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Postmortem: AB 650 was hazardous to public health

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In early June, to the great relief of public and private healthcare organizations throughout California, the legislature put Assembly Bill (AB) 650 to rest. It would have required healthcare providers to pay $10,000 in bonus pay to full-time front-line workers who worked during the pandemic. At its apex, the extraordinarily high cost of this unfunded mandate would have imperiled not only for-profit healthcare corporations but also thousands of nonprofit healthcare providers and the populations they serve. Here is our postmortem.

Sponsored by the Service Employees International Union (SEIU), AB 650 would have required a broad swath of public and private-sector healthcare institutions to pay hazard pay ($10,000 to full-time employees) to a broadly defined set of healthcare workers who combatted COVID-19. *The author of the bill, Assemblyman Al Muratsuchi (D-Rolling Hills Estates) noted that "the bill was a way to honor the front-line healthcare workers who went to work despite the threat that COVID-19 posed to themselves and their families." No group of employees could be more deserving. However, AB 650's largely unfunded mandate endangered the majority of healthcare nonprofits and rural hospitals that were already barely surviving.*

Reportedly, the legislation was originally aimed at for-profit hospitals and big nonprofit healthcare organizations (Kaiser in particular), but its original version covered public and private healthcare providers throughout California's public and private sectors, including hospitals, mental health providers, and community health centers (CHCs).

The bill was amended several times, as the authors sought to shore up support and reduce opposition. The original version of AB 650 called for $10,000 in bonus pay to be made to full-time employees in 2022, but only to the extent the governor's declared emergency remained in place. A later version of the bill didn't tie the bonus pay to the hazards of working during an emergency. Instead, the bill required paying bonuses in 2023—hopefully well after the pandemic ends—regardless of whether a state of emergency existed at that time.

The final amendment exempted CHCs and other nonprofits, focusing on hospitals large and small, whether for-profit, nonprofit, or governmental organizations. It also allowed employers that received an exemption to be eligible for grant money funded by the legislature to pay hazard pay to their employees.

Even with those changes, the bill lost momentum because of the ultimately successful lobbying efforts of a broad coalition of opponents. After looking closely under the hood, California Assembly members declined to vote on AB 650, effectively killing it, at least for this legislative session.

The most devastating version of the bill would have cost the State General Fund hundreds of millions of dollars ($924 million, according to one estimate) to reimburse skilled nursing facilities for the cost of mandatory bonuses. The statewide industrywide cost was estimated at $3.8 billion in additional wage bonuses. Perhaps half of that amount would have been reimbursed by federal financial assistance. The Assembly Appropriations Committee also stated AB 650 bonuses would put "significant cost pressure" on Medi-Cal managed care rates.

As well, AB 650 would have negatively affected healthcare providers throughout California's public and private sectors, including hospitals, mental health providers, and CHCs. In many California counties, CHCs provide a significant proportion of comprehensive primary care services to patients who are publicly subsidized or uninsured. In particular, CHCs serve special populations, including agricultural workers, the homeless, mentally disabled individuals, and patients with limited English proficiency. Intended or not, the bill would have benefitted organized labor—especially the SEIU and its organizing efforts—at the expense of already marginalized members of society.

AB 650 was an opportunistic SEIU strategy to unionize nonprofits and get ahead of other unions in the race for new members. And initially, the soundbites supporting the bill were appealing in many quarters, particularly legislators who wished to both return the favor of campaign contributions and grease the skids for more of the same. However, as conservative free-market economist Milton Friedman once famously observed, "It's always so attractive to be able to do good at somebody else's expense." Fortunately, by collectively pointing out AB 650's devastating expense, affected opponents carried the day. Unions competing with the SEIU in representing unionized healthcare nonprofits faced a Catch-22. Opposing even the most ridiculous hazard pay proposal would make them vulnerable to SEIU attack, but supporting the legislation could spin nonprofits into a downward spiral that could result in layoffs or worse. Further, as AB 650 wound its way through committee, it threw a wrench into collective bargaining negotiations occurring in unionized nonprofits, as they were reluctant to increase wage rates during this uncertain period. Consequently, contract negotiations were stalling out. Perhaps, behind the scenes, those unions helped stop AB 650's momentum. But they won't brag about it because doing so would only give the SEIU fodder to attack.

Many employers had already conferred bonus pay to healthcare workers who labored in the face of COVID-19. Those decisions were voluntary and often the result of collective bargaining. It is one thing for a healthcare provider to determine, based on local conditions and its fiscal condition, whether to confer bonus pay or not and by what amount. It is a totally different thing for all healthcare employers to be forced by state mandate to pay each frontline worker bonus pay of any amount, much less the amount required by this legislation.

Bottom Line

After AB 650 failed to move out of committee, the government relations director of SEIU California stated, "The question is not how much we talk about them [critical essential workers], but how much we're going to reward them for their extraordinary services and their sacrifice." It may very well be that this is just a first union effort to enact legislation mandating hazard pay, substituting legislation for what it couldn't achieve at the bargaining table. Rather than providing a possibility of state funding of bonus pay for employers with a proven inability to pay, by rights the state should provide bonus pay from its own burgeoning coffers.

We hope the legislature learned its lesson on this one and efforts in the next legislative session won't include an agenda to resurrect the dead.

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