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## **Overview of Legislative Health Issues** **For 2007-2008 And Beyond**

In a special session called in September 2007, Governor Arnold Schwarzenegger (R) and Assembly Speaker Fabian Nunez (D) made a big push to pass comprehensive health care reform legislation as contained in AB X1 1.

This bill cleared the State Assembly but stalled in the Senate Health Committee in February 2008. Senators expressed concerns that the bill would bankrupt the state in future years by creating increased cost pressures on the state's general fund and were opposed to the mandates requiring lower income people to buy health coverage, among other concerns.

When the health care reform bill AB X1 1 failed, it was broken up into a number of individual bills (such as AB 2, SB 1440, SB 1522 which are described in the following pages), but most of these bills either failed to make it to the Governor or were vetoed because the Governor said he did not want to reform health care on a piecemeal basis.

Senate Health Committee staff say that any health bill that significantly increases costs, without a funding source, will face very slim chances of passage next session regardless of how important the issue is that it addresses.

As for next year, the Governor has made it clear that he is expecting comprehensive reform, although it is uncertain if the Administration will work to propose something or leave it up to the Legislature. The state's budget problem continues to frustrate efforts.

The 100% Campaign, which advocates for universal health coverage for children, has been rumored to be planning an initiative campaign that would put a ballot measure on the 2010 ballot. This proposal has passed the Legislature without a funding source. Given the state's budget situation, the ballot initiative would presumably include some kind of tax increase or funding shift to fund the proposal.

The big wild card on the health issue is what could happen at the federal level after the Presidential election. If Senator Barack Obama wins there could be additional federal funding. Obama has proposed a plan for universal coverage but this will be tough to achieve (i.e. Clinton's failure). It is possible that federal government could set floor for health coverage funding and make more money available to the cash strapped states to meet this mandate,

although this could be difficult to achieve because the federal government has a budget problem of its own.

Health experts believe the more likely outcome would be for Obama's plan to get scaled back to a proposal that would help state's expand coverage by giving them additional money---leaving health care reform and increased coverage in the hands of the states as opposed to the federal government.

Senator John McCain has proposed a tax credit that could be used to help individuals and families purchase health coverage but is not thought to increase overall federal spending on health programs by a significant amount.

With new reports out that the state's budget deficit for next year is expected to exceed \$15 billion, it is highly likely, if not inevitable, that the Legislature will come back into special session soon to consider another round of cuts which will impact state health programs, among others.

## **Top 10 Significant Health Bills Considered By The Legislature In 2007-08**

**Universal Health Care Coverage.** SB 840 (Kuehl)---Creates the California Health Insurance System, a single-payer health care system, administered by the California Health Insurance Agency, to provide health insurance coverage to all California residents.

**Sources:** California Federation of Teachers, California Nurses Association, California School Employees Association, California Teachers Association, Health Care for All.

**Cost:** There are varying revenue estimates depending on the source. The Legislative Analyst's Office estimated the annual costs to be \$210 billion in 2011, growing to \$252 billion in 2015. These costs would be partially offset by a \$20 billion reduction in administrative overhead.

**Status:** Vetoed by Governor due to costs.

**Comprehensive Health Care Reform.** ABx1 1 (Nunez)---Makes a number of major changes to the state's health care system. Changes includes: requiring all California residents to carry a minimum level of health insurance, establishing a state purchasing pool through which qualifying individuals would be allowed to obtain subsidized or unsubsidized health coverage, expanding eligibility for the Medi-Cal and Health Families programs, increasing Medi-Cal provider rates, and requiring health plans and insurers to offer and renew, on a guaranteed basis, individual coverage in five designated coverage categories, regardless of the age, health status, or claims experience of applicants, a new modified community rating rules for the pricing of individual coverage, new programs and initiatives to promote health and wellness. The bill

expresses intent that financing for the bill's provisions shall come from a variety of sources, including federal funds related to Medi-Cal and Healthy Families program expansions, fees from employers, revenues from counties, fees paid by acute care hospitals, premium payments from individuals, and funds from a new tobacco tax. Some of this financing was proposed to be contained in a proposed ballot measure.

**Source:** Author. This bill was sponsored by the Governor's Office.

**Cost:** Total costs were estimated to be \$14.9 billion for the first full year of implementation which would be offset by \$15.1 billion in revenues and cost savings.

**Status:** Held in the Senate Health Committee in February 2008.

**Comprehensive Health Care Reform.** AB 8 (Nunez)---This is the predecessor of ABx1 1. Some of the provisions are similar what is included in ABx1 1 (Nunez), however, there are major differences, namely AB 8 is a narrower bill. The bill would have required employers to spend 7.5 percent of Social Security wages on health care expenditures for full-time and part-time workers and their dependents, or pay an equivalent fee to a newly created California Health Care Trust Fund. The bill would have created a state purchasing pool to provide health coverage to employees of employers to who opt to pay into the Fund. The bill would have expanded eligibility for Medi-Cal and Health Families coverage for low-income children and parents and established various health cost containment measures.

**Source:** Author

**Cost:** The bill was estimated to cost \$8.8 billion annually which would be offset by \$9.2 billion in revenues.

**Status:** Vetoed by Governor in October 2007. In his veto message the Governor state that AB 8 does not achieve coverage for all, which is necessary to reduce health care costs for everyone, and that comprehensive reform cannot place the majority of the financial burden on any one segment of the economy or leave individuals vulnerable to loss or denial of coverage.

**Limits on Health Plan Administrative Costs and Profits:** SB 1440 (Kuehl) would require health plans and health insurers to spend at least 85 percent of premiums on health care benefits, a requirement known as a medical loss ratio. This is the current limit for health plans regulated under the Department of Managed Health Care.

**Source:** California Academy of Family Physicians

**Cost:** There would be one-time fee supported costs of \$700,000 to \$1 million to establish the regulatory framework and required auditing. There would be ongoing fee-supported special fund costs of \$400,000 to the Department of Managed Health Care and Department of Insurance to continue oversight and evaluation.

**Status:** Vetoed by Governor in September 2008. The Governor said he is opposed to a piecemeal approach to health care reform. He acknowledged that his plan contained a similar provision but also contained a great deal more.

**Revision To Health Insurance Market Standards:** SB 1522 (Steinberg) would require the Department of Managed Health Care and the Commissioner of the California Department of Insurance to jointly develop a system to categorize health insurance policies into five categories ranging from comprehensive to catastrophic.

**Source:** Health Access

**Cost:** The bill was estimated to lead to one-time fee supported costs of \$2 million to establish the system and annual costs of \$500,000 to \$1 million to enforce the system.

**Status:** Failed on the Assembly Floor.

**Third-Party Review Process For Cancelled Health Insurance Policies.** AB 1945 (De La Torre) would create an independent third-party review process for cases in which an insurer wants to rescind a consumer's health policy.

**Source:** California Medical Association

**Cost:** Unknown state costs

**Status:** Vetoed by Governor in September 2008. The Governor said his comprehensive health care proposal addressed this problem but this bill fails to contain several strong consumer protections such as establishing a standardized application form and requiring agents and brokers to sign under the penalty of perjury that they had not altered an applicant's answers.

**Restructure Major Risk Medical Program.** AB 2 (Dymally) would have revised and restructured the Major Risk Medical Insurance Program (MRMIP), which provides subsidized individual health care coverage for medically uninsurable persons with pre-existing conditions. The bill would raise additional funding and coverage for MRMIP-eligible persons by requiring all health plans and health insurers (collectively carriers) selling individual coverage in the state to accept assignment of such persons or to support the costs of MRMIP through a per person fee on individual plan contracts and policies. The bill aims to make the high risk pool more affordable and available and eliminate the annual \$75,000 cap on benefits.

**Source:** Author

**Cost:** The bill was estimated to cost \$20 million in half-year special fund costs in 2008-09 and \$40 million annually in special fund costs thereafter from the Prop. 99 cigarette tax funding.

**Status:** Vetoed by Governor in September 2008. The Governor's veto message said the bill provides a limited solution without addressing a much larger problem.

**Emergency Room Billing.** AB 1203 (Salas) would prevent emergency room departments—who do not have a contract with a patient's insurance company—from directly billing the patient for care administered after the patient has stabilized, requiring the hospital to seek payment directly from insurers.

**Source:** Author

**Cost:** The bill is estimated to cost \$40,000 a year to implement and \$50,000 a year after that to administer.

**Status:** Signed by Governor in September 2008.

**Universal Health Care Coverage for Children.** AB 1 (Laird/Dymally) and SB 32 (Steinberg) would expand children's health care coverage, including Medi-Cal and the Healthy Families Program, to cover all children with family incomes at or below 300% of the federal poverty level. The bills would also establish a Healthy Families buy-in for children in families with incomes above 300% of the federal poverty line.

**Source:** 100% Campaign and PICO California

**Cost:** \$118 million in 2008-09 and \$265 million in 2009-10.

**Status:** Both bills passed both houses but were not sent to the Governor because his office indicated that he would veto them because there was no funding available.

**Midyear Budget Cuts and Health Cuts Included In Final 2008-09 Budget.** Most of the state's health programs are funding through the state budget. Many of them took a hit this year through budget related legislation passed in February 2008 (AB X3 3 and AB X3 5) and in the final budget act (AB 1781).

In February, the Legislature met to address the budget shortfall and approved \$544.3 million in reductions to the Medi-Cal program in 2008-09 by enacting a 10% rate cut to reimbursements made to Medi-Cal providers beginning on July 1, 2008. The midyear budget legislation also included \$165 million in reductions to the Medi-Cal program by permanently deferring other specified payments to Medi-Cal providers. These cuts reduce access to health care for the poor and uninsured by limiting access to providers.

The final budget, signed in September 2008, extends the current 10% Medi-Cal provider rate reduction through February 28, 2009. A recent court ruling questions whether this is even legal. A federal district court ordered the state to restore full payments to Medi-Cal providers

starting on August 18, but the state appealed this ruling. The final budget deal also requires paperwork to be filed twice a year for children in the Medi-Cal program, which will lead to a significant number of children losing health care. Currently, paperwork is required once per year. It also allows Managed risk Medical Insurance Board to cap the amount of dental coverage provided to children in the Healthy Families Program (to a level as low as \$1,500 per child per year).

**Source:** Administration and various others

**Status:** Passed both houses of the Legislature and signed by the Governor.

Summary of other significant health bills:

**SB 1058 (Alquist)** establishes the Medical Facility Infection Control and Prevention Act (Act), which requires hospitals to implement specified procedures for screening, prevention, and reporting specified health care associated infections also known as hospital associated infections (HAIs). Requires hospitals to report positive Methicillin-resistant Staphylococcus aureus and other HAI test results to the Department of Public Health (DPH) and requires DPH to make specified information public on its Internet Website. Chaptered Sept. 2008.

**SB 158 (Florez)** establishes an infection surveillance, prevention, and control program within the Department of Public Health to provide oversight of hospital prevention and reporting of general acute care hospital-associated infections, expands the responsibilities of the existing Healthcare Associated Infection Advisory Committee, and requires all hospitals to institute a patient safety plan for the purpose of improving the health and safety of patients and reducing preventable patient safety events. Chaptered Sept. 2008.

**AB 211 (Jones)** establishes an Office of Health Information Integrity (OHII) to ensure the enforcement of state confidentiality of medical information, to impose administrative fines for the unauthorized use of medical information upon referral from the Department of Public Health (DPH), and requires providers of health care to establish and implement appropriate administrative, technical, and physical safeguards to protect the privacy of patient's medical information. Chaptered Sept. 2008.

**SB 541 (Alquist)** increases the level of administrative penalties the Department of Public Health (DPH) may assess against hospitals for deficiencies that constitute immediate jeopardy to the health or safety of patients. Requires health care facilities to prevent unlawful or unauthorized access to, use, or disclosure of, patients' medical information and to establish safeguards to protect the privacy of patients' medical information. Authorizes DPH to levy administrative penalties against facilities for failure to prevent unlawful or unauthorized access, use, or disclosure of patients' medical information, and for failure to report instances of unlawful or unauthorized access, use, or disclosure of information. Requires penalties collected under the bill, and for failure to report an adverse event under existing law, to be deposited in an Internal Departmental Quality Improvement Account, which the bill would establish. Chaptered Sept. 2008.

**Mandate Bills.** There were three bills that were vetoed which required benefit mandates that the Governor vetoed because he said the state could not afford them. AB 1887 (Beall) would require health plans to provide coverage for all diagnosable mental illnesses. AB 1962 (De La Torre) would require all individual insurance policies to cover maternity services. SB 1198 (Kuehl) would require group health plans and insurers to offer coverage for durable medical equipment, such as wheelchairs and shower seats.

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