



1001 F STREET, SUITE 1050, SACRAMENTO, CA 95811 | TEL: 916 441-7377 | FAX: 916 441-5779

WORKERS' COMPENSATION REFORM

Background

Governor Arnold Schwarzenegger identified workers' compensation reform in his State of the State address as one of the key impediments to job retention/growth in California.

Insurance Commissioner John Garamendi has described the workers' compensation system as "*dysfunctional*" and "*broken*."

None of these comments are surprising considering that since 1999, the average insurer rate per \$100 of payroll has increased more than 275 percent from \$2.27 to \$6.33. To avoid another double-digit increase in workers' compensation rates in 2004 (the advisory rates set by the Department of Insurance were scheduled to rise another 12 percent), the Legislature adopted SB 228 (Alarcon) and AB 227 (Vargas). While these measures were a good first step in the reform process they did not address the core structural issues that have made California's workers' compensation system the most expensive in the nation.

These massive increases in workers' compensation costs have driven numerous companies from California and forced others to close their doors. It is also a drain on the public sector. It is estimated that workers' compensation premiums currently paid by the Los Angeles Unified School District could pay for 10,000 new teachers. Workers' compensation reform could give public agencies a much needed boost in resources *without increasing taxes*. While the legislature may not make the governor's March 1st deadline, there appears to be a genuine bipartisan interest in resolving the issue. The governor has convened a meeting of the "Big Five" (legislative leadership and the governor) to discuss workers' compensation reform. As a result of that meeting, a bipartisan working group will be created to help the legislature reach a consensus on workers' compensation reform.

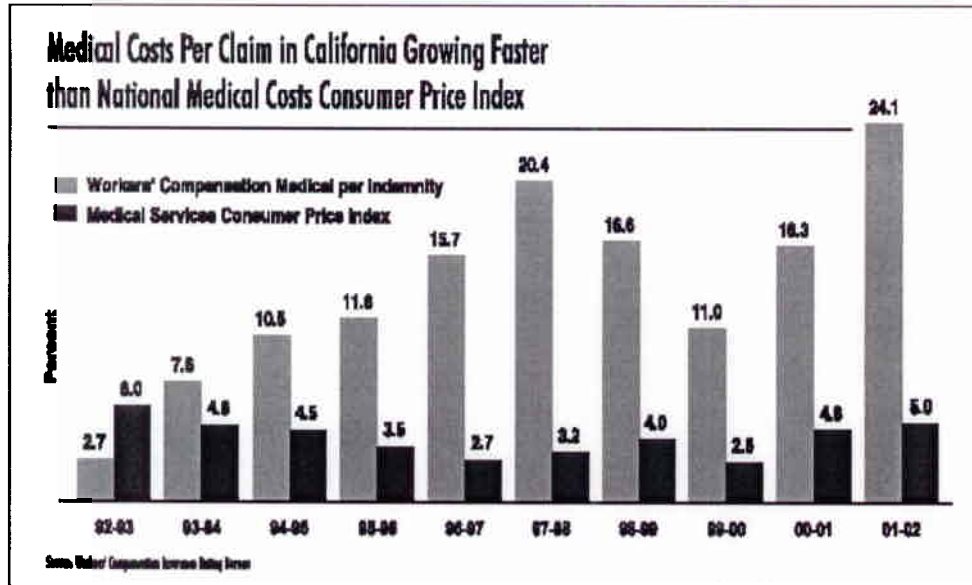
Facts and Figures

From the RAND Institute for Civil Justice report on the state's permanent disability system completed in December 2003:

- While the frequency of all workers' compensation claims in California is 29 percent above the national average, permanent partial disability (PPD) claims are filed at nearly three times the national rate.
- California has nearly 20 percent more permanent partial disability claims per 100,000 workers than the next highest state. More than 40 percent of California workers with lost-time claims receive PPD.
- California has a higher number of PPD claims that involve attorneys compared to other states.

- The RAND report also found that California's heavily litigated PPD system is greatly influenced by "dueling doctors' reports." For example, the average PPD ratings by an applicant attorney's physician are 22 percent higher than the final settlement amount while employer ratings are 7 percent lower than the settlement amount.

The following chart from the California Chamber of Commerce shows how out of control medical costs are in the comp system.



CBA Joins the Business Community in Supporting Workers' Compensation Reform

For every \$1 reduction in the average cost per \$100 of payroll, the employer community (both private and public) saves approximately \$2.9 billion. CBA joins the business community in supporting real reform of the workers' compensation system that will reduce the average cost per \$100 of payroll to below \$2.50. To achieve this type of result, reform must:

- Eliminate subjectivity and inconsistency in disability awards by mandating the use of objective medical findings and using national guidelines;
- Curb permanent partial disability awards for employees who return to their job or an equivalent paying job;
- Make sure that employees are compensated for current injuries only;
- Require cumulative injuries to be predominantly work related to be compensated;
- Set clear standards to ensure that claims do not continue unresolved;
- Require medical doctors to make determinations on disability;
- **Control skyrocketing medical costs;**
- Aggressively prosecute fraud (estimated at \$1 to \$3 billion); and
- Reduce litigation.