the state's budget has clouded the economic outlook in recent years. Lawmakers must strive to balance the budget without new taxes and adopt a budget plan for the coming fiscal year that doesn't contain built-in pressure for \$10 billion in new taxes in 2004-05.