SIBTF Trailer Bill:

The Hidden Costs and Legal Exposure

A Legislative Briefing on the 2026 Budget Trailer Bill Amending Labor Code §§ 4750 et seq.

THE PREMISE

The Administration presents the SIBTF trailer bill as a savings measure. In reality, it does two things the fiscal estimate fails to capture: (1) it transfers costs from the employer-funded SIBTF to the State General Fund, public employers, and the workers' compensation system itself; and (2) it creates multiple legal and constitutional vulnerabilities that will produce years of litigation and the risk of judicial invalidation.

This brief focuses on those two issues — the hidden costs, and the legal exposure.

I. Unintended Consequences — The Costs That Don't Disappear

When a catastrophically disabled worker loses SIBTF benefits, the disability does not vanish. The cost reappears elsewhere on California's ledger. DIR's fiscal estimate scores only the SIBTF assessment line — none of the transfers below.

A. Direct cost transfers to California safety-net programs

- **Medi-Cal enrollment surge.** A 100%-disabled worker who loses the SIBTF supplement cannot afford private coverage. The General Fund and federal match absorb lifetime medical costs — routinely exceeding the denied SIBTF benefits, particularly for complex spinal, neurological, or orthopedic injuries requiring decades of care.
- **SSI/SSP caseloads.** The State Supplemental Payment is 100% state-funded. Workers denied SIBTF will qualify for SSI/SSP, shifting cost from employer-funded SIBTF directly to California taxpayers.
- **IHSS utilization.** Catastrophically injured workers without SIBTF income are more likely to need In-Home Supportive Services — a program already under fiscal strain, with counties sharing cost.
- **CalFresh, General Assistance, and county indigent care.** Disabled workers with no wage replacement and no SIBTF supplement cascade into county and state assistance programs.
- **Homelessness services.** A worker at 100% combined PD who cannot work and loses the SIBTF supplement is at immediate risk of losing housing. Homelessness-response costs — shelter, Project Homekey, county behavioral health — dwarf the SIBTF benefits denied.

B. Hidden cost explosion in the "basic" industrial claim

Section 4754.1 requires all SIBTF evidence to be developed in the underlying industrial claim. This is a direct cost transfer from the Fund to industrial carriers, self-insured employers, and California's public employers:

- **QME evaluations balloon.** Every QME must now address pre-existing disability, labor-disabling impact, combined ratings, and threshold issues — doubling or tripling report length, complexity, and fees.
- **Prophylactic vocational evidence.** Applicants' counsel will retain vocational experts in every serious claim on the possibility SIBTF may later apply — a cost the industrial carrier pays regardless of outcome.
- **Discovery explodes.** Rebuttal experts will multiply. Every serious basic-case claim will carry SIBTF discovery costs.

- **Trials lengthen.** Joint trial of basic-case and SIBTF issues becomes unavoidable, multiplying WCAB hearings, lien activity, and appellate petitions.

C. Direct hit on public employers — cities, counties, schools

Every public employer that self-insures or carries workers' compensation coverage absorbs the increased medical-legal, vocational, discovery, and litigation costs — directly out of general funds that would otherwise pay for services:

- City and county governments and their public-safety, transit, and public-works employees.
- K-12 school districts and their JPA pools (SISC, PRISM, CSAC-EIA).
- Community college districts, the UC and CSU systems.
- Special districts — water, fire, transit, hospital.
- The State of California itself as the largest employer in the state.

When basic-case costs rise, public-employer premiums and self-insured reserves rise with them — competing directly with public safety, education, and infrastructure for general-fund dollars.

D. Workers' compensation system distortions

- **Apportionment manipulation.** The new 100%-PD bar in § 4751(b) gives defense counsel a powerful incentive to argue the subsequent injury alone causes total disability. That strategy shifts liability back onto the employer in the basic case — again raising public-employer and private-carrier costs.
- **Fewer settlements, more trials.** Workers who would have resolved the basic case and pursued SIBTF separately must now litigate everything together. Compromise-and-release settlements will decline and trials will proliferate — the opposite of the system efficiency the Administration claims to want.
- **Backlog moves, doesn't shrink.** The backlog migrates from the SIBTF docket to the general WCAB docket. Judges, clerks, and the appellate system absorb the load the Fund was handling.

E. Downstream effects on hiring and return-to-work

- **Disincentive to hire workers with disabilities.** SIBTF's original purpose was to insulate employers who hire workers with pre-existing conditions. Weakening the Fund reintroduces the exact disincentive the Legislature removed after World War II — a step backward for disability employment in California.
- **Return-to-work penalty.** The "treatable by medication" carve-out disadvantages workers who managed prior conditions and stayed on the job. The bill sends the message that working through a disability costs you coverage later.

F. Administrative and litigation overhead

- **A decade of appellate litigation.** Every term in new § 4750 — "demonstrable impact," "interfered with," "treatable by medication," "engaged in employment without incapacity" — will be contested through en banc WCAB decisions, writ review, and Court of Appeal opinions.
- **Attorney General defense costs.** The AG's office will spend significant resources defending the new statute against constitutional and as-applied challenges.
- **DIR rulemaking burden.** Terms the statute leaves undefined require regulations — triggering rulemaking costs, public comment cycles, and further litigation challenging the regulations themselves.

THE HIDDEN BALANCE SHEET

Every dollar "saved" from SIBTF reappears as: increased Medi-Cal and SSI/SSP outlays, higher workers' compensation costs for cities and schools, longer basic-case litigation, attorney and expert fees charged to industrial carriers, homelessness-response spending, and years of appellate-court costs.

Ask the Legislative Analyst's Office to score the whole ledger — not just the SIBTF assessment line.

II. Legal and Constitutional Challenges

The trailer bill creates at least five distinct categories of legal exposure — each likely to draw litigation, and several with real prospects of partial or complete judicial invalidation.

A. Retroactivity — Due Process and Vested-Rights Exposure

Section 4757 labels the amendments "procedural" and applies them to every claim without a "final determination." The label will not survive judicial scrutiny. The bill:

- Eliminates entire categories of claimants (the medication-managed, those without contemporaneous documentation).
- Changes the mathematical formula used to calculate threshold.
- Bars admission of evidence — vocational reports, SIBTF-specific medical-legal reports — that claimants have already obtained and paid for under existing law.

California courts have repeatedly held that substantive-rights changes cannot be retroactively applied absent clear legislative direction — and even then may be unconstitutional as applied. See Aetna Casualty & Surety Co. v. Industrial Accident Commission (1947) 30 Cal.2d 388; Myers v. Philip Morris (2002) 28 Cal.4th 828. Workers who incurred QME, vocational-expert, and attorney fees under the existing standard will have vested expectations extinguished by statute — a due-process and takings question the Legislature should not want to be the test case for.

B. Equal Protection — The Medication Carve-Out

Section 4750(e)(2) provides that a pre-existing condition is not "labor disabling" if "treatable by medication or the use of a medical device" such that the worker was employed without incapacity. That provision treats two identically disabled workers differently based solely on whether the condition is medically managed:

- Worker A: uncontrolled hypertension, no medication — qualifies.
- Worker B: identical hypertension, controlled by medication, still working — does not qualify.

There is no rational basis for that distinction. The classification is particularly vulnerable because it directly contradicts California's own express rule elsewhere in disability law: Government Code § 12926.1(c) (FEHA) prohibits considering mitigating measures when determining disability, and federal law (42 U.S.C. § 12102(4)(E), ADA Amendments Act of 2008) does the same. The Legislature will be asked why one statute says mitigating measures are irrelevant and another, passed the same year, says they are disqualifying. The inconsistency undermines the rational-basis defense.

C. The Express Disabling of Labor Code § 3202

Section 4754.2 expressly forbids applying § 3202's liberal-construction rule to extend the SIBTF limitations period. § 3202 has been the interpretive bedrock of California workers' compensation since 1917 and derives

from Article XIV, § 4 of the California Constitution, which commands that workers' compensation laws shall accomplish substantial justice expeditiously.

- This is the first statutory disabling of § 3202 in the modern workers' comp era.
- It invites a facial challenge arguing the Legislature cannot, by statute, override a constitutionally-grounded interpretive command.
- Even if upheld, it becomes precedent cited in future attempts to erode § 3202 in other contexts — a doctrinal door the Legislature should be reluctant to open.

D. Override of Ferguson and Seven Decades of Settled Law

Section 1 of the bill expressly overrides Ferguson v. Industrial Accident Commission (1958) 50 Cal.2d 469 "and its progeny." The progeny include Escobedo v. Marshalls (2005) 70 Cal.Comp.Cases 604 (en banc) and dozens of WCAB and appellate decisions. The legal consequences:

- **Every undefined term becomes a test case.** "Demonstrable impact," "interfered with work activity," "engaged in employment without incapacity," "opposite and corresponding member" — all require judicial construction.
- **Years of WCAB en banc decisions and writ review.** Post-SB 899 apportionment litigation (Brodie, Benson, Guzman, Hikida, Kite, Dahl) took more than a decade to stabilize. Expect the same trajectory here.
- **Uncertainty for every pending claim.** Practitioners cannot reliably advise clients, reserve carriers, or settle cases until the key terms are construed — a multi-year drag on system efficiency.

E. Article XIV, § 4 — The Constitutional Command

Article XIV, § 4 of the California Constitution vests the Legislature with plenary power to create and enforce workers' compensation laws — but commands that the system "accomplish substantial justice in all cases expeditiously, inexpensively, and without incumbrance of any character." A credible argument exists that provisions in this bill contravene each element of that command:

- Substantial justice — by extinguishing claims of workers whose pre-existing conditions were managed rather than ignored.
- Expeditious resolution — by forcing joint trial of basic and SIBTF issues and creating years of interpretive litigation.
- Inexpensive resolution — by driving up QME, vocational, discovery, and trial costs in every serious claim.
- Without incumbrance — by erecting new evidentiary bars (contemporaneous-records rule, bar on new medical-legal evidence) that penalize workers who did not anticipate a future subsequent injury.

Article XIV, § 4 is not merely hortatory; California courts have cited it to strike down or narrow statutes inconsistent with its commands.

THE LEGAL BOTTOM LINE

This trailer bill invites challenges on retroactivity, equal protection, the override of § 3202, and Article XIV, § 4. Even if every challenge ultimately fails, the Fund and the workers' comp system will absorb a decade of litigation expense. Several challenges — particularly retroactivity and the medication carve-out — have a meaningful prospect of success.

III. The Ask

To avoid an expensive detour through the safety net and the courts, we respectfully ask you to:

- **Require LAO scoring of the full fiscal impact — including transfers to Medi-Cal, SSI/SSP, IHSS, homelessness services, public-employer workers' comp costs, and the WCAB and appellate courts.**
- **Remove the retroactivity provision (§ 4757) in any version of the bill that advances.**
- **Remove the medication and mitigating-measure carve-out in § 4750(e)(2), which conflicts with FEHA and the ADA.**
- **Preserve § 3202's liberal-construction rule.**
- **Move any remaining reform through the regular policy-committee process, with full stakeholder input and constitutional review.**