IDEAS ON LIBERTY
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Strangling the Golden State's Golden Goose

by Steven Greenhut

The older industrial park just south of downtown Los Angeles wasn't the typical spot for a California Chamber of Commerce press conference. There were no ribbons to cut, only a handful of moving boxes decorated with various bill numbers—SB 888, AB 274, SB 515. Instead of hand-shaking and excitement about a newly opened business, a group of assembled reporters and onlookers witnessed some sad speeches and eulogies, the likes of which one usually finds at funerals.

In some ways it was a funeral. Mitchell Greif, chairman of the plastic-bag manufacturing company Coast Converters Inc., was shutting his doors and heading to the Nevada desert, where the cost of business will plummet and where officials are welcoming his company rather than persecuting it.

"I do not want to leave California," Greif told the crowd. "But as a businessman I have no choice. If I stay in California I will be subject to more punitive taxes and fees that will eventually force me to cut jobs. Instead our workers are moving with the factory to Nevada where I will save $800,000 annually in taxes, insurance, workers compensation, and onerous regulations."

"We've been legislated out of business," Kjeld Hestehave, president of Bomatic Inc., a plastics manufacturer in Ontario, California, added, as other company owners eagerly chimed in with their own horror stories. Four years ago, Hestehave said, he was among a group of five plastics manufacturers who met with their state assemblywoman to plead for regulatory relief. "I'm the last one left," he said. Soon enough he'll be gone too—to southern Utah.

It's simple economics. His workers-compensation premiums will go from $300,000 a year to $30,000 a year, and his electricity costs in this electricity-intensive industry will drop from about $800,000 a year to $80,000 a year. But it's not just the money.

"They [legislators] definitely don't want manufacturing in California," he added. "In Utah they want us there so bad. A building permit in California would have taken us months, but we'll get it passed in Utah in about one week." Many of the costliest regulations, business owners say, don't seem to benefit anyone.

It was the same story over and over. Last year California passed a paid-family-leave bill, creating a fund that gives workers time off with pay. Greif points to AB 60, which forces employees to be paid overtime based on daily hours rather than weekly hours. It cost his company $130,000 in one year alone. He said his workers didn't even want the overtime changes, and voted not to implement them, although the state doesn't allow such personal choices.

What is this, some kind of free country where employers and employees can negotiate the terms of employment on their own?

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Business owners have gotten used to a regulatory climate that would be considered oppressive by most standards. But the worst recent business killers are workers-compensation premium increases, which have gone up as much as 400 percent in manufacturing industries, and electricity rates, which have as much as tripled because of the state government's mishandling of an electricity crisis spawned by a failed regulatory plan. Each of those problems could be discussed in entire books, but suffice it to say that state rules in each case are driving higher prices.

More Anti-Business Bills

In the past, Chamber of Commerce general counsel Fred Main said, ideologically driven legislation would be introduced in Sacramento, get a quick discussion in committee, and then promptly be killed. But now these bills pass out of committee without much opposition. Some of them make it into law.

Greif and others said they were getting out of town before the latest crop of bills is signed by the governor. Those bill numbers artfully placed on the empty moving boxes were culled from a list of about 51 deemed "job-killer bills" by the chamber and other state business groups. Add the words "freedom-killing" and we'll be getting even closer to the reality.

Some bills would have dramatic effects, such as a plan for universal health care that would turn the state's medical system into a facsimile of Canada's, in which individuals can spend months or even years waiting for procedures we now consider routine. One of the socialized health-care plans would fund itself by a 7 percent tax on payrolls. It would destroy the economy as well as health care.

The list breaks the job-killers into various categories. First are expensive, unnecessary regulations that, for instance, impose additional environmental approvals for construction projects, or create a fully government-regulated electricity market. Second are those expensive workplace mandates, such as a bill that would require all businesses, big and small, to offer health insurance to workers. Third are those many bills that increase litigation—no surprise, given that the influential trial bar always is looking for new legislation giving them more businesses to sue. Fourth are all the new proposed taxes and fees—on diapers, disposable cups, light bulbs, electronic devices, motor oil, alcoholic beverages, gasoline, Internet purchases, most services, and timber products.

Finally, there are my favorite ones: the largely symbolic bills that treat business owners, quite literally, as criminals. Fred Main said legislators have increased fines on so many businesses that they are now increasing their previous increases. Symbolic of the legislature's mentality is a bill, which passed out of committee on a 5-2 vote, that creates a three-strikes-and-you're-out penalty for businesses. If the company or its leaders are caught committing a felony three times, they will be forced out of business.

Chilly Business Climate

One needn't listen to the state's business groups, or embittered business owners to see the results of this legislative work. The signs are obvious from reading the newspapers.

"California's business climate, always a heated topic in business circles, has tempers boiling once again," the *Los Angeles Times* reported in February. "The state's botched electricity deregulation plan has burdened companies with some of the highest energy rates in the country, while a string of perceived anti-business legislation passed in recent years has made it more costly to employ people."

The *Forbes* annual "cost of doing business" survey has bumped all California cities off its top-ten list. Santa Rosa was the highest-ranked California city, at 27th. The Chamber of Commerce and Business Roundtable "survey of 400 business executives reveals a sharp decline in business confidence since 2001 when the survey was last taken," the *Sacramento Bee* noted in May.

The *Los Angeles Daily News* reported on a UCLA Anderson Forecast showing that "the state's per-capita income has dropped from 15 percent higher than the national

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average to less than 2 percent higher now. At the same time, home prices and apartment rents are more than twice the national average and consumer prices have risen far more sharply than elsewhere."

Economists blame all this on the state's loss of aerospace jobs and the dot-com meltdown, but couldn't the state's overall assault on business provide another plausible explanation?

State officials are in denial. *San Diego Union-Tribune* columnist Joseph Perkins captured Governor Gray Davis's priceless words in a May 23 column: "California is the best place in the nation for businesses to prosper." The state, the governor said, has a "business-friendly policy environment."

Assemblyman John Campbell, an Irvine Republican, said that when he broaches the subject with the Democrats, who have a nearly two-thirds majority in both houses of the legislature and who control every state constitutional office, they are dismissive. They say California is such a beautiful state that businesses will not leave no matter what new burdens are imposed on them.

But they are leaving. An April article in the *Reno Gazette-Journal* reports that "Nevada stands alone in generating jobs in the manufacturing industry." Why Nevada? It's not that hard to figure out. Neighboring California lost 167,100 manufacturing jobs between July 2000 and December 2002, according to the newspaper, for a decline of 8.6 percent. Nevada officials even advertise in California to lure businesses.

Same Old Reasons

There are plenty of anecdotes. Buck Knives, the century-old knife maker that has been located in the San Diego area for 58 years, announced that it is moving to Post Falls, Idaho. The reasons are the same old same old: "We just came to the point where it seemed riskier to stay in California than to leave," company chairman Chuck Buck told the *Los Angeles Times*.

"The cost of doing business in California is becoming too oppressive," Fidelity National Financial Inc. chairman Bill Foley told the *Orange County Register,* in explaining why the Fortune 500 company is negotiating to relocate its corporate headquarters from Irvine to Florida. "It's too bad because it's a nice place to live."

To Democratic officials, these examples are insignificant. State Senator Sheila Kuehl is author of much of the state's most noxious legislation. In published reports she has said that the jobs leaving are only manufacturing jobs and they mainly are going to Asia and Mexico anyway. She points to Silicon Valley companies, which have no intention of leaving the state.

Kuehl is right on one score: the large businesses in Silicon Valley and elsewhere don't seem to mind the excessive regulatory climate. Ironically, the state Chamber of Commerce gives about 92 percent of its political donations to Democrats. Big business routinely bankrolls legislators who impose new regulations on the state as well as initiative campaigns to make tax-hiking easier.

The chamber excuses itself by saying that it has to play ball with those who are in power. There's some truth in that. But believers in the free market have long understood this dynamic—bigger businesses use the government to regulate and tax smaller competitors. The big guys can weather the additional costs; the small guys can't.

This is leading to a California in which big businesses survive, as do the mom-and-pop businesses that typically are exempted from the most onerous regulations. But the middle entrepreneurial and manufacturing businesses are being pushed out of state. Meanwhile, the state seems poised for an exodus similar to what took place in the early 1990s, when middle-class residents fled for the intermountain West.

Rather than blame their policies, the politicians are blaming the free market. California's electricity crisis, which has led to high electricity rates for all Californians, was caused by "deregulation," according to conventional wisdom. As Governor Davis explains it, the state deregulated electricity, and then out-of-state electricity generators gamed the system and gouged California consumers.

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The only problem is that California never deregulated the electricity market. It passed a "deregulation" law that was really a re-regulation law. One area was deregulated—wholesale prices—but the retail price was still capped by the government. It's not hard to see how that led to the bankruptcy of one utility and the near-bankruptcy of another.

The market takes a similar rap with regard to workers compensation. In the view of officials, the state deregulated workers-compensation insurance, rates fell dramatically, but then problems occurred. Insurers were so eager to get business that they undercut their rates until they were losing money, driving many from the market. So the system went belly up. That's how these officials understand the market. If that's how markets worked, then all firms would be out of business because they would have undercut each other into extinction.

In reality, California has the highest workers-compensation rates in the nation and among the skimpiest benefits. Many insurers did start losing money and bailed out of the market. But the reason had to do with what happened between those high rates and low coverage—the excessive medical claims, fraud, and lawsuit frenzy that drove costs through the roof and caused massive losses. Now the state fund is picking up the slack, and it too is losing money. It is handling the problem the way governments always do: by rationing services. Of course, the whole workers-comp mess is ultimately driven by the fact that government is forcing employers to offer this coverage. In a free society, wouldn't individuals decide what insurance to purchase?

Left-Wing Lock

After redistricting, California basically locked in a legislative majority that is far to the left. There are no competitive seats any more, and the Democrats who control things see business as evil and government as good. They don't regard any rights or liberties infringed in their constant attacks on business. It's as if businesses were "public" entities that can be controlled and pilfered at government's will.

No wonder all the punitive anti-business legislation is moving forward, and why many businesses are running scared. Our only hope, one Republican legislator said, is for things to get bad enough that people will wake up.

Maybe things are getting that bad. Not only are businesses leaving, but taxes are likely to go up in the face of a projected $38 billion budget deficit caused by a 37 percent growth in government spending over the past four years. Could this be the beginning of another Eastern European-style meltdown? After all, socialism doesn't work any better in California than it did in Bulgaria.

Unfortunately, the business community has based its defense on arguments about the business climate. California will lose jobs and revenues as businesses shut down, flee the state, or choose not to expand their operations. Where is the spirited defense of freedom? What about the right to run one's business the way one sees fit? What about the right to decide whom to hire, whom to fire, and what to pay one's workers? What about the right to life, liberty and the pursuit of happiness?

Well, at least the weather is nice. ☐

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"The State of the Air": Propaganda, Not Science

by Roy Cordato

Each May the American Lung Association (ALA) issues "The State of the Air" in which it reports on ground-level ozone pollution county by county over a three-year period. The study gives each county a grade (A-F) based on what are called "ozone exceedence days" and calculates the number of people "put at risk" for respiratory problems as a result of these exceedences.

The study is important because it influences policy debates, especially in the states, and because the local news media like to focus on the ALA's ranking of counties and states. In reality every aspect of the ALA report is methodologically flawed. Its reporting of ozone data and the extent of detrimental health effects is hyperbolic, and its grading system and rankings are meaningless.

First, the ALA report is based on data as much as four years old and says little or nothing about current or future trends. Despite its title, "The State of the Air: 2003" focuses on 1999–2001 and says nothing about the state of the air in 2003 or 2002.[1] Ground-level ozone is heavily dependent on the weather, particularly heat, sunlight, and humidity, and can vary dramatically from year to year. For example, from 1999 to 2001 the average number of ozone exceedence days per monitor in North Carolina fell by more than two-thirds, a fact not mentioned in the ALA's discussion of air quality in the state. In spite of this flaw, the media typically report on the study as if the data were both current and an accurate reflection of past and current trends.

The ALA's grading system and the comparisons based on this system convey little if any useful information. A county is given an F if there are more than three monitor readings greater than or equal to 85 parts per billion (ppb) of ambient air averaged over eight hours for the three-year period.[2] This raises several problems.

Imagine county Y and county Z. Y registers ten mild exceedence days of 85 ppb over the period with no other days registering above 70 ppb. Z registers 20 days measuring 80 ppb with no day below 75 ppb. The ALA grading system would give county Y a grade of F and county Z, with no exceedences, a grade of A. According to the Environmental Protection Agency's Clean Air Scientific Advisory Committee (CASAC), these two grades would tell us nothing about the relative healthiness of the air in these two counties.[3] CASAC concluded that when considering a range of 70 to 90 ppb "there is no 'bright line' which distinguishes any of the. . . standards . . . as being significantly more protective of public health." In this case the difference between A and F, while appearing quite dramatic, would turn out to be, in

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