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Top Democrats, governor tout health care proposals

Health: Some doubt both plans' legality

By Aurelio Rojas - Bee Capitol Bureau
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Setting the stage for negotiations to begin in earnest, Democratic legislative leaders announced Thursday they have combined their proposals to expand health care in California.

Senate President Pro Tem Don Perata, D-Oakland, and Assembly Speaker Fabian Núñez, D-Los Angeles, previously agreed to require employers to spend 7.5 percent of payroll costs on health care, but differences remained.

In the biggest compromise, Perata agreed with Núñez to reject Republican Gov. Arnold Schwarzenegger's proposal that everyone in the state be required to obtain insurance.

"This gives us the entire summer to negotiate whatever aspects of the bill need to be negotiated with the governor and the opportunity to reach out to our Republican colleagues," Núñez said at a Capitol news conference.

At an earlier news conference at the home of a small-business owner in Sacramento, where he touted his health care plan, Schwarzenegger held firm that employees be required to contribute.

"The only way that health care reform is going to work is if you have mandatory health care insurance," said the governor, whose plan calls for a 4 percent payroll assessment.

Besides myriad political hurdles, a recent legal opinion on the governor's plan suggests it may not hold up to legal challenges.

Schwarzenegger and Democratic leaders insist the billions of dollars in new levies they are proposing are "fees" and not "taxes" requiring a two-thirds vote of the Legislature.

But the Legislative Counsel concluded that, under the state constitution, the levies in the governor's plan would be taxes. If so, it would require votes from Republicans in the Legislature -- which is unlikely since they uniformly oppose such levies.

The governor brushed aside the legal threat in his plan to reduce the ranks of the 6.5 million uninsured people in California.

"I don't get kind of tied up on 'Is it a tax, is it a fee?' " Schwarzenegger said. "To me, I look at it as a fee. I stick with that."

But some health care advocates are becoming increasingly concerned that neither the governor's nor the Democrats' proposals will withstand legal challenge.

At a separate Capitol news conference, PICO California, a coalition of faith-based and community groups, joined the American Cancer Society and the American Lung Association to propose that the Legislature increase tobacco taxes to provide a more secure revenue stream.

They cited the toll on the health care system caused by cigarette smoking and polls that show far less resistance from Republicans to tobacco taxes than other taxes.

"We believe it could be the critical piece to make the rest of the package work," said Jim Knox, a legislative advocate for the American Cancer Society.

Supporters of the tobacco tax hike conceded it would be only one element of an overall health care financing strategy, but Perata dismissed the proposal.

"From my point of view, it's continuing this idea that we can make fundamental changes in major public policy with bake sales out in front of the house," the Senate president said.

A spokeswoman for the governor reiterated his opposition to any new taxes.

In the coming weeks, the debate will focus on who would pay for health care expansion -- and how much.

The Democrats and Schwarzenegger agree on requiring employers to help foot the bill. They also support creating a state-run insurance pool, mandating that insurance companies cover anyone who applies, and providing subsidies to the poor.

In agreeing to merge their plans, Perata and Núñez made some important decisions.

The state-run pool for high-risk individuals would be funded by an unspecified assessment on health plans under their proposal.

The legislation would provide premium subsidies to families and children under 300 percent of the federal poverty rate, about \$50,000 for a family of three.

The state's Managed Risk Medical Insurance Board would have the authority to adjust the employer fee to ensure fiscal solvency. There would be no exemptions for small businesses.

Senate Republican leader Dick Ackerman of Irvine dismissed the Democratic plan, saying it does nothing to lower costs and make health care more accessible.

"Their plan instead jeopardizes jobs by applying expensive mandates on California businesses," Ackerman said in a statement.

Assembly Republican leader Mike Villines of Clovis said the Democratic plan will "devastate our state's small businesses."

"Rather than place the entire burden on California's small businesses, we should embrace common-sense reforms like those introduced by Assembly Republicans that will allow for more choices," Villines said in a statement.

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