



Legislative Update

January 2009

Schwarzenegger FY 2009-2010 Budget Plan

Schwarzenegger and Democratic leaders had hoped to coalesce around a plan that would have addressed \$18 billion of the \$40 billion deficit California faces over the next 18 months; however, no progress has been made thus far. According to some Administration officials, Democratic leaders may be wavering on their opposition to deeper spending cuts and an economic stimulus package. It is also being reported that Republicans may be considering supporting tax increases should they see a number of their priorities addressed, including scaling back a number of regulatory burdens on business in the State as well as a hard cap on state spending in tough budget years.

Despite the inability to find an agreeable solution, the Schwarzenegger Administration released the Constitutionally-mandated FY 2009-2010 budget proposal 10 days early – on December 31st. The plan attempts to address the \$40 billion budget deficit with the assumption that the Legislature will adopt all of the proposals the Governor proposed in the Special Session by February 1, 2009. However, DOF indicates that even if the Legislature does take such action, the State will still be unable to pay its bills beginning in March.

The plan closely mirrors the December Special Session proposal the Governor released. The most controversial component of the proposed budget plans from the Governor and Legislature pertain to tax increases. Some of the changes proposed in the Governor's FY 2009-2010 plan include:

- Shifts and decreases for education funding under the Proposition 98 guarantee
- Tax Proposal Changes
 - o 1.5-cent sales tax increase
- Elimination of the First Five Commission to fund other services, health care in particular
- Major changes to the California Department of Corrections & Rehabilitation's parole policies
- Elimination of Public Safety Grants (a decrease of \$23.9 million in 08-09 and \$57.4 million in 09-10 for CalEMA) – includes reduction in funding for vertical prosecution block grants, rural crime prevention, meth enforcement teams, high crimes task forces, SAFE teams, and more.
- Emergency Response Initiative Proposal – increase of \$17.1 million funded through a 2.8% surcharge on all residential and commercial property insurance statewide
- Redirect the \$100.8 million in annual tribal gaming revenues from funding transportation projects to the General Fund
- \$12 Vehicle License Fee increase

- Economic stimulus package – includes design build provisions, performance-based CalTrans projects, increased Prop 1B bond funds for local road maintenance, CEQA exemptions, etc.
- 9.9% Oil Severance Tax (Generating \$358 million in 08-09, \$855 million in 09-10)
- State Employee Furloughs – 2 days per month and elimination of 2 state holidays and premium pay for holiday hours
- State employee health care coverage to be pursued/contracted directly from an insurer rather than CalPERS.

The result of the tax negotiations may have broad implications on NAIFA-California members' businesses, employees, services and products and the association's Government Relations team is closely monitoring any and all tax proposals that could affect our members in any way.

For more information on the proposed FY 2009-2010 budget plan, please see <http://www.dof.ca.gov/budget/historical/2009-10/documents/GB%20GF%20Proposals.pdf>.

California Small Businesses May Owe Use Tax

Over the last six months, the California Board of Equalization (BOE) has mailed thousands of official letters to service providers looking for some badly needed state tax revenue. The letters asked these service businesses to check records on their out-of-state purchases for the last three years and pay any back taxes they owe. Failure to do so could lead to an audit of the taxpayer's books going back eight years.

While Californians are well aware of the sales tax requirements in the State, few are familiar with the "use tax" that the State requires consumers to pay on goods bought out of state. California consumers – both individuals and businesses – must pay a use tax if they buy something in another state and if the seller does not collect a sales tax on the purchase. The use tax – the same amount as the sales tax – ranges from 7.25% to 9.25% depending on where the buyer lives. Compliance with the use-tax obligation is poor; many individuals and businesses just plain ignore the law.

The Board's action comes at a point when the State is facing a \$40 billion budget gap and the need to collect every penny owed to the State is crucial. Enforcing the use-tax law is time-consuming and costly, not to mention difficult to do. It's for that reason that the BOE is focusing its efforts on a more manageable target: service businesses, from which it hopes to collect an estimated \$1.1 billion in unpaid use taxes.

BOE officials say the stepped-up collection program is primarily an "educational" campaign. Six thousand letters have been sent since July, netting \$2.6 million in back-tax payments, and 25,000 letters are expected to go out in the fiscal year that ends June 30.

California Employer Health Benefits Survey Tracks Key Insurance Trends for 2008

As California employee health premiums continue their upward march, the percentage of California employers offering high-deductible health plans more than doubled in the past year, jumping from 18% in 2007 to 38% in 2008, according to the latest edition of the *California Employer Health Benefits Survey*. A smaller proportion, one in ten firms, offered a high-deductible plan with a savings account option in 2008.

This annual survey of employer health benefits provides a graphic overview of employer-based insurance in California. The survey, a joint project of the California HealthCare Foundation (CHCF) and the National Opinion Research Center, focuses on key issues — coverage availability, cost, benefits, and enrollment — to identify market trends and compare California to the nation.

To review the Survey, please see [CHCF Employer Health Benefits Survey](#).

Insurance Commissioner Settles with Blue Shield over Rescission Practices

Insurance Commissioner Steve Poizner announced that the Department of Insurance (DOI) has reached an agreement with Blue Shield of California to offer new health insurance to 678 consumers whose policies were rescinded between January 1, 2004 and May 31, 2008, reimburse them for out-of-pocket medical expenses and implement significant changes in its underwriting and claims practices.

Under the terms of the settlement covering allegations of unfair claims handling and improper rescission practices, Blue Shield will immediately offer coverage to 678 consumers whose individual, family, or short-term health policies were previously terminated without subjecting them to medical underwriting or exclusions for pre-existing conditions. Any medical expenses that would have been covered under the rescinded policies that are not covered by another source will be reimbursed or paid by Blue Shield. An expedited independent arbitration process has been established to resolve any disputes regarding these expenses.

As part of the settlement, Blue Shield has agreed to make significant changes to its application forms, underwriting process, agent/broker training, notification to consumers and providers of an investigation regarding information in the application and oversight of its claims handling. It has also agreed to establish an independent third party review process for rescissions going forward. Blue Shield is subject to up to a \$5 million penalty if corrective actions are not implemented in the prescribed timeline.

In September 2008, Health Net agreed to restore health coverage for nearly 1,000 consumers whose insurance coverage had been rescinded. That settlement led the way and Health Net was the first to agree to establish an independent third party review process for future rescission decisions. In January 2008, Commissioner Poizner announced an action against PacifiCare Life and Health Insurance Company, a wholly owned subsidiary of United Health Group, in response to tens of thousands of alleged claims handling violations.

If you have any questions regarding any of the topics mentioned in this report, or others not mentioned, please contact Shari McHugh, Legislative Advocate for NAIFA-California, at 916/440-0850. Thank you!