

California Dreamin'

The Golden State's Golden Opportunity

By *Daniel Weintraub*

A few weeks before Christmas 2007, California Gov. Arnold Schwarzenegger and the top Democrat in the state Assembly—Speaker Fabian Núñez—came to terms on a blockbuster deal designed to create a \$15 billion program to ensure that nearly every Californian had health insurance.

The proposal would have forced employers to provide coverage for their workers or pay a tax to the state, provided subsidies for individuals who couldn't afford to pay their share, and required insurance companies to sell policies to all who applied, without regard to pre-existing health conditions.

Gathered with key members of their staffs around an oaken table in the governor's Ronald Reagan Cabinet Room, the celebrity chief executive and the powerful Democratic leader agreed to push part of the proposal through the Legislature while placing a measure on the ballot asking voters to approve billions of dollars of new taxes on business, hospitals and tobacco companies.

"We thought we had a good package together."

— California Gov. Arnold Schwarzenegger

But the bill Schwarzenegger and Núñez agreed to that night never made it out of the Legislature. And the initiative they vowed to support never made it to the ballot. Their proposal, weakened by questions about its financial viability, died in a cross fire of partisan politics, personal pettiness and interest group opposition.

Schwarzenegger isn't giving up. In an interview for this article, the governor says he intends to keep trying until his term ends in 2010. But his failure so far illustrates how difficult it will be for any large state or the federal government to overhaul the health-care industry with the goal of providing access to insurance and care to those who need coverage but cannot afford to buy it. If a popular Republican governor and a Democrat-dominated Legislature sharing the same goal could not get the job done, can anybody, anywhere?

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"We all try things, and some things fail," Schwarzenegger, ever the optimist, says in a conversation in the smoking tent he has installed in the courtyard of his horseshoe-shaped office suite in the state Capitol. "That doesn't mean you

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should walk away. If you feel passionate about something, you can go back again with more determination. We all have to get back again to see how we can make this work.

“We thought we had a good package together. Not perfect, but with all the obstacles and minefields we’d gotten through, under those circumstances, it was really terrific. But since we were stopped, now let’s look at that, and start thinking about how can we fine-tune it and make it even better. That’s the process we’re going through.”

Schwarzenegger’s plan was loosely modeled on the program adopted in Massachusetts under then-Gov. Mitt Romney. But the California version was far more ambitious and would have been many times more expensive, providing coverage to more than 4 million people who are now without insurance.

At the heart of the proposal were twin mandates—one requiring individuals to carry coverage, and the other requiring insurance companies to sell coverage to all who applied regardless of pre-existing conditions. Schwarzenegger reasoned that the individual mandate was a conservative gesture encouraging personal responsibility. The insurance mandate was a way to guarantee that everybody could obtain the coverage the state was going to require. The two mandates were, in his mind, inseparable. One could not work without the other.

But neither provision would work without billions in new taxes to supplement private payments for insurance. Residents earning up to 2.5 times the federal poverty rate—or about \$53,000 for a family of four—were to get their coverage for only a nominal monthly premium, with the balance paid by taxpayers. In the final version of his plan, people earning up to four times the poverty rate—or \$86,000 for a family of four—would be eligible for tax credits to pay any portion of the premium that exceeded 5 percent of their income. All of this would be paid for by taxes of up to 6.5 percent of payroll on employers who did not provide coverage for their workers, an increase in the tobacco tax and a levy of 4 percent on hospital revenues.

The governor’s proposal was a hit with voters in public opinion polling after its release and throughout the following year. Even after it failed, 72 percent of voters told the independent Field Poll that they supported the plan, including 78 percent of Democrats, 57 percent of Republicans and 80 percent of independent voters.

But Schwarzenegger could not get a single Republican in the Legislature to carry his bill or even vote for it. They saw it as an expansion of government’s role in an industry that already suffered from too much state intervention.

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They opposed new mandates, taxes and regulations, and Schwarzenegger's plan had all three.

Wishin' for Coalition

That unanimous opposition from the Republicans forced Schwarzenegger to deal exclusively with the majority Democrats. But his original proposal hardly fared any better with them. Most of the Democrats favored a California version of Canadian-style, single-payer health care. If they couldn't get that, they preferred to put most of the burden of providing coverage on employers. Schwarzenegger's plan looked to them like an attempt to force individuals to buy insurance without any guarantee that the policies would be affordable or worthwhile.

While he tried to bridge that partisan divide, the governor also had to confront the peculiar personal politics of the California Legislature, where the two most powerful Democrats were barely on speaking terms. No one seemed to know exactly how Núñez, a former boxer and labor organizer from Los Angeles, and Senate Leader Don Perata, a former Oakland schoolteacher, came to be such bitter rivals. But their rift had important consequences for the health-care deal. Perata announced early on that he would cede leadership on the health-care issue to Núñez while he tried to work with Schwarzenegger instead on a huge legislative project to expand water storage and conservation in the increasingly parched Golden State. While Perata's staff was involved in the health bill every step of the way, the final plan lacked a passionate champion in the Legislature's upper house, a fact that would later come back to haunt Schwarzenegger and Núñez.

Then there were the interest groups. The state's largest insurer, Blue Cross, opposed the bill from the outset because the company's business model was based on the practice of medical underwriting that the proposal sought to ban. Blue Cross makes most of its money in the insurance market for individuals, carefully screening applicants for risk and excluding those who are most likely to need care. The company would no longer be able to do that if the bill passed, and the firm was widely expected to spend tens of millions of dollars to oppose the plan had it made it to the ballot.

Also opposed was the tobacco industry, which did not want its customers saddled with an additional \$1.75 per pack of cigarettes to help pay for the proposal's subsidies. Groups representing small business and much of organized labor, including the aggressive and effective California Nurses Association, also opposed the plan.

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Despite those obstacles and a lack of initial support for his proposal, Schwarzenegger pressed on, and eventually, he began making progress.

Five major insurance companies, all of the state's largest firms except Blue Cross, agreed to the provision requiring them to provide coverage without regard to pre-existing conditions. Working behind closed doors, they helped draft the legislative language for the bill, shaping it to phase in the new mandate on insurers as more individuals took up coverage.

The California Hospital Association stepped up next, endorsing the tax on its members' revenues. In truth, the tax was really a way to draw down more matching funds that the federal government gives to states to care for the poor. Up to a point, every additional dollar a state spends taking care of the poor is matched by a dollar from the federal government. Under Schwarzenegger's plan, hospitals would pay a tax equivalent to 4 percent of their revenues, raising about \$1.7 billion, most of which the state would give back to them as reimbursement for taking care of low-income patients. The federal government would then match each of those dollars, meaning the state would have an extra \$1.7 billion to spend. The hospital association's lobbyists offered suggestions for reworking the tax so that, in the end, nearly all of the group's members would be getting more money back than they paid into the kitty.

Schwarzenegger was also able to build some business support for the bill, especially from large employers that already provided coverage for their workers. Steven Burd, the chief executive of the Safeway supermarket chain, helped lead a business coalition backing the measure, which also had support from chambers of commerce in Los Angeles and San Diego.

Finally, the governor benefited from the internal politics of one of the state's largest unions, the Service Employees International Union. At first, the union was one of the most vocal opponents of Schwarzenegger's plan. But the SEIU's national president, Andy Stern, was a supporter of hybrid plans that included an individual mandate as well as a mandate on employers. Private talks with Schwarzenegger helped persuade Stern to back the governor's plan, and the union boss leaned on his California affiliate, which was close to Speaker Núñez, to endorse the proposal. After a change in leadership in the California chapter and some late amendments to the bill, the union came on board, helping to pave the way for additional support from organized labor and, in turn, the Democrats in the Assembly.

Places, Everyone

By December, having called a special session of the Legislature to focus on the issue, Schwarzenegger had reason to believe victory was near. The governor, Núñez, their staffs and aides to Senate leader Perata hammered out the final details of the plan in one last round of private meetings. Perata was not at the final gathering but indicated publicly that he supported the proposal. The Assembly quickly approved it on a party line vote—most of the Democrats voting for it and Republicans opposing—and the leaders expected the Senate to do the same.

“For anybody who understands the complexities of the health-care system and at the same time took an objective view, we had the right architecture of what I would consider to be the best health-care reform plan anybody has put together in the last 10 years and that is really viable,” Núñez said after the bill failed.

But Perata says he was concerned about whether the plan's financing was sustainable. With the state already facing a budget shortfall that would eventually reach more than \$20 billion, he asked the nonpartisan legislative analyst to assess the proposal, and he put off a vote until after the analyst's report was completed.

The report proved to be the plan's undoing. It questioned whether the state could provide insurance to the working poor for \$250 per person per month, an assumption at the heart of the program's finances. If that cost turned out to be \$300 a month, the analysis said, the program would be running in the red by its fifth year of operation. Similar problems were already plaguing the Massachusetts plan as it was rolling out, and the analyst's warning set off alarm bells in Sacramento.

Perata concluded that, eventually, the state would need to increase premiums or cut benefits, and he did not want to commit to a plan that might lead to either outcome. The only other alternative, if a deficit emerged, would be to bail out the program with money from the state's general fund, which would mean cuts in other services. Although the problems might have been fixable, it was by then too late to change the bill and the companion measure that was headed for the ballot. In private meetings with Democratic senators, Perata signaled that he did not consider the fate of the health bill a test of his leadership, freeing the members to vote as they wished. With the state budget mess growing worse by the day and Blue Cross, the tobacco companies and some unions, including the AFL-CIO, lobbying hard against the bill, it went down to defeat in the Senate Health Committee in January.

Schwarzenegger would later argue that short-term considerations about the state budget did not justify killing a plan that might last for generations and become a model for health-care reform nationally. But Perata said at the time of the bill's defeat that such concerns were only natural.

"We can say what we want about the future, and doing things now that are tough that will benefit us in the future, but politicians more than anything, elected officials in particular, have to respond to the immediate needs," Perata said. "Because getting through a period of time of difficulty is what people elected us to do. They're not looking for philosophers. They're not looking for prognosticators. They're looking for people that can help them keep their jobs, keep their homes, not lose their life's savings."

The Sequel?

The bill's defeat was a major failure for Schwarzenegger, one that he might have prevented by insisting on a more inclusive, open process that aired disputes in public hearings rather than private meetings, a strategy that would have revealed the bill's flaws earlier, when there was still time to fix them. A more public process might also have forced the Legislature's Democratic leaders to resolve their differences rather than risk looking like obstructionists. But the result also confirmed much of what Schwarzenegger had been saying about the California Legislature: It is a highly polarized place, heavily influenced by the interest groups that finance political campaigns. The same can be said for most other state capitols and Washington, D.C. So the failure of health-care reform under mostly favorable circumstances in California suggests that its fate elsewhere will not be much better.

For that reason, Schwarzenegger says, California needs to try again, using the failed bill as the starting point for a new round of talks aimed at eliminating the remaining opposition and shoring up the program's projected finances. The governor has already begun meeting again with stakeholders from business, labor, health-care providers and others. With Núñez and Perata both termed out of office, the Assembly already has a new leader—Speaker Karen Bass of Los Angeles—and the Senate will soon be led by Sen. Darrell Steinberg of Sacramento. Those two seem to get along well with each other, and with Schwarzenegger, and the governor says he is eager to work with them on the issue.

Bass has listed balancing the budget, tax reform and improving foster care—not expanding access to health care—as her top priorities. But Steinberg, who will take over as Senate leader this fall, says health care will be one of the first items on his policy agenda.

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"It's an issue that must come back sooner rather than later," he said in an interview for this article. "The problem has not gone away. In fact, it's getting worse."

Steinberg says he will be happy to work with Schwarzenegger on a comprehensive bill. But he also says he thinks a more incremental path might be better. He would start by trying to guarantee insurance for every child in California.

"The governor's effort was laudable in terms of its scope," Steinberg says. "But the problem with an all-or-nothing approach is that too often it leads to nothing. We ought to have a three- to five-year horizon and chip away at it every year."

Schwarzenegger does not want to address health-care access problems piecemeal, fearing that solving any major piece of the problem by itself would undercut momentum for a comprehensive solution. Nor does he want to wait for changes in Washington, D.C., to sort themselves out. As for his own state's budget problems, he insists, against all odds, that those will be largely solved in the months ahead, making legislators and the public more open to dramatic and expensive changes in health-care policy.

"We can't wait for the federal government," he says. "We should be in front and we should come to an agreement and have a package ready to go. We should then help the federal government and do anything and everything to get them going. We're too big of a state. We should just treat all of this as if we are our own country. We have waited long enough.

"If we keep the big vision and the can-do attitude, it can be done," he says. "I think we are on the right track."

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