

ALERT

VOLUME 43, NUMBER 2 • JANUARY 27, 2017

 **CalChamber**
CALIFORNIA CHAMBER OF COMMERCE

State of State Address

Governor Urges Listeners: 'Act as Californians First'



Governor Edmund G. Brown Jr. called on Republicans and Democrats to “find more things to do together” in his State of the State Address this week.

“Although we’ve disagreed—often along party lines—we’ve generally been civil to one another and avoided the rancor of Washington. I urge you to go even further and look for new ways to work beyond party and act as Californians first,” the Governor said in his January 24 address.

“Democrats are in the majority, but Republicans represent real Californians too... We went beyond party when we reformed workers’ compensation, when we created the rainy day fund and when we passed the water bond,” the Governor said.

“Let’s do that again and set an exam-

ple for the rest of the country. And, in the process, we’ll earn the respect of the people of California.” The Governor called the lengthy applause following that statement “a very good sign of potential bipartisanship.”

The Governor also cited the closing of a \$27 billion budget deficit as an example of what legislators and his administration have accomplished together.

He opened his remarks by highlighting the state’s importance to the nation’s economy: “When California does well, America does well. And when California hurts, America hurts. And when we defend California, we defend America,” Governor Brown stated.

Infrastructure

One area where California and the federal government can work together,

See Governor Urges: Page 4

CalChamber Names Environmental Law Policy Advocate



Louinda V. Lacey

The California Chamber of Commerce has hired Louinda V. Lacey, an experienced attorney in environmental law, to serve as a policy advocate for environmental policy, housing

and land use, and product regulation issues.

Before joining the CalChamber policy team, she provided regulatory compliance advice and enforcement defense services to businesses and individuals with a focus on environmental laws and regulations at her own Sacramento-based law firm.

“Louinda Lacey’s knowledge of California’s complex environmental laws and regulations will serve the business community well in advocating for a sound balance between policy and impacts on jobs and the economy,” said CalChamber President and CEO Allan Zaremborg.

Lacey also worked as an attorney at several Sacramento-area law firms, representing clients in private and government environmental enforcement actions; advising clients on matters ranging from retail, food and beverage, and environmental regulatory compliance requirements, to water/groundwater rights; and defending clients in civil litigation related

See Policy Advocate: Page 4



Governor Brown swears in Xavier Becerra as California’s 33rd Attorney General, the first Latino to hold that office. Looking on is Becerra’s wife, Dr. Carolina Reyes.

AP Photo by Rich Pedroncelli

Inside

**More Details on
Job Killers: Page 7**

Labor Law Corner

Employers May Cap PTO Accrual If Reasonable Time Frame Given



Barbara Wilber
HR Adviser

Our company provides a paid time off (PTO) policy to meet the paid sick leave requirement. The company plans to cap the PTO accrual at 48 hours, pursuant to the paid sick leave cap requirements. Is this cap OK?

In most cases, employers will be unable to use the sick leave cap for PTO. A valid cap on vacation/PTO accruals is different than a sick leave cap and

depends on the total amount of vacation/PTO time an employee is allowed to accrue or earn in a year.

Once you establish a PTO plan that provides time off for any purpose, including vacation and sick leave, the plan is treated the same as vested vacation pursuant to Labor Code 227.3.

Capping Vacation, PTO

Vacation/PTO vests as it is earned, and a “use-it-or-lose-it” policy, in which employees lose earned vacation that is not taken by a specific time, is prohibited (except for a limited opt-out provision applying to collective bargaining agreements and vacation plans subject to the federal Employee Retirement Income Security Act).

However, a cap limiting the amount of vacation/PTO that accrues may be established, but the rules regarding this type of cap are different than the cap allowed by the mandated paid sick leave law.

To be in compliance, an employer must merge the two laws and make sure its policy meets the stricter requirements found in both regulations. Establishing a cap on earnings is optional for either sick leave or vacation/PTO.

State Guidelines

If an employer chooses to place a cap on the PTO earnings, follow the Division of Labor Standards Enforcement (DLSE) guidelines. *The DLSE Enforcement Manual* at Section 15.1.4.1 states:

“DLSE has repeatedly found that vacation policies which provide that all vacation must be taken in the year it is earned (or in a very limited period following the accrual period) are unfair and will not be enforced by the Division. (See the detailed discussions of these issues at O.L. [Opinion Letter] 1991.01.07 and 1993.08.18).”

‘Reasonable Cap’ Criteria

Any policy instituting a cap on accrued vacation/PTO must provide a reasonable time in which to use already-earned vacation. In the interest of meeting the “reasonable cap” criteria, employers often cap accrual at 1.5 or 2 times the annual earning rate.

For example, if an employee earns 40 hours annually, the policy could establish a cap at 60 or 80 hours.

As you can see, this requirement would not allow capping the vacation/PTO earnings at the amount accrued in one year as is allowed in the sick leave law.

Before instituting a cap, review the DLSE opinion letters and visit HRCalifornia.com for guidance.

The Labor Law Helpline is a service to California Chamber of Commerce preferred and executive members. For expert explanations of labor laws and Cal/OSHA regulations, not legal counsel for specific situations, call (800) 348-2262 or submit your question at www.hrcalifornia.com.

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Alert (ISSN 0882-0929) is published weekly during legislative session with exceptions by California Chamber of Commerce, 1215 K Street, Suite 1400, Sacramento, CA 95814-3918. Subscription price is \$50 paid through membership dues. Periodicals Postage Paid at Sacramento, CA.

POSTMASTER: Send address changes to Alert, 1215 K Street, Suite 1400, Sacramento, CA 95814-3918. Publisher: Allan Zarembeg. Executive Editor: Ann Amioka. Associate Editor: Sara Espinosa. Art Director: Neil Ishikawa. Capitol Correspondent: Christine Haddon.

Permission granted to reprint articles if credit is given to the California Chamber of Commerce Alert, and reprint is mailed to Alert at address above.

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CalChamber-Sponsored Seminars/Trade Shows

More at www.calchamber.com/events.

Labor Law

2017 Employment Law Update Webinar.
CalChamber. January 31. (800) 331-8877.

HR Boot Camp. CalChamber. February 7, Modesto; March 1, Burlingame; March 23, Pasadena; May 11, Sacramento; May 25, San Diego; June 6, Santa Clara; August 24, Thousand Oaks; September 6, Beverly Hills. (800) 331-8877.

Leaves of Absence. CalChamber. April 6, Sacramento; April 25, Oakland; June 22, Huntington Beach. (800) 331-8877.

International Trade

Steps to College Fair. Cien Amigos,

See CalChamber-Sponsored: Page 3

CalChamber Calendar

Water Committee:

March 2, Half Moon Bay

Fundraising Committee:

March 2, Half Moon Bay

Board of Directors:

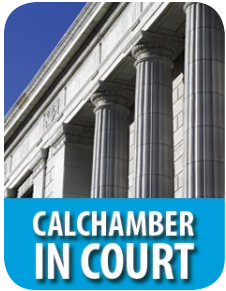
March 2–3, Half Moon Bay

Capitol Summit:

May 31, Sacramento



More Timekeeping Guidance from Court on Standards for Rounding Entries



An appellate court decision that further clarifies the ability of California employers to round employee timecard entries has been published at the request of the California Chamber of

Commerce and the U.S. Chamber of Commerce.

By ordering its decision in *Silva v. See's Candy Shops, Inc.* to be published, the 4th District Court of Appeal provides helpful guidance to employers on the factual circumstances that satisfy the standards for rounding of timecard entries.

The December 9, 2016 decision in *Silva v. See's Candy* affirms that California employers may round employee timecard entries to the nearest tenth of an hour (6 minutes).

Background

See's Candy uses a timekeeping software system to keep track of its employees' working hours. The software system required employees to "punch" in at the beginning and end of their shift.

Timecard adjustments were made only in accordance with two See's policies: 1) the nearest-tenth rounding policy; and 2) the grace period policy. Former employee Pamela Silva filed a class action lawsuit challenging these two policies.

Under the nearest-tenth rounding policy, in and out punches were rounded up or down to the nearest tenth of an hour. Under the separate grace period policy, employees whose schedule had been programmed into the timekeeping system could voluntarily punch in up to 10 minutes before their scheduled start time and 10 minutes after their scheduled end time. Employees, under See's rules, were not permitted to work during that time, but could use it for personal activities.

In October 2012, the 4th District Court of Appeal issued an employer-friendly opinion by concluding that, under California law, employers may round employee timecard entries to the

nearest tenth of an hour if the rounding policy is neutral, both as written and as applied. This ruling was particularly important because there was no statute or prior case law that expressly authorized this common practice, which is permissible under federal law and followed by California's labor agency.

The 2012 ruling did not explain how to determine whether a rounding policy had a neutral impact over a period of time and did not require any specific method of calculation for determining whether rounding resulted in undercompensating employees. Also not covered were the facts needed to support a summary judgment (issued without a trial) for an employer defending itself in claims alleging unlawful rounding on timecards.

Additional Guidance

The December 2016 ruling provides additional guidance regarding grace period policies, pointing favorably to See's policy of prohibiting employees from working during the grace period and the "undisputed evidence" that employees engaged only in personal activities during the grace period and were neither working nor under the employer's control during that time.

CalChamber Involvement

CalChamber involvement in the case dates back to October 2011, when the CalChamber filed a letter urging the appeal court to review the trial court's erroneous decision that the practice of rounding employee time entries to the nearest 6 minutes violated California law.

In a letter submitted by John A. Taylor Jr. of Horvitz & Levy LLP, the CalChamber joined the U.S. Chamber of Commerce in asking the appeal court to publish its December 2016 ruling, pointing out that employers who use rounding are frequently the targets of litigation.

"Decisions addressing when California employers are entitled to summary judgment in such cases provide important benchmarks for the parties and for the courts charged with adjudicating rounding claims," stated the joint letter asking that the decision be published.

For California employers facing class action lawsuits involving rounding claims, the letter stated, "whether a rounding defense forecloses liability or merely creates a triable issue of fact to be resolved after class certification can literally be a multimillion-dollar question," the letter said.

Staff Contact: Heather Wallace

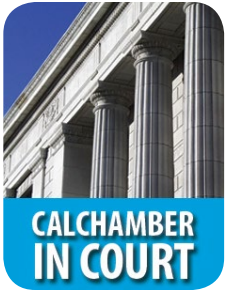
CalChamber-Sponsored Seminars/Trade Shows

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Mexican Cultural Center of Northern California, Consulate General of Mexico in Sacramento. February 4, Sacramento. (916) 329-3500.
 ExporTech Program. California Manufacturing Technology Consulting. February 16, Los Angeles. (310) 984-0728.
 Import Compliance Training. Orange County Center for International Trade Development. February 27, Santa Ana. (714) 564-5415.
 SelectUSA 2017 China Road Show. SelectUSA. March 13–23, Changchun, Jjianan, Zhengzhou, Kunming, Xiamen and Nanjing, China.
 California Policy Mission to Australia.

Northern California-Sacramento Regional Center for International Trade Development. March 19–25. (916) 563-3200.
 Connect to Thrive—Impact of Digital Data and Commerce Across the Global Supply Chain. California Centers for International Trade Development. March 23–24, San Bruno. (650) 738-7117.
 Asia Pacific Business Outlook Conference 2017. University of Southern California Marshall School of Business. March 27–28, Los Angeles. (213) 740-7130.
 SelectUSA Investment Summit 2017. SelectUSA. June 18–20, Washington, D.C. (202) 482-6800.

Appeal Court Hears CalChamber Arguments Against Auction of Cap-and-Trade Credits



A Sacramento appellate court heard oral arguments this week on a closely watched lawsuit filed by the California Chamber of Commerce concerning the California Air Resources Board's

(ARB) cap-and-trade auction.

In 2012, the CalChamber sued the ARB seeking to invalidate the auction as a violation of Proposition 13. The complaint asserts that AB 32 does not authorize the ARB to impose fees other than those needed to cover ordinary administrative costs of the regulatory program.

What was not authorized by AB 32, the 2006 legislation establishing the emission reduction program, is the ARB's decision to withhold for itself a percentage of the annual statewide greenhouse gas (GHG) emission allowances and to auction them off to the highest bidders, thus raising from taxpayers billions in revenue for the state to use.

The lawsuit does not challenge any of the provisions of AB 32, including cap-and-trade authority, nor the merits of climate change science. The only issue addressed in the litigation is the portion of the regulation that seeks to permit the ARB to allocate to itself GHG emission allowances and to profit by selling them to GHG emitters.

The CalChamber, other members of

the business community, members of the Legislature, the Legislative Analyst's Office and ARB have all highlighted the fact that the auction is not needed to achieve the goals of AB 32 or to have an effective cap-and-trade program.

California leaders have promoted AB 32 as an example of climate regulation for the rest of the nation to emulate. But to be a successful leader in attracting other participants in this type of regulation, the state must use the most cost-effective process—not the most expensive.

In an initial ruling in 2013, the Sacramento Superior Court found for the state. CalChamber appealed that decision to the 3rd District Court of Appeal. A decision is expected within 90 days of the January 24, 2017 hearing.

Governor Urges Listeners: 'Act as Californians First'

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Brown said, is infrastructure: "Now here's a topic where the President has stated his firm intention to build and build big." The Governor noted that the President and several labor leaders had met the previous day and committed to a \$1 trillion investment in public works across America.

"And I say, amen to that man...we're there with you," the Governor commented to applause.

He continued, "... We can all work together—here in Sacramento and in Washington as well. We have roads and tunnels and railroads and even a dam that the President could help us with. And that will create good-paying American jobs."

Basic Principles

But the Governor also identified other areas as part of reaffirming "the basic principles that have made California the Great Exception that it is."

Before his State of the State address, the Governor swore into office new Attorney General Xavier Becerra, "the son of immigrants who saw California as a place where, through their own grit and determination, they could realize their dreams." Citing laws the state has enacted to protect the undocumented, the Govern-

nor committed to defend "every man, woman and child who has come here for a better life and has contributed to the well-being of our state."

He pointed to California's embrace of the Affordable Care Act (ACA), the 5 million people who now enjoy its benefits and how the state budget would be directly affected "possibly even devastated" if California were to lose the tens of billions of dollars from the federal government that came with ACA coverage. The Governor said he intends to join with other Governors, senators "and with you—to do everything we can to protect the health care of our people."

The Governor also reiterated his commitment to continuing state efforts to encourage renewable energy and combat climate change, joining with other states, provinces and countries.

Earlier in his address, the Governor noted that his great-grandfather arrived in California from Germany on a sailing ship named "Perseverance," which was "exactly what it took to endure the dangerous and uncertain months at sea," the Governor said.

"While we now face different challenges, make no mistake: the future is uncertain and dangers abound. Whether it's the threat to our budget, or to undocu-

mented Californians, or to our efforts to combat climate change—or even more global threats such as a financial meltdown or a nuclear incident or a terrorist attack—this is a time which calls for courage and for perseverance, and I promise you both," the Governor said, before ending by quoting from Woody Guthrie, "Nobody living can ever make me turn back. This land was made for you and me."

Policy Advocate

From Page 1

to environmental law, construction, real estate, contracts, and lending.

Prior to entering the legal field, she worked for national new home builder K. Hovnanian Homes for five years. There, she participated in its leadership development program and managed development projects relating to land acquisition, construction, and sales.

Lacey holds a B.S. in business administration and an M.B.A. in finance from California State University, Sacramento. She earned her J.D. with great distinction from McGeorge School of Law, University of the Pacific, with a Certificate in Environmental Law, graduating as valedictorian of the evening division class.

CalChamber Reiterates Trade Priorities for New Administration, Congress



As the new administration and 115th Congress get to work, the California Chamber of

Commerce will be communicating its international trade priorities and support for working together to secure a national free trade agenda.

Following confirmation, the CalChamber will be communicating with the Office of the Secretary of Commerce, the U.S. Trade Representative, and the new National Trade Council.

Trade as a Priority

California is one of the 10 largest economies in the world with a gross state product of more than \$2 trillion.

International trade and investment is a major economic engine for the state of California that broadly benefits businesses, communities, consumers and state government. California's economy is more diversified than ever before, and the state's prosperity is tied to exports and imports of both goods and services by California-based companies, to exports and imports through California's transportation gateways, and to inflows and outflows of human and capital resources.

Although trade is a nationally determined policy issue, its impact on California is immense. California exports to approximately 229 foreign markets. California trade and exports translate into high-paying jobs for more than 1 million Californians.

America's standing as world leader depends directly upon its competitive success in the global economy. Over the last half century, the United States has led the world in breaking down barriers to trade and in creating a fairer and freer international trading system based on market economics and the rule of law. Increased market access achieved through trade agreements has played a major role in the nation's success as the world's leading exporter.

International trade came under attack in the recent presidential election campaign and it is important for all to under-

stand the significance that trade provides to the economy.

Accordingly, promoting the ability of California companies to compete more effectively in foreign markets continues to be a high priority for the CalChamber, along with attracting foreign business to the state.

The CalChamber supports expansion of international trade and investment, fair and equitable market access for California products abroad, and elimination of disincentives that impede the international competitiveness of California business.

The CalChamber opposes protectionist-oriented legislation that leads to higher prices and limited choices for consumers. The negative impact of this sort of policy often expands to include job loss in related industries, retaliation by our trade partners and violations in World Trade Organization (WTO) and trade agreement provisions.

The CalChamber has supported a number of state and federal programs, but it should be noted that the CalChamber also dissuades the introduction of legislation that is unnecessary, unconstitutional or violates existing trade agreements.

California Exports

The U.S. Department of Commerce reported that in 2015, California exports amounted to \$165.4 billion, a decrease from \$173.8 billion in 2014. California maintained its perennial position as a top exporting state.

Exports from California accounted for 11% of total U.S. exports in 2015. California's top export destinations are Mexico, Canada, China, Japan and Hong Kong.

California is a top exporter in the nation of computers, electronic products, and sales of food and kindred products. Computers and electronic products are California's top export, accounting for 26.1% of all the state's exports.

Other top categories included transportation equipment; machinery, except electrical; and miscellaneous manufactured commodities.

Trade Agreements

Trade agreements ensure that the United States may continue to gain access

to world markets, which will result in an improved economy and additional employment of Americans. The CalChamber urges support of these trade agreements that will continue to keep U.S. and California businesses competitive.

All in all, California must continue to engage in international commerce with the 95% of the world's population which lives outside the United States, representing 80% of the world's purchasing power.

World Trade Organization

The World Trade Organization is the only global international organization dealing with the rules of trade between nations. Its main function is to ensure that trade flows as smoothly, predictably and freely as possible. At its heart are the WTO agreements, negotiated and signed by the bulk of the world's trading nations, and ratified or approved in their parliaments or legislatures. The goal is to help producers of goods and services, exporters and importers conduct business.

The WTO gives U.S. and California businesses improved access to foreign markets and better rules to ensure that competition with foreign businesses is conducted fairly.

A large number of WTO ministers point to the growing number of regional trade agreements and stress the need to ensure that they remain complementary to, not a substitute for, the multilateral trading system. It is hoped that substantive negotiating will continue in the Doha Round in 2017 leading up to the next gathering of trade ministers in Buenos Aires from December 11-14, 2017.

Trans-Pacific Relations

The Asia-Pacific region represents nearly half of the earth's population, one-third of global gross domestic product (GDP) and roughly 50% of international trade. The large and growing markets of the Asia-Pacific already are key destinations for U.S. manufactured goods, agricultural products, and services suppliers.

During the past decade, however, growth in U.S. exports to Asia has lagged behind overall export growth. The United

See CalChamber Reiterates: Page 6

CalChamber Reiterates Trade Priorities for New Administration, Congress

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States is gradually losing market share in trade with Asian countries, which have negotiated more than 160 trade agreements among themselves, while the United States has signed only three with regional economies (South Korea, Singapore and Australia).

A Regional Comprehensive Economic Partnership (RCEP) could become the sole foundation for economic integration in the region. The RCEP is a proposed free trade agreement with 10 Association of Southeast Asian Nations (ASEAN) member states—Brunei, Burma (Myanmar), Cambodia, Indonesia, Laos, Malaysia, the Philippines, Singapore, Thailand, Vietnam—and the six states with which ASEAN has existing free trade agreements (FTAs) (Australia, China, India, Japan, South Korea, New Zealand).

RCEP negotiations were launched in November 2012 and could conclude in 2017. RCEP includes more than 3 billion people (45% of the world's population), a combined GDP of about \$21.3 trillion, accounting for about 40% of world trade. It would be the biggest free trade agreement in the world, but without the United States or any membership from the Americas.

The CalChamber would certainly consider supporting new bilateral free trade agreements in the Pacific region; however, the larger Pacific picture needs to be assessed for trade, investment, geo-political and strategic implications.

Trans-Atlantic Relations

The trans-Atlantic economic partnership represents the largest, most integrated and longest-standing regional economic relationship in the world. Together, the European Union (EU) and the United States are responsible for more than 11% of the world's population, nearly half of global GDP, a third of global merchandise trade, and 40% of world trade in services. Either the European Union or the United States also is the largest trade and investment partner for almost all other countries.

While Europe and the United States are not set to continue negotiations in 2017, the CalChamber is supportive of Europe and the United States continuing trade talks.

In the interim, it may be that a U.S.-United Kingdom Free Trade Agreement is negotiated. The UK must exit from the EU before it can negotiate new agreements. However, a U.S.-UK FTA should be an easier negotiation as there would not be many of the controversial agricultural issues which would be part of a broader U.S.-EU FTA. The CalChamber certainly would consider supporting such a new bilateral free trade agreement.

The Americas

The CalChamber actively supported the creation of the North American Free Trade Agreement (NAFTA) among the

United States, Canada and Mexico, now comprising 484.3 million people, and combined annual trade with the United States being nearly \$1.1 trillion in 2015.

Mexico continues to be California's No. 1 export market and Canada is No. 2. California exports to both countries are driven by computers and electronic products.

The Trump administration will determine any actions regarding the future of NAFTA. Canada and Mexico have indicated they are willing to participate in an open dialogue. The business community must be considering how to best engage in case of such a process.

In addition, the United States has successful free trade agreements with the Dominican Republic/Central America nations, Chile, Colombia and Peru.

Export-Import Bank of the United States

The CalChamber supports the Export-Import Bank of the U.S. (Ex-Im Bank) designed to assist in financing the export of U.S. goods and services to international markets. Ex-Im Bank enables U.S. companies—large and small—to turn export opportunities into real sales that help maintain and create U.S. jobs and contribute to a stronger national economy.

Although an overwhelming majority in Congress voted to fully reauthorize the bank in December 2015, the chairman of the Senate Banking Committee stymied the bank's full restoration by blocking action on nominees required to achieve a quorum for the Ex-Im Bank Board in 2016. In the absence of a quorum, the bank cannot approve transactions of more than \$10 million.

With economic growth and job creation the top priorities for the United States, Ex-Im has an important role to play. It is hoped this issue will come to resolution in Congress in 2017.

CalChamber as a Resource

Detailed information vital to the businesses that make California one of the largest exporting states in the nation and one of the largest economies in the world is available on the international trade section of the CalChamber website: www.calchamber.com/international.

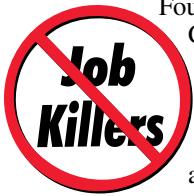
Staff Contact: **Susanne T. Stirling**



CalChamber

Save the Date:
CAPITOL SUMMIT
MAY 31, 2017

Job Killer Bills Hurt Arbitration, Expand Avenues for Employment Litigation



Four bills the California Chamber of Commerce has identified as job killers early in the new legislative session hamper employers' ability to manage their workforce effectively,

discriminate against arbitration, expand employment litigation and mandate another leave of absence.

Sample letters to legislators are available at www.calchambervotes.com.

Hampers Workforce Management

AB 5 (Gonzalez Fletcher; D-San Diego/Kalra; D-San Jose) hurts small businesses and job seekers by attempting to base a statewide law on a couple of local ordinances.

The bill mandates small employers with as few as 10 employees to offer all employees who have the skills and experience to perform additional hours of work that become available before hiring a new employee, temporary employee, or contractor.

A CalChamber analysis finds the bill limits employers' ability to effectively manage their workforce to address both consumer and employee requests. The bill will create unnecessary delays and burdens on small employers to accommodate employee and consumer demands, subject employers to costly fines and multiple avenues of litigation for technical violations that do not actually result in any harm to the employee, limit an employer's ability to communicate truthful information, and reduce job opportunities for the unemployed.

Anti-Arbitration

SB 33 (Dodd; D-Napa) seeks to ban arbitration agreements, which studies have shown provide individuals with a better remedy than pursuing lengthy class action litigation.

The bill discriminates against arbitration agreements made as a condition of entering into a contract for goods or services and interferes with the fundamental attributes of arbitration, which is likely pre-empted by the Federal Arbitration Act (FAA). This will lead to confu-

sion, uncertainty and costly litigation for such contracts.

SB 33 applies to any contract that requires an individual to submit any and all disputes to arbitration, including those arising from claims alleging fraud, identity theft, or misuse of personal identifying information.

CalChamber is concerned that this proposal basically sets up a pleading pathway for consumer attorneys to avoid arbitration by allowing them to allege numerous claims, including a claim for identity theft or wrongful use of identifying information in the complaint in order to avoid arbitration. Thereafter, the attorney can dismiss the claims for fraud, identity theft, or wrongful use of identifying information, and move forward on the remaining claims in litigation that would have been subject to arbitration. Accordingly, despite the intent or argument that this bill is limited only to certain claims, it will actually have an impact on all contracts.

The U.S. Supreme Court has been consistently clear that a prohibition of arbitrating certain claims is pre-empted under the FAA.

Expands Employment Litigation

SB 62 (Jackson; D-Santa Barbara) will significantly expand the type of individuals for which employees can take leave under the California Family Rights Act (CFRA), allowing California employees to take up to 24 weeks/6 months of protected leave in a 12-month period. Governor Edmund G. Brown Jr. vetoed a similar proposal in 2015.

SB 62 expands the family members for whom an employee may take a 12-week protected leave of absence to care for to include a grandparent, a grandchild, and siblings. Given that the individuals SB 62 proposes to add to the protected leave list are not covered under the corresponding and similar leave provided by the federal Family Medical Leave Act (FMLA), the change will potentially provide a California employer with an obligation to provide up to 24 weeks of protected leave.

Under SB 62, an employee could utilize his/her 12 weeks of CFRA to care for the serious medical condition of a

grandparent, who is not a family member covered under FMLA, and therefore would not trigger FMLA leave. Upon returning, the employee still would be entitled to another 12-week protected leave of absence under FMLA.

CFRA includes a private right of action with the opportunity to obtain compensatory damages, injunctive relief, declaratory relief, punitive damages, and attorney's fees. This private right of action creates costly litigation for employers, even when employers take reasonable steps to address abuse under CFRA. Despite allegations otherwise, employers regularly accommodate employees' personal needs with regard to caring for family members without being forced to do so by law or the threat of litigation.

California already has extensive family-related protected leaves of absence. A recent study ranked California No. 2 for work and family policies that support workers keeping their jobs and also caring for their family members

New Leave of Absence

SB 63 (Jackson; D-Santa Barbara) is a more expansive version of a job killer bill vetoed last year. The CalChamber has identified SB 63 as a job killer bill because it will overwhelm small employers by adding to the burden under which they already struggle.

SB 63 requires a California employer who employs as few as 20 employees within a 75-mile radius to provide 12 weeks of protected parental leave. This proposed mandate comes on top of the current requirement that employers with only 5 employees allow up to 16 weeks of protected pregnancy-related leave.

This mandate exposes small employers to costly litigation under the Fair Employment and Housing Act by labeling failure to provide the 12-week leave of absence as an "unlawful employment practice."

More to Come

The CalChamber will release the full list of job killer bills in the spring.

More information on these bills is available at www.calchamber.com.

Staff Contact: Jennifer Barrera



TUESDAY, JANUARY 31, 2017 | 10:00 - 11:30 AM PT

2017 Employment Law Updates Webinar

Start the new year with a better understanding of changes to California and federal employment laws. CalChamber's annual webinar explains how recent state and federal court cases, new laws and regulatory changes apply to your workforce.

Our legislative presence at the State Capitol means you can trust CalChamber for accurate information and clear explanation of employment-related legislation signed into law for 2017.

Cost: \$199.00 | Preferred/Executive Members: \$159.20



This webinar is mobile-optimized for viewing on tablets and smartphones.

LEARN MORE at calchamber.com/2017updates or call (800) 331-8877.

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