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SB 974 CONTAINER TAX BILL POSTPONED

SB 974 (Lowenthal; D-Long Beach) which would have imposed a \$60 per container tax on containers transported in or out of the ports of Long Beach, Los Angeles and Oakland was made a 2-year bill by the author this week. CGFA has played an active role in a coalition to oppose this bill that disguises a "fee" as a tax, which would be in violation of international trade agreements and interstate commerce laws. This bill is similar to SB 927 (also Lowenthal) from last year that was vetoed by the Governor. Last week, Los Angeles Mayor Antonio Villaraigosa officially opposed the legislation, which with strong opposition from the business community assisted in convincing Lowenthal to hold the bill and work on the issue over the fall. We will keep you updated on developments.

GOVERNOR SCHWARZENEGGER AND SENATOR ALAN LOWENTHAL ISSUE STATEMENT REGARDING PORT CONTAINER FEE LEGISLATION

From the Office of the Governor; September 5, 2007

Governor Arnold Schwarzenegger and Senator Alan Lowenthal issued the following statement regarding SB 974 port container fee legislation:

"Our ports are an integral component of goods movement in and out of California. I support the concept of SB 974 and want to work together with Senator Lowenthal on the bill so it addresses the future of goods movement while also reducing environmental impacts. I look forward to working during the fall recess with the Senator, his fellow legislators and all interested parties to craft a solution that will protect California's air quality and also facilitate the goods movement through California," said Governor Schwarzenegger.

"I am pleased that the Governor understands the need to fund air quality improvements and rail infrastructure, especially grade separations. I accept the Governor's offer to work together and make SB 974 a reality," stated Lowenthal.

SB 974 would impose a fee on all container cargo going in and out of the ports of Los Angeles, Long Beach and Oakland. The revenue from that fee would fund projects that would alleviate air pollution of containerized cargo moved to and from these ports and improve the movement of such cargo in California.

JOB KILLER BILLS MEETING MIXED FATE IN FINAL DAYS

With less than two weeks remaining before the scheduled end of the legislative year, numerous "job killer" bills are still moving through the process. The Senate and Assembly Appropriations committees met last week to consider long lists of legislation. September 11 is the last day for each house to pass legislation for consideration by the Governor.

IN THE SENATE:

Health Care Tax on Employers -- AB 8 (Nunez; D-Los Angeles) -- Imposes a tax on small employers who can't afford to provide health care coverage, to fund health care coverage for those who don't currently purchase it.

Roll Back of Cost-Saving Workers Compensation Reforms -- AB 338 (Coto; D-San Jose) undermines workers' compensation reforms and increases temporary disability costs in workers compensation claims by increasing the number of weeks benefits can be paid, and by creating a disincentive to use utilization review to enforce medical treatment guidelines.

Increased Employer Liability Exposure -- AB 437 (Jones; D-Sacramento) -- Greatly expands employers' liability exposure and hampers their ability to defend themselves by effectively removing any statute of limitations for lawsuits challenging any employer decision that affects pay or benefits.

IN THE ASSEMBLY:

Mandatory Payments for Striking Employees -- AB 504 (Swanson; D-Oakland) -- Forces employers to pay striking employees by creating a new definition of lockout that requires an employer to pay restitution to employees.

Container Tax -- SB 974 (Lowenthal; D-Long Beach) -- places a \$60 per container tax on containers transported in or out of the Ports of Long Beach, Los Angeles, and Oakland. This is a tax, not a fee, and would be in violation of international trade agreements and interstate commerce laws.

Menu Labeling -- SB 120 (Padilla; D-Pacima) -- would require nutritional information to be printed on menus and menu boards in chain restaurants (defined as each food facility that shares the same trade name with at least nine other food facilities in the state, regardless of whether the food facilities are subject to the same ownership or type of ownership). While it only applies to chains this year, this bill sets a bad precedent for future legislation to expand it to all restaurants.

Workers Compensation -- SB 942 (Migden; D-San Francisco) -- increases workers compensation costs by creating new requirements for employers when bringing injured employees back to work. The bill creates new penalties for employers who do not return injured workers to their pre-injury occupation within 5 days of receiving notice that the employee can return to work, making the employers liable for a penalty of \$100 per day, plus payment of full wages while not in compliance.

JUDGE TEMPORARILY BANS GOVERNMENT CRACKDOWN ON UNDOCUMENTED WORKERS

A U.S. District Court judge in San Francisco has temporarily blocked the Department of Homeland Security's efforts to root out undocumented workers.

U.S. District Judge Maxine M. Chesney issued an order last Friday barring the department from enforcing new rules about "no-match" letters, which the government sends to companies when the combination of an employee's name and Social Security number do not match the information in the Social Security Administration's database.

Illegal workers often apply for jobs using someone else's Social Security number. The rules, scheduled to take effect on September 14, give employers 90 days to resolve such discrepancies. The judge also told the department not to mail out no-match packets to employers that include a letter about the new rules.

A coalition that included the AFL-CIO and the American Civil Liberties Union had filed a lawsuit challenging the new rules and arguing that the Department of Homeland Security had exceeded its authority in issuing the rules. The lawsuit also argues that the many errors in the Social Security Administration's database would result in unfair firings of legal workers.

NEW CELLULOSIC PLANT IN THE U.S.

A Spanish Company announced plans this week to build a U.S. cellulosic ethanol plant in Hugoton, Kansas.

The \$400 million dollar project includes a 30 million gallon per year cellulosic plant that is estimated to turn 700 tons of vegetation and feedstock into ethanol per day. In addition the facility will also contain an 85 million gallon per year corn ethanol plant.

The project is funded in part by a \$76 million grant.

REGIONAL CONFLICTS OVER FARM BILL 'REFORM' EMERGING ON SENATE AG COMMITTEE

The evolving draft Senate Farm Bill looks to become a battleground for regional priorities and those who want big-time permanent disaster relief at the expense of subsidy reform. Sen. Tom Harkin (D, IA), chair of the Senate Agriculture Committee, says he'll unveil his draft Farm Bill the week of September 17 when his committee begins hearings and markup, but he's not only battling budget constraints of, but contending with Sen. Kent Conrad's (D, ND) push to get a \$4-5-billion permanent farm disaster program and Conrad's dealing with southern committee members to get it. Harkin favors commodity program reform – he pushed in 2002 for changes, but ran into similar opposition and settled for expanded conservation programs. He also wants with increases in nutrition, energy development and other programs. But Conrad has been wooing ranking member Sen. Saxby Chambliss (R, GA) and Sen. Blanche Lincoln (D, AR), who represent regions where farm program payments are more important to overall income than in the Midwest. Complicating the tug-of-war over disaster relief versus subsidy reform is the budget. While the Senate does not have the “pay-go” rules that hampered the House, Democrats are committed to holding the line on spending to about what was available in 2002, with a \$20-billion cushion for new programs. Harkin floated the idea of capping direct payments, but his southern colleagues are opposed; this week USDA Secretary Johann's reiterated the Administration's commitment to limit direct payments to farmers with \$250,000 in adjusted gross income. Harkin also likes tying payments to national average revenue per crop, but so far only Ohio and Illinois Senators are biting. On disaster relief, Harkin has floated the idea of a crop insurance fix, with authority to USDA for a permanent program.

NFU WANTS STRONG COMPETITION TITLE IN SENATE FARM BILL

The National Farmers Union (NFU) joined 200 other groups this week in sending a letter to the Senate Agriculture Committee calling for a strong livestock competition title in the 2007 Farm Bill. NFU said the problem is Ag markets dominated by a few large companies that leave independent farmers with no competitive markets. The groups told the ag panel they want to see Sen. Tom Harkin's proposed competition title included in the bill, a move that would increase enforcement of existing law; an end to price manipulation by enactment of the Captive Supply Reform Act, which bans packer ownership of livestock and provides judicial remedies for farmers, and inclusion of the House version's country-of-origin labeling (COOL) provision that will lead to mandatory COOL for meat, poultry, fish and fruits and vegetables imported into the U.S.

SENATE MAY MOVE TO ADD AGJOBS TO FARM BILL

There is at least discussion about adding the Ag worker-only AgJobs bill to the Senate's Farm Bill when it hits the floor. The bill, the idea of Sen. Dianne Feinstein (D, CA), creates a guest worker program for Ag labor, and Feinstein said last week she's crafting her bill as an amendment to the Farm Bill. The next hurdle for Feinstein's plan is to get leadership to buy off on her plan, and there's no guarantee that will happen given the controversy surrounding guest worker programs for any immigrant group.

FARM PROGRAM EXTENSION NEEDED IF NO FARM BILL BY THE END OF SEPTEMBER?

Will Congress have to pass an extension of the 2002 Farm Bill if lawmakers can't get a new bill to the President by the end of the month, a development that's akin to pigs taking flight? Some in the Senate say “yes,” including Senate Minority Leader Mitch McConnell (R, KY), but USDA said this week that farm program payments needn't be extended since they're tied to the crop year, not the fiscal year, which ends September 30. Sen. Tom Harkin (D, IA), chair of the Senate Agriculture Committee, doesn't

believe an extension will be necessary. There may be a need to extend food stamps and some of the nutrition programs, but the heart of the Farm Bill will crank on until the end of the calendar year at least.

INTERAGENCY WORKING GROUP TO HOLD PUBLIC MEETING OCT. 1 ON IMPORTS

The President's Interagency Working Group on Import Safety will hold a public meeting in Washington, DC on October 1, to "identify actions the public and private sectors can take to promote the safety" of all things imported into the U.S., including food and feed ingredients. The meeting will be held from 8 a.m. to 6 p.m., in the Jefferson Auditorium of USDA's South Building in Washington, DC. Attendance is possible by teleconference. Participants must register by September 17. To register, send an email to Erik Mettler (erik.mettler@fda.hhs.gov), and include your name, company/affiliation, address, telephone number, email address, and whether you'll attend in person or by teleconference. Also indicate whether you wish to make a public statement at the meeting. Registration is free and is on a first-come, first-served basis.

Calendar of Events:

January 16-17, 2008 – Grain & Feed Industry Conference – Monterey, CA

April 16-19, 2008 – CGFA Annual Convention – Palm Springs Hilton Hotel

May 21-22, 2008 – California Animal Nutrition Conference –Fresno State University Campus