JOINT INFORMATIONAL HEARING ON PROPOSITION 72:
Referendum Petition to Overturn
Amendments to Health Care Coverage
Requirements. Referendum.

Assembly Committee on Health
Senate Committee on Health and Human Services

October 5, 2004

State Capitol, Room 4202
Sacramento, CA

Proposition 72 is a referendum on the Health Insurance Act of 2003 (also known as Senate Bill 2 or SB 2), which provides health coverage to workers (and in some cases their dependents) who do not receive job-based coverage and who work for large and medium employers. Proposition 72 asks voters if they wish to approve or reject SB 2. A "Yes" vote on Proposition 72 is a vote to approve SB 2, allowing it to take effect. A "No" vote on Proposition 72 is a vote to reject SB 2.

The Problem: Gaps in Health Insurance Coverage in California

Most Californians have health care coverage, but for the unfortunate millions who do not, the consequences can be serious. According to UCLA, at the time of its 2001 California Health Interview Survey, the breakdown of health coverage in California was as follows:

Ages 0-64	Job-Based	63%	18.7 million
	Private Purchase	5%	1.4
	Medi-Cal	14%	4.2
	Healthy Families	2%	0.5
	Other Public	1%	0.3
	Uninsured	15%	4.5
		100%	

Ages 65+	Medicare (alone or with other coverage)	95%	3.3 million
	Other Coverage only	4.5%	137,000
	Uninsured	0.5%	17,000
		100%	

Being Uninsured And Its Consequences: The California HealthCare Foundation reports that over 20% of California's non-elderly (0-64 years) population lacks health insurance, a rate of uninsured that is exceeded only by five other states. Detailed information on health insurance coverage in California is compiled regularly by the UCLA Center for Health Policy Research. According to UCLA's most recent survey, in 2001:

- 4.5 million Californians were uninsured at the time the survey was conducted
- 6.3 million Californians were uninsured at some time during the year
- 3.6 million Californians were uninsured for the entire year
- More Californians are uninsured at some time during the year than the total number covered by the state's Medi-Cal and Healthy Families Programs combined.

Nationally, the U.S. Census Bureau reported on August 26, 2004 that the number of Americans without health insurance in 2003 reached a record 45 million or 15.6% of the population, while the number of Americans with job-based coverage decreased by 1.3 million. People without health insurance are less likely to seek medical care, less likely to get it, and as a result, more likely to be in worse health and have higher death rates than people with insurance coverage. For society, the high number of uninsured reduces productivity, increases use of already crowded and understaffed emergency rooms, and shifts costs to public and private payers. Based on a study by the Urban Institute, California currently spends $6 billion in uncompensated care. Insured Californians pay for this cost shifting through higher taxes and higher insurance premiums.

Current Employment-Based Coverage: Currently, two-thirds of non-elderly Californians (18.7 million) obtain health coverage through job-based insurance and the vast majority of California businesses offer health insurance to their employees. A breakdown on employer sponsored health coverage in firms with 20 or more employees (those affected by SB 2) by employer size shows:

- **Firms with 200 or more employees** (1% of all CA companies)
  - 99% offer coverage
  - These firms pay, on average, 87% of total premium for employee only coverage and 79% of total premium for family coverage.
- **Firms with 50-199 employees** (4% of all CA companies)
  - 94% offer coverage
  - These firms pay, on average, 87% of total premium for employee only coverage
- **Firms with 20-49 workers** (7.4% of all CA companies)
  - 84% offer coverage
  - These firms pay, on average, 90% of total premium for employee only coverage

Health care costs for employment-based insurance have been steadily increasing. According to the Kaiser Family Foundation/Health Research Educational Trust (KFF/HRET) 2002 survey of California firms, average premium costs for all firms in

California increased 13% from 2001 to 2002. The average premium in 2002 was $2,845 for a single worker and $7,471 for family coverage.

Workers Without Coverage: Although job based health insurance provides the majority of health care coverage in California, major gaps in job-based coverage mean that millions of Californians in working families have no health insurance. Over half of the uninsured in California are workers and over 80% of the uninsured are member of working families. Sixty-two percent of uninsured workers are employed in firms that do not offer health insurance. Another 24% work for firms offering insurance but for which they were not eligible.

Employer Views of Coverage in the Workplace. In a 2004 Commonwealth Fund survey of over 400 employers, 59% said that it was very important for employers to share their employees' health insurance costs, either by providing coverage or contributing to a fund that would cover the uninsured. A majority (56%) said that they would prefer an employer mandate to a public program expansion. Employers who offered health insurance in the survey said that health benefits improve their ability both to recruit and retain employees. A majority of employers believe that health insurance coverage improves employee health and morale.

Trends in Employment-Based Coverage. A 2003 Commonwealth Fund report found that, nationally, large-firm workers and their dependents comprise a growing share of the working uninsured. As of 2001, more than one of four (26%) of the nation's uninsured--nearly 10 million Americans--worked for firms with 500 or more employees or were dependents of those workers. The authors suggest reforms to reverse this trend, including removing barriers to coverage in firms that offer health benefits, such as waiting periods and restrictions for part-time workers; allowing large-business workers to participate in large purchasing pools; and requiring that all large firms offer and possibly contribute to coverage of employees.

According to the Wall Street Journal, Wal-Mart, the nation's largest private employer limits its employee health care costs in a number of ways. These include making new hourly workers wait six months to sign up for benefits, offering deductibles as high as $1,000, refusing to pay for many preventive care services, and not paying to treat preexisting conditions in the first year of coverage. According to the UC Berkeley Center for Labor Research and Education, because of its wage and benefit standards, Wal-Mart workers' reliance on public assistance programs in California costs taxpayers an estimated $86 million annually, $32 million of which is health related, and families of Wal-Mart employees in California utilize an estimated 40% more in taxpayer-funded health care than the average for families of all large retail employees. The Center concluded that if other large California retailers adopted Wal-Mart’s wage and benefits standards, it would cost taxpayers an additional $410 million a year in public assistance to employees.

A recent California Budget Project report noted that recent state job growth has been concentrated in industries that are less likely to provide job-based health coverage such as construction, retail trade and leisure and hospitality.

Summary of SB 2

Who Will Be Covered under SB 2?

- Eligible employees are those who have worked for an employer for three months, and work at least 100 hours per month.
- Firms with 200 or more California employees are required to participate beginning January 1, 2006; coverage is required for both workers and their dependants.
- Firms with 50 to 199 California employees are required to participate beginning January 1, 2007; coverage is required for workers but not dependants.
- Firms with 20 to 49 employees are exempt unless the state of California provides a tax credit to those firms equal to 20% of the employer's net cost of the fee.
- Firms with fewer than 20 employees are exempt.

How Does SB 2 Work?

- Firms are required to pay a fee to a state fund for each eligible worker. Firms offering coverage that meets the minimum requirements of the bill will receive a credit against the fee.
- The State Health Purchasing Fund will be newly created and administered by the Managed Risk Medical Insurance Board (MRMIB), which also manages California's Healthy Families Program. MRMIB will set the fee and establish enrollee cost-sharing requirements (deductibles, co-insurance, and copayments).
- Employers that prefer to "play" (offer coverage) may apply to the Employment Development Department (EDD) for a credit against the fee. Coverage offered through the Department of Managed Health Care (DMHC) meets the requirement, as does coverage offered through the Department of Insurance, as long as a maximum out-of-pocket costs do not exceed those offered through DMHC-regulated preferred provider organizations (PPOs). Accident only, hospital indemnity, and other limited benefit plans do not qualify.
- Employers and employees are required to share the cost of coverage. Employers are required to contribute at least 80%; workers must contribute the remaining amount, up to 20%. Worker contributions are capped at 5% of wages for low-income workers (defined as up to 200% of the Federal Poverty Level, about $18,000 for an individual or $30,500 for a family of three).
- MRMIB will coordinate coverage for those eligible for Medi-Cal and Healthy Families.
- A related law, AB 1528 (Cohn), Chapter 672, Statutes of 2003, establishes a Health Care Quality Improvement and Cost Containment Commission that will report to the legislature by January 1, 2006, and make recommendations for health care cost containment.
- Market rules currently in place in the small group market (two to 50 workers) will be expanded to cover firms with 51 to 199 workers, though at a rate band of +/-15% will be applied rather than the +/-10% bands which currently apply in the small group

market. (Rate bands restrict the range of prices health plans may charge based on the risk profile of the employer group.) In addition, health insurers may offer different products to firms with 51 to 199 workers than they offer to firms with two to 50 workers.

Projected Effects of the Health Insurance Act of 2003

How Will SB 2 Affect the Uninsured?

UCLA's Center for Health Policy Research estimates that, of a total of 4.5 million uninsured Californians, SB 2 will ensure coverage for 860,000 workers and dependants when implemented for firms with 50 or more workers, as follows:

- **Firms with 200 or more employees**
  - 307,000 newly insured employees as of January 1, 2006
  - 372,000 newly insured dependents as of January 1, 2006
- **Firms with 50-199 employees**
  - 180,000 newly insured employees as of January 1, 2007

If implemented among firms with 20 to 49 workers (only if a state subsidy is available), an additional 211,000 employees would be insured, thus increasing the total of Californians with health care coverage by an estimated total of 1.1 million workers and their family members.

How Will Firms be Affected?

- According to the KFF/HRET 2002 survey of California firms, 94% of firms with 50 to 199 workers and 99% of firms with 200 or more workers offered health insurance. The remaining firms will be required to pay the fee if they choose not to begin offering coverage.
- Some firms already offering health insurance will be required to increase their contribution to meet the 80% requirement. About 80% of firms with more than 50 workers contribute at least 80% of the premium for worker coverage. As a result of the legislation, the remaining 20% would need to upgrade their contribution to 80%.
- Slightly more than half (51%) of firms with 200 or more workers pay the required 80% premium share for family coverage; the other half would need to increase their premium share.
- Estimates of the costs that may be incurred by firms in California as a result of SB 2 vary from $1.3 billion (California Medical Association) to $11.3 billion (Employment Policies Institute). Labor market effects are uncertain. Opponents predict that many employers not currently offering health insurance will lay workers off or leave the state, while supporters argue that the majority of those employers are in locally based service industries and that the new requirement levels the playing field for firms already offering coverage.

Summary of Fiscal Effects as Reported by the Legislative Analyst's Office (LAO)

The health coverage requirements of SB 2 would have a number of significant fiscal effects on state and local governments, and could have significant effects on individuals and businesses. These effects are complex, uncertain, and difficult to predict over time.

Among the factors that could cause savings and costs to vary significantly are:

- How some provisions of SB 2 were eventually implemented by state and local officials and interpreted by the courts.
- The proportion of employers who chose to participate in the State Health Purchasing Program.
- How the health insurance marketplace responded to the new law in the products and prices it offered to public and private purchasers of care.

Given these uncertainties, the LAO believes that the net savings or costs to the state and local governments are unknown.

Purchasing Program Revenues and Expenditures. The "pay or play" requirements of SB 2 would generate significant revenues to the state from fees paid by employers that chose to "pay" for health coverage rather than to "play" by directly arranging their own health coverage. The state revenues received from employers and employees would be used to fully offset the costs of the State Health Purchasing Program. The proportion of employers who would choose to "pay" the fee to the state, thereby obtaining health coverage from the State Health Purchasing Program, rather than to "play" by arranging health coverage on their own, is a major unknown factor. The LAO estimates that the amount of fees collected from employers and employees and spent for the purchasing program could range from the tens of millions of dollars to the hundreds of millions of dollars annually, depending on the participation level of employers.

Effect on Other Publicly Funded State Health Programs. The LAO estimates that the fiscal impact on Medi-Cal benefits would eventually be a net savings to the state amounting to tens of millions of dollars annually. However, the LAO estimates that SB 2 would result in a net cost to the state for Healthy Families Program benefits of roughly the same magnitude. Given the uncertainties associated with SB 2, it is not clear at this time whether it would ultimately result in a net cost or savings to the state for state-supported health benefits.

Effect on Other Publicly Funded Local Health Programs. County costs for providing health care for indigents are likely to decrease significantly as more employees and dependents receive health coverage that is paid for by employers, Medi-Cal, and the Healthy Families Program. The LAO estimates that the implementation of SB 2 would eventually result in savings to county governments on a statewide basis, potentially in the low hundreds of millions of dollars annually.

State Administrative Costs. The LAO estimates that MRMIB, EDD, and the Department of Health Services would incur significant administrative costs, probably amounting collectively in the low tens of millions of dollars annually, to implement SB 2.

Costs to Public Employers. The "pay or play" requirements of SB 2 generally apply to public employers. Although full-time employees of public agencies in California usually have health coverage, some seasonal, temporary, and part-time employees and their dependents currently lack health coverage. The LAO estimates that the additional cost to public agencies could potentially amount to the low hundreds of millions of dollars annually beginning in 2006–07. These additional costs could be partially offset by savings to public agencies in certain circumstances. For example, some spouses of public agency employees would receive coverage from their own employers as a result of SB 2. Because these spouses would no longer receive coverage as dependents of employees of those public agencies, such agencies could realize some savings on their health coverage costs. The amount of the offsetting savings from this and other factors is unknown.

Effects on State Revenues. SB 2 would impact state revenues in two major ways. First, some businesses would face increased operating costs to pay for employees' health insurance. To the extent that businesses absorb these costs, their taxable income would be less and, thus, income tax revenues would decline. Many employers would act to avoid absorbing these costs, however, such as by "passing them along" to consumers through higher product prices or to employees by cutting back on hours or wages. These steps could reduce overall economic activity, causing declines in personal income taxes and sales taxes. Revenue losses also would occur if California lost economic activity to other states.

Partially offsetting the above factors would be potential revenue gains due to any reduction in the health premiums that otherwise would have been paid by certain employers, as well as expanded economic activity in the health care sector. Current premiums paid by employers for health insurance and workers' compensation insurance may reflect some "cost-shifting" to cover health care costs of the uninsured. By reducing the number of uninsured persons, SB 2 could reduce cost shifting and could lower premiums paid by employers, thus increasing taxable income. In addition, employers' costs for complying with SB 2 may be reduced if the State Health Purchasing Program negotiates lower insurance rates, or the health care marketplace itself responds to SB 2 with reduced rates. Finally, the significant expansion of health coverage could increase state tax revenues paid by health plans and insurers.

Taking these and other factors into consideration, SB 2 would likely result in a net reduction in state tax revenues, potentially in the low hundreds of millions of dollars, with the actual magnitude depending on the behavioral responses of employers and the health care marketplace.

Support for Proposition 72

According to the proponents, which include the California Medical Association, California Nurses Association, American Lung Association of California and Consumers Union, the publisher of Consumer Reports, Prop 72 will protect health coverage for those who already have it and extend it to an additional 1.3 million Californians. Nineteen million Californians currently get private health insurance from their employer and under Prop 72, employers can keep the same coverage and continue to pay as much as 100% of premiums. Employees get the added security of knowing that employers cannot pay less than 80% of premiums and must maintain preventive care, prescription drug and major medical coverage. Prop 72 will also reduce the billions of tax dollars spent on health care coverage for the uninsured by providing 1.3 million workers and dependents with health insurance. Prop 72 will strengthen employer-paid health coverage for those who have it and provide it for those who need it.

Opposition to Proposition 72

According to opponents, Prop 72 would use $7 billion in new taxes on employees and employers to fund a government run healthcare system. Opponents agree that our health care system needs national reform, but that Prop 72 is the wrong solution, which would actually make healthcare worse. Prop 72 does nothing to address the real problem – health care costs that are spiraling out of control. That's why two of the largest chapters of the California Medical Association, from Los Angeles and San Diego, opposed the underlying legislation, SB 2. According to the Los Angeles Economic Development Corporation, Prop 72 would cost California over $7 billion and hundreds of thousands of jobs, turning many of the uninsured into unemployed and uninsured. Prop 72 also does not exempt local governments, school districts, and non-profits, which is why hundreds of businesses, school districts, charitable organizations, and many others oppose Prop 72.