



The Coalition for Humane Immigrant Rights of Los Angeles

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YEAR-END STATE POLICY REVIEW

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This document is an analysis of the 2007 California legislative year and some projections for next year. The beginning of the year promised to be exciting because the Governor and the Democratic leadership made healthcare reform a priority. On the other hand, California also experienced one of the longest budget delays in history. Some of the highlights of this legislative session include an overwhelming rejection of most legislation that would have been detrimental to immigrant communities. Simultaneously more pragmatic legislation to advance the labor and civil rights of immigrants while integrating them into our state, passed their houses of origin, but most of them were vetoed by the Governor. CHIRLA recommends to our state legislative body and the Governor to dramatically increase their efforts to improve the areas that have the most impact on immigrants such as, economic sustainability, access to healthcare, worker's and civil rights, and investment in education for both youth and adults.

STATE BUDGET RECAP

The Governor in his state of the state address proposed to provide access to health coverage to all children and working families, at the same time his proposed budget sought to balance the state's deficit by limiting essential services for working families and children. One of the proposed cuts by the Governor was to the California Work Opportunity and Responsibility to Kids (CalWorks) program, which helps families become self-sufficient while promoting work participation.¹ The key factors that contributed to the delay of the budget were ideological differences and because the adoption of a budget requires a 2/3 vote. As a result of this delay, many state workers did not get paid, seniors and disabled individuals did not get their assistance, and essential services assisting Californians were in jeopardy.

California is one of the few states that requires 2/3 vote, 47 other states only require a majority vote to pass their budget. Therefore, there is a distorted vision of the basic principle that the majority governs specially on issues related to budget and taxation. This provides the minority with an upper hand to hold the budget if certain demands are not met.² After long conversations between both parties, Republicans agreed to vote on a budget if the Governor promised to use his line-item veto power to further cut state expenditures. On August 24th the Governor signed California's budget into law, almost two months after the constitutional deadline, and utilized his executive power to further cut \$703 million from the budget passed by the Senate and Assembly. Ironically, health services were the most affected by these cuts, which the Governor promised to reform and improve. The increase in funding approved by the Legislature to the Naturalization Service Program (NSP), which provides assistance to non-profit entities to aid eligible immigrant to naturalize, was also rejected by the Governor.³ In spite of the unbalanced enacted budget, there are some aspects from the budget to celebrate because elderly and disable eligible immigrants will continue to receive state assistance under the Cash

¹ California Budget Project. "Where are we and where are we going: Slouching toward the May Revision to the 2007-08 Budget." April 30, 2007. <http://cbp.org/pdfs/2007/0704_mayrevision.pdf>

² Center on Budget and Policy Priorities. "A Super Bad Idea: Requiring a Two-thirds Legislative Supermajority to Raise Taxes Protects Special Interest Tax Breaks and Gives Budget Veto Power to a Small Minority of Legislators." Johnson, Nick. April 2006. <<http://www.cbpp.org/4-25-06sfp.htm>>.

³ California Immigrant Policy Center. "Final Budget Hits Low-Income Californians Hard." Layla Razavi. August 28, 2007. <<http://caimmigrant.org/CIPCBudgUpdate082807.pdf>>

Assistance Program for Immigrant (CAPI) while they are in the process of becoming citizens.⁴ For a detailed report of the enacted budget, please visit www.caimmigrant.org or www.cbp.org.

LEGISLATIVE ACTIVITY

Proposals Harmful to Our communities

In California, a small number of legislators introduced a series of legislation that would jeopardize public health, threaten worker's and civil rights, as well as make our streets less safe by limiting health services to immigrants, forcing employers to utilize an untrustworthy program to verify the legal status of employees, and forcing local law enforcement to implement immigration laws. These proposals did not make it out of the first policy committee. Some examples of these proposals are:

AB 1081 (Garrick): this proposal would force the Secretary of the Department of Corrections and Rehabilitation and its employees to implement immigration laws;

AB 271 (Cook): sought to restrict access to health services to unauthorized immigrants, and would require proof of citizenship to receive any form of state-funded benefits;

SB 189 (Harman): would force the Department of Personnel Administration and all other employers to utilize an untrustworthy computer system without worker rights and anti-discriminatory protections to verify the legal status or authorization to work in the United States;

SB 3 (Harman): sought to criminalize all unauthorized immigrants who reside in California by charging them with trespassing.

In the absence of a comprehensive and humane policy to address our broken immigration system, states across the nation feel compelled to act upon the issue. According to the National Conference of State Legislatures this year, immigration related bills introduced have tripled compared to 2006.⁵ These actions also reflect the polarization of the issue. For instance, Arizona adopted an impractical and enforcement only-approach by forcing all employers in the state to use the Basic Pilot Program, best known as E-Verify, to verify the legal status of their employees. The Basic Pilot Program has severe limitations such as lack of protection to workers and against discrimination, high numbers of errors in which workers with authorization to work have been classified by the program as unauthorized workers, and the fiscal cost will be shouldered by states and employers. Given that this program is untrustworthy, Illinois enacted legislation that prohibits employers to use the Basic Pilot Program until the program is fixed and meets specific criteria. Both of these efforts are going through legal challenges.

Missed Opportunities

We are pleased about the overwhelming rejection of divisive and harmful proposals. But, we urge both the Legislature and Governor to further explore and support efforts to ensure that immigrants are integrated in our state and to guarantee that California's future is secure. While sound policy was introduced and sent for gubernatorial approval, the Governor vetoed the majority of those proposals. According to the Capitol Weekly, Governor Arnold Schwarzenegger has vetoed proposals at nearly twice the rate of his two most recent predecessors, the majority

⁴ Ibid.,

⁵ National Conference of State Legislatures. "2007 Enacted Legislation Related to Immigrants and Immigration. Hegen, Dick. November 29, 2007. <<http://www.bibdaily.com/pdfs/Final2007ImmigrationReport.pdf>>

of those vetoed bills were opposed by business interests and came from Assembly Democrats.⁶ In addition, the Applied Research Center in its 2006 legislative report card gave the Governor a D for 55 percent support for racial equity legislation.⁷

This year the Governor vetoed a significant number of proposals that would have had a positive impact on immigrants in areas of access to higher education, worker's rights, voting and civil rights. Below is a list of those proposals.

Education

SB 1 (Cedillo): Provide non-competitive state financial aid to AB 540 students that wish to attend or are currently attending institutions of higher education.

Language Competence

AB 295 (Lieu): Enhance state data to reflect the diversity of Asian Pacific Islander American (APIA) communities. Current law recognizes the importance of disaggregated data and requires data to be collected for approximately ten APIA ethnic groups; however, many groups are not included. AB 295 sought to encourage certain key state departments to collect additional data for Hmong, Tongan, Thai, Pakistani, Bangladeshi, Sri Lankan, Malaysian, Indonesian, Taiwanese, and Fijian communities.

Workers Rights:

AB 448 (Arambula): Permit employees to recover liquidated damages in complaints brought before the Labor Commission alleging payment of less than the state minimum wage.

SB 622 (Padilla): Prohibits willful misclassification of employees as independent contractors, and authorize the Labor and Workforce Development Agency to assess specified civil penalties from persons or employers violating the bill.

SB 180 (Migden): Create a new election process for agricultural workers to select their representatives for collective bargaining. This bill extends existing prohibitions and penalties to employers engaged in unfair labor practices, with regard to a majority signup election.

Voting Rights

SB 382 (Orepeza): Allow individuals naturalized after the voter registration deadline to register and vote until the close of polls on election day at locations designated by the county elections officials following the date on which that person becomes a citizen.

AB 614 (Eng): Require county election officials to report to the Secretary of State on their compliance with various related state and federal laws, and provide voters with language assistance such as bilingual poll workers and translated materials.

Civil Rights

AB 43 (Leno): Would enact the Religious Freedom and Civil Marriage Protection Act, defining marriage as a personal relationship arising out of a civil contract between two individuals.

⁶ Malcolm MacLachlan "Schwarzenegger vetoing at a higher rate than two predecessors" *Capitol Weekly*. October 22, 2007. <<http://www.capitolweekly.net/article.php?xid=wnom5czuo00t6b>>

⁷ Applied Research Center. "Facing Race: 2006 Legislative Report Card on Racial Equity." Krajcer, Menachem & Johnson, Tammy. 2006.

Health and Human Services:

AB 502 (Calderon): Establish the City of Los Angeles as a pilot program to contract with nonprofit organizations to provide assistance to victims of domestic violence who are unauthorized immigrants.

POSITIVE HIGHLIGHTS IN 2007

Despite these vetoes, the Governor and Legislature made positive steps towards addressing difficult issues both at the state and federal level such as tenants' rights, immigration reform, and access to healthcare.

Tenants' Rights

The Governor signed **AB 976 (Calderon)** into law, prohibiting local governments from enacting local ordinances to force landlords to verify the immigration status of their tenants before renting to them. This was a response to the ordinance introduced by the city of Escondido. It was the replica of an ordinance introduced in Hazelton, Pennsylvania. Both of these ordinances were legally challenged and both were ruled as unconstitutional by the courts.

Federal Issues

The State legislature approved the following resolutions related to immigrants and immigration reform.

AJR 16 (Levine): Urges local, state, and federal officials to take steps related to recognizing and protecting the human rights of immigrants and publicly denouncing xenophobia and anti-immigrant bias as having no place within the immigration reform debate;

AJR 18 (Solorio): Denounces and opposes the proposed increase in the fees in the naturalization process by the United States Citizenship and Immigration Services and expressing strong support for House Joint Resolution 47 which disapproves of the fees increase and calls for the invalidation of new fees, and calls upon all members of California's Congressional delegation to co-sponsor and support the swift enactment of the resolution;

AJR 29 (Eng): Expresses the Legislature's support for the Local Law Enforcement Hate Crimes Prevention Act (LLEHCPA), also known as the Matthew Shepard Act, and states that increases in hate crimes are also due to an increase in anti-immigrant activity.

California's Healthcare Reform

There are a lot of differences between the Governor and the Democratic leadership, but one issue where they agree is healthcare reform. At the beginning of the year the Governor and Democrats announced that this year's priority is to reform the broken healthcare system. However, proposals such as **SB 840 (Khuel)**, which sought to create a program administered by the state to provide universal healthcare to all Californians were immediately dismissed in the debate because the Governor indicated that he will veto that proposal if it reached his desk. Though many Democrats support SB 840, several efforts have been attempted to reach a compromise between the Governor and the Democrats including legislation such as: **AB 1 (Dymally/Laird)** and **SB 32 (Steinberg)** which sought to provide health coverage to all children, regardless of immigration status, up to 300 percent above the poverty line. Both of these proposals reached the Assembly floor, but were pulled out by the author at the request of the Governor.

In addition, President Pro Tem Don Perata and Assembly Speaker Fabian Nunez introduced their own legislation, then merged their proposal into **AB 8 (Nunez/Perata)** becoming the proposal with a greater chance of becoming law. Nunez and Perata's bill sought to expand public programs to cover all children above three times the poverty level; establish basic standards for employer contributions to health care; and reform private health insurance practices. This bill was flawed in some aspects, but it contained the right framework to build upon in the coming years to provide universal health coverage for all Californians. Unfortunately, the Governor vetoed this proposal and called for special session.

While there is agreement between the Governor and Democrats to expand public programs, cover all children regardless of immigration status, and have employers participate in the process, there are major aspects of divergence such as requiring all Californians to purchase healthcare coverage best known as individual mandate, the financing mechanism, and the percentage of employers' contribution to healthcare. In an attempt to address the Governor's concerns and reach a compromise, the Democratic leadership re-drafted a new proposal. **AB 1X1 (Nunez/Perata)** is currently being debated in the special session. This new version contains very identical aspects of AB 8, but it brings new provisions as well as concerns. AB 1X1 put forth significant expansion of public programs as well as subsidies for moderate to low-income families. But, it reduces employers' contributions from 7% to a sliding scale up to 6.5% of payroll as well as an individual mandate conditioned on affordability. The impact of an individual mandate to immigrant communities could be detrimental, but it is unknown because it is unclear if the exceptions from the individual mandate offer in AB 1X1 are sufficient to alleviate the potential harm to low-income immigrant families especially for those who most likely will not qualify for state subsidies to pay for health coverage. While there is a significant improvement from AB 8, there are major concerns on AB 1X1 especially on individual mandate, funding for community clinics and public hospitals, affordability, and lowering employer's contributions.

On December 17, the Assembly approved a revised version of AB 1X1 with the Governor's endorsement. The vote was 46-31 along party lines. This bill will be sent to the Senate, where it could face some resistance by Senate Pro Tem Perata who commented that as a result of negative projections on the state budget it is inappropriate to reform healthcare.

Despite the negative aspects of the current healthcare debate, it has been an exciting year. We applaud the bold efforts by both Democrats and the Governor to make healthcare a priority. CHIRLA hopes that healthcare becomes affordable, accessible, and not a burden for poor, middle class families, and immigrants. CHIRLA has not taken a position on this proposal. For more information about healthcare debate, please visit www.caimmigrant.org, www.health-access.org, or cbp.org.

FORECAST FOR 2008

State Budget

Many states face budget deficits in 2008, and some of the key contributing factors are: a sluggish national job growth, low consumer confidence, and a stalled housing market. However, states such as Florida, Arizona, Nevada, and California will suffer the most from the slow down of the housing market because they rely heavily on real-state taxes.⁸ This projection seems to be correct, because the Legislative Analyst's Office (LAO), a non-partisan entity, released its projections for the next fiscal year stating that, "in order to balance the 2008-09 budget, the

⁸ Prah, Pamela M. "State Budgets Tenuous Heading into '08." *Stateline*. October 10, 2007. <<http://www.stateline.org/live/details/story?contentId=247107>>

state will have to adopt nearly \$10 billion in solutions (e.g. cuts).⁹ Prior to this report, Governor Schwarzenegger "directed all state departments to work up spending plans that are ten percent less than current spending."¹⁰ Furthermore, the Governor announced that he will declare a fiscal emergency in California to start the process of eliminating and slashing funding for social programs. Unfortunately, human and health services, and education are programs that are likely to face deep reduction of funding.¹¹

As a result of this year's budget delay several Democratic leaders called for a serious discussion about 'fixing' the current state budget process, that is the requirement for 2/3 vote approval. It is unclear whether or not Democrats will tackle this matter. 2008 is around the corner and the budget discussion looms. We urge Democrats and Republicans to work to ensure that the budget is not balanced on the backs of the most vulnerable disabled, elderly, low-income families, and children. Furthermore, we also encourage members of the Legislature to explore other avenues to solve our structural deficit, while upholding our state's values. Eliminating and limiting services that assist the most vulnerable is a short sighted solution, impractical, and unethical. Balancing the state budget is a complex issue, but there are some alternatives such as: reforming failed tax subsidies for big corporations, investing in the people of California by enforcing labor laws, indexing the minimum wage, and improving our state educational system including adult education, assisting low income parents who depend on social benefits to become self-sufficient, and making UC's, CSU's, and community colleges affordable. While these suggestions are limited and general, they serve as a point of reference as alternative policies towards fixing our state structural deficit.

Legislative Activity

Next year, voters will not only elect a new president, but will also decide on several policy issues. The February elections contain key initiatives that voters will be deciding on, these are: term limits for members of the Legislature and decrease in community colleges' fees. In November there is a potential for voters to decide on the funding mechanism for the expansion of healthcare, that is if the Legislature and Governor approved legislation to reform the healthcare system.

2008 is the second year of the legislative cycle. Hence, proposals that did not make it out of their house of origin will have a second chance to be approved by the Legislature in the beginning of the year. It is likely that the same controversial bills that many steered away from, including anti-immigrant legislation, will be introduced in 2008. Next year, according to the Governor, is an 'education year,' at this point it is unclear what type of reform will be put forth. Lt. Gov. John Garamendi appears to make higher education cost one of his priorities and has voiced his intent of resisting increases in tuition and fees at California's two major public university systems.

The success of California is inextricably tied to the success of immigrant communities and their integration into the state's economic and civic mainstream.¹² Despite California's distinction as the state with the highest immigrant population, little has been done to create a set of coordinated policy responses to serve the needs of our newcomer population.

⁹ Legislative Analyst Office. "California's Fiscal Outlook: LAO Projections 2007-08 Through 2012-13." November 14, 2007. <http://www.lao.ca.gov/2007/fiscal_outlook/fiscal_outlook_07.pdf>

¹⁰ Lin, Judy. "Governor Planning for 10 percent budget cut: Revenue shortfall may set up a conflict on Prop 98 Spending." *Sacramento Bee*. Pg A4. November 7, 2007.

¹¹ Davis, Aaron C. "Schwarzenegger say he will declare fiscal emergency." *Sacramento Bee-Online*. December 14, 2007. <<http://www.sacbee.com/114/story/568597.html>>

¹² California Immigrant Policy Center. "Looking Forward: Immigrant Contributions to the Golden State." Spring 2006. <<http://caimmigrant.org/repository/wp-content/uploads/2006/08/CIWCsummaryreport06.pdf>>

While immigration policy is set at the federal level, the actual benefits and challenges of immigration are felt at the state and local levels, therefore the state is left with the task to develop mechanisms to integrate newcomers. California must take proactive steps towards working to ensure the best possible future for all of its residents. Some policy recommendations to achieve these goals are as follows:

- Invest in Immigrants
 - Increase funding for the Naturalization Service Program (NSP), which provides funding to community-based organizations to help eligible immigrants to naturalize. Also encourage this entity to work with participants, immigrant rights advocates, and community-based organizations to enhance the program; promote civic participation among immigrants and encourage partnership with state agencies to coordinate and streamline services for immigrants;¹³
 - Increase funding for high quality education, and training programs including acquisition of English for adult immigrants, and job training;
 - Improve linguistic and cultural proficiency of state agencies;
- Increase K-12 funding, and ensure that Limited English Proficiency (LEP) students are receiving adequate instruction. Ensure state aid is available to all students that wish to attend institutions of higher education, including undocumented students.
- Ensure and promote good working relations between immigrant communities and law enforcement authorities by separating local policing efforts from immigration enforcement.
- Enforce and strengthen workers' rights and index the current minimum wage.

These recommendations are general and limited, but serve as point of reference to alternative legislation to address some of California's current challenges.

***Most of CHIRLA's state policy work is accomplished in collaboration with the California Immigrant Policy Center (CIPC) - a statewide partnership of the Asian Pacific American Legal Center (APALC), the National Immigration Law Center (NILC), Services, Immigrant Rights & Education Network (SIREN), and CHIRLA. Contact Joseph Villela (jvillela@chirla.org) to join listservs, calling actions, letter writing campaigns, and legislative visits.*

¹³ California Immigrant Policy Center "The New California Act.". 2006.