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May 26, 2011

Assembly Member Felipe Fuentes, Chair
Assembly Appropriations Committee
State Capitol Room 2114
Sacramento, CA 95833

Via facsimile (916) 319-2181

Re: **AB 553 (Monning) - SUPPORT**

Dear Assembly Member Fuentes:

On behalf of workers in California who are exposed to asbestos, we urge you to pass Assembly Bill 553 – removing it from the suspense file – as amended. This bill will make more efficient and less costly the process for setting permissible exposure limits (PELs) and will better protect California workers exposed to toxic chemicals from cancer and other serious health problems. AB 553 amends the Labor Code so that PELs will be based on sound scientific evidence developed by specified governmental agencies if those agencies have already evaluated the chemical to be regulated.

Our firm is a nationally recognized plaintiffs' asbestos law firm located in Oakland, CA. Our particular expertise is representing victims of asbestos-related disease, including mesothelioma, but we allocate substantial resources to preventing occupational safety and health injuries and illnesses in our pro bono work through legislative, regulatory and policy advocacy, and impact litigation.

Under the current law it can take many years before new or revised PELs are adopted for various chemicals despite the fact that scientific data regarding cancer, reproductive damage, or other serious health effects posed by a particular chemical already exists and has been vetted by government agencies in a public review process. This bill will streamline the PEL-setting process by utilizing that scientific data.

The bill, as amended, imposes no new costs on state government. In fact, it will likely save money for two reasons. First it will allow Cal/OSHA to leverage the extensive scientific resources of the Cal/EPA Office of Environmental Health Hazard Assessment (OEHHA) and will end unnecessary duplication of effort by the two California agencies

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which evaluate many of the same toxic substances: Cal/OSHA and CA EPA. Cal/OSHA will also save money when it sets standards for chemicals that have been already evaluated by the United States Environmental Protection Agency, the United States National Institute for Occupational Safety and Health, or the United States National Toxicology Program Center for the Evaluation of Risks to Human Reproduction.

Unlike these governmental organizations, Cal/OSHA does not have staff with expertise in quantitative risk assessment, the scientific methodology used to evaluate cancer risks and other chronic health risks of toxic chemicals. Therefore, when Cal/EPA and these other governmental organizations prepare quantitative risk assessments for chemicals that cause cancer or reproductive, developmental or other serious harm, and when Cal/OSHA decides to evaluate the very same chemical, it only makes sense for Cal/OSHA to use the scientific evaluations done by these other expert agencies, adjust them to account for workplace exposures when appropriate, and not “reinvent the wheel.”

Second, and perhaps of greater significance on the human level, California workers will benefit because protective exposure levels mean that fewer workers will become sick and/or die prematurely from cancer and other chronic health damage. In addition, the children of workers exposed to toxic substances will not suffer devastating developmental damage – a significant economic drain and an unspeakable emotional drain on our citizens. Of course, there is also an added economic benefit because many of the costs that result from work-related cancer and other health damages are borne by the State.

AB 553, as amended, does NOT add any new mandates to the standard setting process. The only mandates that were contained in the bill have since been amended out. Deleted were the mandates that were a significant focus of the oppositions’ most recent letter regarding the cost of this bill. Although we disagreed with their analysis, we recognized that there were in fact some additional requirements that the bill was placing on the rulemaking authority – to wit to make certain findings of fact after going through an analysis of feasibility. And recognizing that any new costs would be difficult in these tough economic times, we have made these changes.

The costs for developing new or improved standards for toxic substances in the workplace are not a function of this bill; those costs are a function of existing law contained in Labor Code Sections 140 et seq. Our California budget already includes funds for the standard setting function, and some aspects of our standard setting are required as a condition of having an approved state occupational safety and health program. Our California Constitution contains language that protects California workers’ right to our own program – a right that came about as a result of the November 1988 ballot Proposition 97. Health and safety is a human right and the people of the State of California have affirmed their support for safety in the workplace.

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As amended, AB 553 is now a policy bill. It states that it is the policy of the Legislature to protect California working men and women, and children who may be affected *in utero* by workplace toxics to which their parents are exposed, from cancer, reproductive damages, and other serious health effects. We are confident that you and the members of the Assembly Appropriations Committee are committed to this policy and urge you to vote AB 553 out of the suspense file.

In summary, this bill will streamline and expedite the PEL setting process and ensure that workers will be better protected. When information about the risks posed by toxics that cause cancer and other serious harm exists, and those chemicals are being considered by the Cal/OSHA rulemaking authority, it makes sense to move as swiftly as possible to adopt effective regulations.

Please support AB 553 when it comes before you. Please feel free to contact me with any questions and thank you for your commitment to worker health and safety.

Sincerely,



Steven Kazan

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