



April 6, 2011

TO: Members, Assembly Committee on Labor and Employment

FROM: CalChamber *AB*
 Agricultural Council of California
 Associated Builders and Contractors of California
 Associated General Contractors
 California Aerospace Technology Association
 California Apartment Association
 California Association for Health Services at Home
 California Association of Bed & Breakfast Inns
 California Association of Health Facilities
 California Association of Joint Powers Authorities
 California Attractions and Parks Association
 California Automotive Wholesalers' Association
 California Bankers Association
 California Chapter of the American Fence Association
 California Employment Law Council
 California Farm Bureau Federation
 California Fence Contractors' Association
 California Framing Contractors Association

California Grocers Association
California Hospital Association
California Hotel & Lodging Association
California Landscape Contractors Association
California Lodging Industry Association
California Manufacturers & Technology Association
California New Car Dealers Association
California Newspaper Publishers Association
California Retailers Association
Engineering and Utility Contractors Association
Engineering Contractors Association
Flasher Barricade Association
Marin Builders' Association
National Federation of Independent Business
Western Electrical Contractors Association, Inc.
Western Growers Association

**SUBJECT: AB 400 (MA) EMPLOYMENT: PAID SICK DAYS
OPPOSE
SCHEDULED FOR HEARING – APRIL 13, 2011**

The California Chamber of Commerce and the organizations listed above must **OPPOSE AB 400** because it would unreasonably expand both public and private employer's costs and liability for a new protected and paid sick leave for employees.

AB 400 mandates that all employers, except those with collective bargaining agreements, provide any employee who has worked in California for seven days with paid sick leave, the accrual rate at one hour for every thirty hours worked. After the 90th day of employment, employees would be allowed to utilize their paid sick leave to care for themselves or a family member. Pursuant to **AB 400**, any unused sick leave accrued in the preceding year could be carried over to the next year, which is a significant change in existing law. Under **AB 400**, employers would also be required to post information regarding employees' right to paid sick leave, thereby adding onto the already numerous and burdensome posting requirements in California. The costs for these mandates alone will overwhelm businesses in California that are already struggling to survive in this economy. As recently reported in the February 2011 Institute for Women's Policy Research on the effect of the paid sick leave program in San Francisco, 15.2% of the employees surveyed were laid off or had their hours reduced after the program was implemented; 14.1% of the employees surveyed received fewer bonuses or had their benefits reduced; and 21.7% of the employees had increased work demands. Out of the industries surveyed, businesses with 24 employees or less were the most negatively impacted by the paid sick leave program.

In addition to the increased business expenses and potential loss of jobs **AB 400** will create, **AB 400** will also dramatically increase an employer's risk for legal fees and costs. Not only does **AB 400** create a private right of action for employees to sue for any alleged violation with the right to recover back wages, liquidated damages, withheld sick days, attorney's fees, reinstatement, and injunctive relief, but it also creates a rebuttable presumption of retaliation. Specifically, under **AB 400** it will be presumed that an employer retaliated against an employee if the employer takes any corrective action within 90 days of an employee's complaint or opposition to an employer's practice or policy regarding mandated paid sick leave. **AB 400** also imposes penalties against an employer for failure to post the required notices imposed by this section, as well as maintain records regarding employees' accrued sick leave. California was recently rated one of the top ten litigious states in the nation. **AB 400** will certainly emphasize that point with the various vehicles for litigation it creates.

California has the second highest unemployment rate in the nation at 12.2%, and is lagging the rest of the country in recovering from the recession. With this dismal financial outlook, California simply cannot afford to continue to burden private businesses with costly mandates such as **AB 400**. Growth amongst

the private sector is a critical component in California's economic recovery, which **AB 400** will certainly discourage, if not prohibit.

Accordingly, for these reasons and more, we must **OPPOSE AB 400**.

cc: The Honorable Fiona Ma
Aaron Maguire, Office of the Governor
Ben Ebbink, Assembly Labor and Employment Committee
Terry Mast, Assembly Republican Caucus
Steffanie Watkins, Labor and Employment Workforce Development Agency