



April 16, 2014

TO: Members, Assembly Labor & Employment Committee

FROM: California Chamber of Commerce  
California Grocers Association  
California Manufacturers and Technology Association  
California Restaurant Association  
California Retailers Association  
Simi Valley Chamber of Commerce  
United Ag  
Western Growers

**SUBJECT: AB 1792 (GOMEZ) PUBLIC BENEFITS: REPORT ON EMPLOYERS OPPOSE**

The above-listed organizations **OPPOSE AB 1792 (Gomez)**, amended on April 2, 2014, which asks the Department of Finance, in consultation with other state departments, to develop and publish a list of California's private employers and the amount the state pays when their employees utilize public assistance programs including Medi-Cal, CalFresh, CalWORKS, and WIC. Instead of enacting policies to help low-income workers or provide the Legislature with valuable information about how to help employers compete while providing better wages and health care, **AB 1792** creates a list of shame that would expose California employers to liability, targeted media attacks and protests.

While we appreciate the Legislature's concern with the reality that some employed Californians do not make enough money to cover all of their expenses, nothing in **AB 1792** addresses this problem or provides the Legislature with any information that might help guide future reforms. Calculating how many workers in a given business utilize public services, and how much those benefits cost to provide, does not tell the Legislature anything about why employers pay the wages they do or why they do not all provide health benefits.

**AB 1792** does not look for information about why employers in certain industries pay lower wages or provide fewer benefits than others, or at how rising health care costs impact employers' competitiveness. The bill does not look at other costs that have risen for employers over the decades, limiting what they can offer in wages and other benefits over time. **AB 1792** similarly does not consider the impact that higher prices for goods and services, which would be necessary to support higher wages and health care benefits, could have on the very Californians it is seeking to help. Nor does the bill look at the number of hours workers are taking on, whether they have voluntarily limited their hours for any number of reasons, or have lost an income in the family during the recession that forced their family to survive on a wage that was previously supplemental. These are just a few of the factors that influence use of public assistance programs, but **AB 1792** examines none of them.

Instead, **AB 1792**, by looking only at the number of employees in a given business who utilize these programs, implies that it is the greed of corporate executives that leads them to pay lower wages and not offer health benefits. In asking for a report to highlight those employers that "create the greatest burden on the state," the measure also ignores the fact that even employers who pay lower wages and do not

provide health benefits still contribute greatly to the state economy and keep millions of Californians from being completely dependent on public assistance.

The measure also exempts public employers even though many of them face the same pressures and similarly pay lower wages or deny benefits. Rather than trying to gather information about the complexities of the issue, and how all businesses face challenges trying to provide their employees with higher wages and better benefits, the **AB 1792** targets private employers and seeks to shame them for choices that are largely driven by steep overhead costs, competition, regulation, litigation, consumer buying patterns, rising health care costs and more.

Finally, **AB 1792** creates new grounds for litigation by prohibiting retaliation or discrimination against an employee who enrolls in a public assistance program or refuses to hire an individual because he or she is enrolled in a public assistance program. Specifically, the measure exposes an employer to costly litigation for alleged discrimination or retaliation each time it makes an adverse employment decision that impacts an employee who has enrolled in one of the four referenced public assistance programs. California employers are already overwhelmed with employment litigation. There were approximately 19,500 discrimination claims filed in 2010 with the Department of Fair Employment and Housing under FEHA, which were 1,000 complaints more than in 2009. Notably, over 4,000 of these complaints were dismissed due to lack of evidence of any violation. Adding this new expansive classification will only cause such cases to dramatically increase and burden California employers with costly litigation.

It also exposes employers to liability under Business and Professions Code Section 17200 for unfair competition. This code section defines “unfair competition” to include “any unlawful, unfair or fraudulent business act or practice,” and encompasses anything that can properly be called a business practice and that is forbidden by law, even if that prohibition does not separately grant a private right of action.

While we understand the concern that some employers pay low wages and/or do not provide health care benefits, **AB 1792** will do nothing to drive up wages, make health care more affordable, or otherwise improve the lives of workers. At the same time, the bill will actually make it harder for some employers to provide good wages and benefits by exposing them to new litigation costs.

For these reasons and more, we must **OPPOSE AB 1792**.

Sincerely,

California Chamber of Commerce  
California Grocers Association  
California Manufacturers and Technology Association  
California Restaurant Association  
California Retailers Association  
Simi Valley Chamber of Commerce  
UnitedAG  
Western Growers Association