

Container Tax

Public-Private Efforts Better Way to Fund Infrastructure Improvements

Summary

Background

Over the last decade, California's major ports have seen a substantial increase in the volume of both containerized and non-containerized cargo. There has been a recent decrease, however, in container volumes due to the economic slowdown. All operations at the ports of Los Angeles, Long Beach and Oakland are funded completely with private funds paid by those who do business at the ports.

The increased volume of cargo moving through the port complexes has led to concerns by some that the impacts of goods movement must be mitigated by those who are benefiting from use of the port complexes and exterior trade corridors. Past regulatory requirements and new efforts underway will require those operating at the ports to comply with a host of new regulations by the California Air Resources Board (ARB) that aim at reducing the air quality impacts of goods movement. Among others, these include those in the table below.

Title of Regulation	Anticipated Implementation	Cost to California Business (est.)
ARB Port Truck Regulations	Quarter 4, 2007	\$1.5 Billion
ARB Statewide Railroad Emission Reduction	Quarter 2, 2005	\$350 Million
ARB Green Ports – Shore Power	Quarter 1, 2008	\$1.8 Billion
ARB Vessel Main Engine Fuel Specifications	Quarter 2, 2008	TBD
ARB Vessel Auxiliary Engine Fuel Specifications	Quarter 1, 2007	\$165 Million
ARB Vessel Speed Regulations	Quarter 2, 2008	TBD
ARB Commercial Harborcraft Regulations	Quarter 4, 2007	\$600 Million
ARB Cargo Handling Equipment – Ports/Railyards	Quarter 1, 2007	\$70 Million
**	**	\$4.485 Billion

Source: California Air Resources Board

Despite the above-outlined regulations, and the massive cost on the business community, some believe that additional taxes should be levied on the owners of containerized cargo that moves through the ports of Los Angeles, Long Beach and Oakland. Over the last several years, there have been efforts in the California Legislature to pass legislation that would impose tax on containerized cargo that is imported or exported through California's major ports. In the 2007-08 legislative session, SB 974 (Lowenthal; D-Long Beach) would have imposed a \$60 per-container tax on goods being imported and exported through California's three major ports. The total cost of this legislation was estimated to start at \$500 million per year, but would have grown with any increase in containerized cargo. Half of the money collected was to be spent on infrastructure improvements for goods movement, and half on projects to improve air quality.

SB 974, as well as previous versions of the container tax proposal, was opposed by a massive coalition of businesses and state and federal trade associations. First, there are substantial legal problems with the container tax that would set an unacceptable precedent for a state's constitutional role in regulating trade. Second, a container tax would have had a substantial impact on California's agricultural industry, which is under heavy foreign competitive pressure. Third, there was no clear understanding of how the money ultimately would be spent, and there was no bright line that would mark when the tax would stop being collected. There also were many other smaller legal and philosophical problems associated with the various container tax proposals. To date, all the container tax proposals have been defeated in the Legislature or vetoed by Governor Arnold Schwarzenegger.

Impact on Business

Finding a solution to infrastructure and air quality problems that have an impact on goods movement will serve only to benefit the business community. As identified previously, there are two separate and distinct problems that need to be resolved:

Container Tax (continued)

- **Infrastructure:** California's goods movement infrastructure needs to continue to grow along with the volume of goods cargo being moved through the ports. Growth of the goods movement and logistics industry, which is a major economic force in California, needs investment in order to continue. While previous container tax proposals have not provided a balanced approach, a reasonable compromise that builds real projects and provides real value to those paying the fee would benefit the goods movement and logistics industry by moving goods more quickly and efficiently.
- **Air Quality:** California businesses associated with goods movement and logistics already are being required to adhere to a number of costly regulations, and more regulations are in the pipeline. The cost of the regulations outlined above is in the multiple billions of dollars, and additional investment by the business community must be associated with demonstrated air quality improvements, and must be appropriately levied. Previous container tax proposals have not provided any specific details outlining how the air quality funds will be spent to mitigate emissions.

There is an advantage to the business community in finding a fair and legal alternative that provides measurable benefit to the goods movement industry. The California Chamber of Commerce has consistently worked with the Legislature and stakeholders in an effort to craft a balanced alternative to previous container tax proposals that would have damaged California's economy. The annual financial impact alone is significant, considering that there is no way to know on what the money ultimately will be spent. In addition, the legal precedent set in California could have an impact on businesses across the nation if copied by other ports. The current economic slowdown only compounds the negative impacts of the container tax legislation.

Anticipated Action

SB 974 was vetoed by Governor Schwarzenegger in 2008. Senator Alan Lowenthal (D-Long Beach) has hinted that he may not reintroduce the concept in 2009, but it is possible that another state legislator will take over where Senator Lowenthal left off. The CalChamber will continue to oppose efforts to impose a new tax on California's goods movement and logistics industry.

CalChamber Position

The CalChamber believes that improvements in infrastructure vital to goods movement can be appropriately financed with private funds through public-private partnerships. The California Legislature should work to improve opportunities for private firms to fund California's infrastructure by removing barriers to investment and creating opportunity for private firms and government to work together on important projects. This type of economic stimulation would benefit California by attracting new investment and creating jobs. California should focus on concepts that clean the air and spur the construction of infrastructure without imposing new taxes and increasing the cost of goods for consumers.

Reasons for Position

- Policy that has an impact on interstate and foreign commerce must be crafted in a way that achieves policy goals, but is also legally and economically viable.
- California's economic downturn would be exacerbated by the imposition of new taxes and an increase in the cost of goods.
- Public-private partnerships spur new investment, create new jobs and allow California to build new infrastructure and reduce emissions in a way that does not do further damage to the struggling economy.

Staff Contact

Jason Schmelzer

Policy Advocate
jason.schmelzer@calchamber.com
 California Chamber of Commerce
 P.O. Box 1736, Sacramento, CA 95812-1736
 (916) 444-6670
www.calchamber.com
 January 2009