

# ALERT

CALIFORNIA CHAMBER OF COMMERCE

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## California Chamber Sponsors 4-Day Workweek Proposal *April 20 Hearing on Bill Offering More Flexibility*



California Chamber of Commerce-sponsored legislation to permit individual non-union workers and their employers to mutually agree to a four-day workweek

is set to be heard by the Assembly Labor and Employment Committee on April 20.

**AB 640 (Tran; R-Garden Grove)** helps employees achieve greater flexibility in work schedules by allowing individual workers to request and their employers to mutually agree to a four-day workweek.

The Chamber believes permitting individual flexibility is one way employers can help workers find some relief

from hectic days, long commutes, high gasoline prices and conflicting work and personal schedules.

Providing that flexibility in California, however, means the state first must change the law enough to permit four-day workweeks for individual workers who want to find a balance between their work and personal lives.

AB 640 will permit an individual employee, with the consent of his/her employer, to work up to 10 hours per day within a 40-hour workweek, with no overtime pay requirement.

### Complex Current Law

Current California law requires that overtime compensation be paid for work  
*See California: Page 4*

## Chamber Backs Use of Plain Language in Workplace Posters



Assemblyman Wyland

The California Chamber of Commerce is sponsoring legislation to require that all workplace posters be written in plain, simple language.

### AB 1709

**(Wyland; R-Del Mar)** will help reduce confusion

and increase understanding of workplace rights and responsibilities.

The bill is set for hearing April 20 in the Assembly Labor and Employment Committee.

“California employers and employees need posters that are easy to understand, contain clear definitions of obligations and make duties easy to administer and implement,” said Julianne Broyles, Chamber director of employee relations and small business.

“Plain and simple language in workplace rules will ensure that employers know how to comply with the law and help workers understand their workplace rights so they will know if those rights have been violated,” Broyles said.

### Plain Language Needed

In outlining its support for AB 1709,  
*See Chamber: Page 4*

## Council Stresses Need to Retain Bases in State



Donna Tuttle, co-chair of the California Council on Base Support and Retention and first vice chair of the California Chamber of Commerce, presents the council's recommendations for retaining military bases in the state at an April 7 news conference. At right is council co-chair Leon Panetta. See story on Page 7.

### Inside

Governor Still Committed to Pension Reform: Page 3

## Cal/OSHA Corner

### When On-Site Respirator Is Mandatory, So Are Medical Evaluations



**Mel Davis**  
Cal/OSHA Advisor

*Must I have a respirator program if employees use the respirator only intermittently? Since the use is intermittent, must the employees have a medical evaluation?*

Section 5144(c)(1) of the Respiratory Protection Regulation states, "In

any workplace where respirators are necessary to protect the health of the employee or whenever respirators are **required** [bold added] by the employer, the employer shall establish and implement a written respiratory protection program with worksite-specific procedures."

Further reading of the regulation clearly indicates the program is to have respirator selection procedures, medical evaluations, fit testing, proper procedures for routine and emergency use, etc. Nowhere within the regulation is there an exemption from the written program for intermittent use.

#### Required Evaluations

As previously noted, medical evaluations are required for employees required to use respirators. Section 5144(e) states that "using a respirator may place a physiological burden on employees that varies with the type of respirator worn, the job and workplace conditions...and the medical status of the employee."

It is clear, therefore, that any time the employer has a respirator program, medical evaluations are a necessary part. Subsection (e)(2)(A) states that the medical evaluation may be obtained through a medical questionnaire or an

initial medical examination performed by a physician or other licensed health care professional who will obtain the same information as contained on the medical questionnaire.

#### Compliance Guide

Section 5144(c) contains a reference for a "Small Entity Compliance Guide," which is available from the U.S. Occupational Safety and Health Administration. This booklet will assist the small employer in complying with the respirator program. It is written in a question-and-answer format, and walks through the regulation section by section, answering frequently asked questions.

Direct access to the same information also is available by going to [www.osha.gov](http://www.osha.gov) and typing "small entity compliance" into the search feature.

*The Labor Law Helpline is a service to California Chamber 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 e-mail: [helpline@calchamber.com](mailto:helpline@calchamber.com).*

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### Chamber Calendar

#### Luncheon Forum:

April 21, Sacramento

#### International Luncheon Forum:

April 26, Sacramento

#### Advocacy Council Spring Retreat:

April 26-27, Sacramento

#### Water Resources Committee:

May 24, Sacramento

#### Tourism Committee:

May 24, Sacramento

#### Volunteer Leaders Conference:

May 24, Sacramento

#### Board of Directors:

May 24, Sacramento

#### California Business Legislative Summit:

May 25, Sacramento

### Seminars

For more information on the seminars listed below, visit [www.calchamber.com/events](http://www.calchamber.com/events).

#### Business Resources

Governor's Older Worker and Exemplary Employer Awards. Employment Development Department. May 17, Sacramento. (916) 654-7079.

#### International

World Trade Week Breakfast. Los Angeles Area Chamber of Commerce. May 4, Los Angeles. (213) 580-7538.  
Global Logistics Symposium. San Diego World Trade Center. May 18, San Diego. (619) 615-0868, ext. 109.

[www.calchamber.com](http://www.calchamber.com)



# Governor Calls on Stakeholders to Help Recraft Public Pension Reform Initiative

## *Makes Clear He Remains Committed to Reforming Public Pension System*



### SUPPORT

Appearing with local government and public safety leaders last week, Governor Arnold Schwarzenegger announced that stakeholders will be working together to develop a new public pension reform initiative that alleviates concerns raised about the proposal that had been circulating for signatures.

### Need for Reform

The Governor made it clear that he is not backing down on pension reform, citing the success of the signature drive and reiterating the need to change the current pension system to bring costs under control. The state's pension obligation has ballooned from \$160 million in 2000 to \$2.6 billion today — a 1,600 percent increase in just five years.

The Governor pointed out that the cost of this system is diverting money away from vital state programs, including transportation, education and health care.

But he said he is troubled by the misconceptions surrounding the pension reform measure and wants to improve the language to make it clear that death and disability benefits for the families

of public safety professionals killed or injured in the line of duty are protected.

He warned that if negotiations fail to yield a legislative solution, he will take a pension reform plan to the people in June 2006.

In response to a request from the Governor, the California Chamber-led coalition, Citizens to Save California, voted later the day of the Governor's press conference to stop collecting signatures for the pension reform initiative.

The campaign had already gathered more than 400,000 signatures to place the pension reform measure on the next ballot.

The pension reform initiative was developed to put in place for new public employees a more cost-effective retirement system based on the employee contribution system commonly used in the private sector. The system reform for new public employees is a major step in balancing future budgets.

The Chamber supports the Governor in his efforts to reform the public pension system to make it fair and predictable for both public employees and taxpayers.

### Signature Gathering Continues

The Governor is still encouraging the

gathering of signatures in support of his other reform measures dealing with the budget, redistricting and education. These campaigns have strong public support and will continue collecting signatures to secure a ballot spot for these reform initiatives:

- **California Live Within Our Means Act**, which curbs out-of-control spending by state officials by capping government spending to balance future state budgets, while assuring funding for necessary transportation projects;

- **Put the Kids First Act**, extending from two years to five the number of years a teacher must have served in order to receive tenure; and

- **The Excellence in Teaching Act**, also extending the tenure requirement to five years of service plus creating a system in which teachers are paid based on performance.

The Chamber Board of Directors voted to support all these initiatives at its March 11 meeting.

For more information on signature-gathering efforts, to read the text of the initiatives or to join the coalition, visit the coalition website at [www.citizenstosaveca.com](http://www.citizenstosaveca.com).

**Staff Contact: Jeanne Cain**

## Governor Recommends More Dollars to Promote California Tourism



### SUPPORT

The California Chamber of Commerce is supporting Governor Arnold Schwarzenegger's recommendation that the state boost its investment in tourism promotion by \$7.3 million.

The Governor asked the Legislature to approve the \$ 7.3 million increase so that the state can match the dollars the travel and tourism industry has been generating from a voluntary self-as-

essment. This additional funding to promote the travel and tourism industry is needed in order to stimulate the economy — generating new spending, jobs and tax revenues for California.

### Employment Opportunities

"The tourism industry is either the fourth or fifth largest industry in the state of California, depending on the measurement criteria that you use. And it's either the first or second largest economic generator in every single rural county in California," said 2004 Chamber Chair

John Koeberer at the Chamber's Business Legislative Summit last year.

"Tourism offers endless employment opportunities for both entry-level workforce members and highly paid professionals," Koeberer said.

When the state authorized the creation of the California Travel and Tourism Commission in 1995, it committed to share in funding for the group. The travel and tourism industry voluntarily assessed itself to help the state fund tourism promotion.

*See Governor: Page 7*

## California Chamber Sponsors 4-Day Workweek Proposal

*From Page 1*

performed by an employee in excess of eight hours in a single day, regardless of whether the employee works fewer than 40 hours in that week.

California is one of only four states that do not conform wage laws to the national Fair Labor Standards Act (FLSA). The FLSA bases its overtime compensation requirements for salaried, non-exempt employees on total hours worked per week, rather than total hours worked per day.

Under current and very detailed California Industrial Welfare Commission wage orders, employers may institute alternative work schedules only if the affected employees agree to the arrangement in writing and by secret ballot.

Employers must hold discussion meetings at least 14 days before voting. Two-thirds of the company's employees must agree to the change. Any deviation from the rigidly controlled process voids the election.

The rules also state that daily work schedules are limited to a maximum of 10 hours per day, with a four-hour daily minimum. Variances in schedules or the use of more than one schedule is prohibited without repeating the voting process.

The complexity of the process in effect eliminates most employers and employees from choosing schedule options such as flextime, part-time, job sharing, telecommuting and compressed workweeks. Only a handful of California employers are trying to operate under the restrictive

### Employer Comment Supports Legislation

"We employ approximately 150 employees. During the '80s and '90s our employees worked four 10-hour days per week.

"In 2000, the law changed, but we did not know it. In 2003, we were sued by a former employee for violation of the new law.

"We held the required election, which passed 148-2 (the two had joined the lawsuit). But. . . the requirements were so onerous that we went back to five eight-hour days because we were afraid we might inadvertently find ourselves run amok of the law again. To put it mildly, our employees were very disappointed.

"We wholeheartedly support your efforts to get that stupid law reversed, so employees and employers can decide what work schedule works best for them, not some well-intended bureaucrat."

— San Francisco Bay Area contractor

provisions of the Labor Code.

### Unions Exempt

The daily overtime requirement doesn't apply to employees covered by collective bargaining agreements — these include all state, county and city employees, such as those employed by school districts, water districts and a multitude of other governmental agencies.

### Action Needed

The Chamber is urging all employers and their workers to write letters in **support** of AB 640 to Assembly Labor and Employment by April 20.

The Chamber is also encouraging employers and employees to testify in support of this bill before the committee.

Readers interested in testifying April 20 in Sacramento, please contact Ariel Calvert at [ariel.calvert@calchamber.com](mailto:ariel.calvert@calchamber.com) for details, or call her at (916) 444-6670.

To download an easy-to-use sample letter in support AB 640 or other Chamber-sponsored legislation, please visit the Government Relations section at [www.calchamber.com](http://www.calchamber.com) and type the bill number into the bill search field.

**Staff Contact: Julianne Broyles**

## Chamber Backs Use of Plain Language in Workplace Posters

*From Page 1*

the Chamber has pointed out that poorly written rules can make employers and employees feel inferior, angry or frustrated, and can end up causing divides when none were intended.

Essentially, a plain language regulation looks good, is organized logically and is understandable the first time someone reads it. If plain and simple language is used to write regulations, then new rules will be written using common, everyday words, using short sentences, using terms and definitions that are simply and clearly defined.

Plain and simple language in workplace posters, as proposed in AB 1709, will not only save workers and employers time, effort and money, but government as well. Too often, complicated and unclear regulations have resulted in frustration and lawsuits. On the other hand, studies show that clearly written regulations improve compliance and decrease litigation.

If AB 1709 is enacted, workplace posters will be written in plain language and employers will have clear instructions on how to comply with a law's requirements, while workers will have a clear explana-

tion of when workplace rights have been violated.

### Action Needed

The Chamber is urging employers to write members of Assembly Labor and Employment and ask them to **support** AB 1709.

To download an easy-to-use sample letter, visit the Government Relations section at [www.calchamber.com](http://www.calchamber.com) and type the bill number into the bill search field.

**Staff Contact: Julianne Broyles**

# State's Transportation Woes Give Rise to Variety of Proposed Solutions

*Gas Tax Revenues (Proposition 42), Bay Bridge, Bonds — All Part of Discussion*

It seems that this year almost everyone has a solution for California's transportation woes.

In January, the California Transportation Commission reported to the Legislature that "California's transportation system is on the verge of collapse."

After years of the state diverting and borrowing billions in transportation funds to balance the budget, the cumulative effect is finally hitting home as more and more Californians are facing roadway gridlock, the commission concluded.

In response, Governor Arnold Schwarzenegger, Assembly Speaker Fabian Núñez (D-Los Angeles), Senate President Pro Tem Don Perata (D-Oakland) and several Assembly Republicans have all proposed ways to get California moving again.

## Governor's Proposal

### Protect Prop. 42 Revenues

In his State of the State address, the Governor said, "Californians can't get from here to there on little fairy wings . . . we need to build more roads."

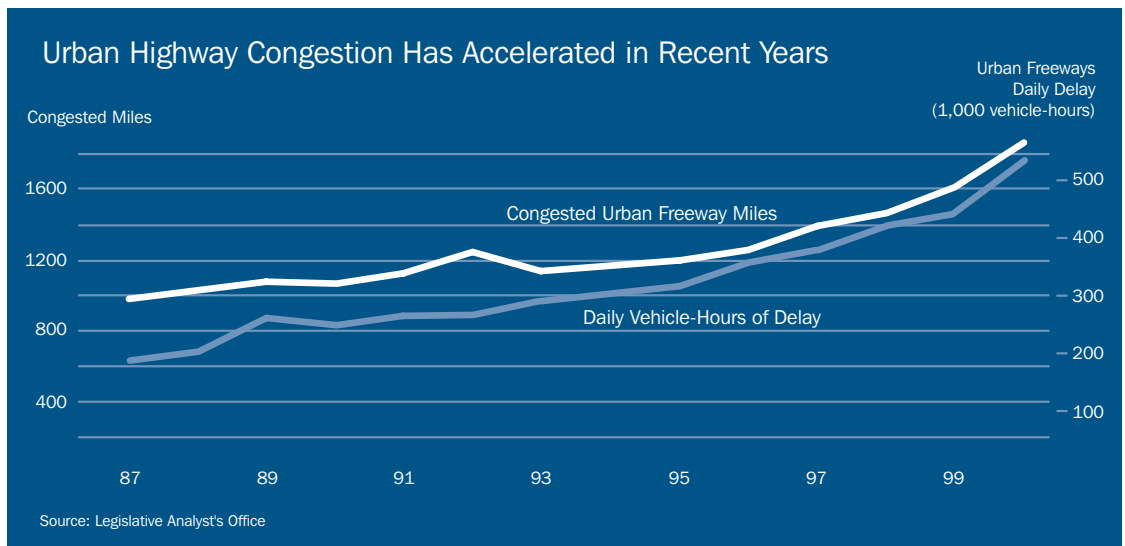
The Governor proposed to stop the raiding of Proposition 42 funds (sales taxes on gasoline) and put a measure before the voters in 2006 that would permanently remove the Legislature's authority to suspend Proposition 42 and pay back all funds previously borrowed over the next 15 years.

The Governor did propose to divert the Proposition 42 revenues for one or two more years until the state budget is under control, but these funds would be paid back under his long-term plan.

The Governor also is considering only a partial suspension of Proposition 42 this year as a result of better-than-expected state revenues, including funds generated through the tax amnesty program.

Republican Assemblyman Rick Keene (Chico) has introduced a constitutional amendment on behalf of the Governor to protect Proposition 42 revenues beginning in 2007 and Republican Assemblyman George Plescia (La Jolla) has introduced a similar measure that simply eliminates the ability of the Legislature or Governor to suspend Proposition 42 fol-

lowing voter approval of a constitutional amendment. transportation bond on the 2006 ballot to be paid for by a 4-cent increase in the gas tax between 2006 and 2015. The bond revenues would be used to pay back existing transportation loans to the General Fund, provide funds for "goods movement" projects and pay for a portion of the costs of rebuilding the San Francisco Bay Bridge. The gas tax would also be



lowing voter approval of a constitutional amendment.

## Assembly Democrats' Proposal

### Tax Shifts, Bonds

Assembly Speaker Núñez a week ago announced the details of a long-awaited transportation proposal from the Assembly Democrats.

The Speaker's plan is a combination of tax shifts and bond proposals that would generate future new revenues for transportation. The centerpiece of the Speaker's plan would eliminate the sales tax on gasoline, immediately reducing the pump price of gas by about 11 cents per gallon, and replace these revenues with a 0.25-cent increase in the general state sales tax.

He then would place a \$10 billion

indexed, or adjusted, for inflation every five years beginning in 2010 to compensate for the loss in purchasing power.

The Speaker also committed to work through the budget process this year to provide some yet-to-be-determined level of funding to address the cash flow needs for the State Transportation Improvement Program and continue discussions on whether or how to provide long-term protection for Proposition 42 funds.

## Senate Democrats' Proposal

### Prop. 42, Bay Bridge, More Funding

Senate Democratic Leader Perata and Senate Transportation Committee Chair Tom Torlakson (D-Antioch) have offered a series of legislative proposals to protect Proposition 42, solve the Bay Bridge

See State's: Page 6

## Online Form Makes It Easy to Join Effort to Elect Pro-Jobs Candidates



CALIFORNIA CHAMBER OF COMMERCE  
POLITICAL ACTION COMMITTEE

ChamberPAC, the California Chamber of Commerce bipartisan political action committee, now has an online contribution form.

The form, available at [www.calchamber.com/chamberpac](http://www.calchamber.com/chamberpac), makes contributing easy for California business leaders and others interested in helping the Chamber effort to build a business-friendly majority in the state Legislature.

To help elect pro-jobs candidates, the Chamber is conducting an aggressive, bipartisan candidate recruitment program for the 2006 election cycle.

Contributions to ChamberPAC will help pro-jobs candidates campaign and win in competitive races throughout the state. Even if the races are outside an employer's district, ChamberPAC provides a unique opportunity for contributors to pool resources with those of other

### Join the campaign to elect pro-jobs candidates

\* Name \_\_\_\_\_  
\* Mailing Address \_\_\_\_\_  
\* Mailing City \_\_\_\_\_  
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\* Phone \_\_\_\_\_ Work Phone \_\_\_\_\_  
Fax \_\_\_\_\_ E-mail \_\_\_\_\_  
\* Occupation \_\_\_\_\_  
\* Employer \_\_\_\_\_  
Contribution \_\_\_\_\_ Payment Method  Check  Credit Card  
Credit Card Account # \_\_\_\_\_ Exp. Date \_\_\_\_\_  
Signature \_\_\_\_\_

NOT DEDUCTIBLE AS A CHARITABLE EXPENSE

Make check payable to: ChamberPAC, ID #950352, c/o California Chamber of Commerce,  
1215 K Street, Suite 1400, Sacramento, CA 95814

\* Required by law

like-minded employers to maximize the business community's impact on the 2006 elections.

For more information, visit the

Government Relations section at [www.calchamber.com](http://www.calchamber.com) or call (916) 444-6670, extension 275. To contribute online, visit [www.calchamber.com/chamberpac](http://www.calchamber.com/chamberpac).

## State's Transportation Woes Give Rise to Variety of Proposed Solutions

From Page 5

financing issue, and provide additional funds for transportation improvements.

Perata and Torlakson both represent legislative districts in the East Bay Area and have insisted that any transportation program contain a solution to pay for the cost overruns on construction of the eastern span of the Bay Bridge.

Perata and the Governor disagree on how to finance the unfunded Bay Bridge shortfall — which is now approaching \$3.2 billion and growing almost \$400,000 per day that construction is delayed.

The Governor has called for a \$1 increase in all bridge tolls to fund the cost overruns. The Governor has resisted using existing statewide transportation funds that would divert funds from existing projects and does not want to borrow funds through a bond to pay for additional bridge costs.

The Perata and Torlakson plan would

keep the single tower suspension design selected by Bay Area officials and split the cost overruns with a \$1 increase in bridge tolls combined with a statewide transportation general obligation bond that would cover about \$1.4 billion of the eastern span's total cost, plus funds for other statewide projects. The Governor has rejected the suspension design as too expensive and instead opted for a purportedly less expensive concrete causeway design.

Perata proposed that 75 percent of any future cost overruns be the responsibility of the Bay Area. The Governor insists that the Bay Area pay all the costs if officials there want their more expensive design.

In addition to the Bay Bridge financing plan, Torlakson is proposing legislation that would limit further borrowing from transportation accounts. He also is supporting efforts to permanently protect

Proposition 42 revenues.

The Bay Bridge clash is highlighting a north-south split along geographical lines. Southern California legislators, led by Speaker Núñez and Assembly Transportation Committee Chair Jenny Oropeza (D-Long Beach) are looking for transportation solutions that protect funds allocated for projects in Southern California while still providing funds to help the Bay Area with the Bay Bridge deficit.

### Consensus Possibility

A consensus on transportation funding solutions will most probably come as part of the discussion on the 2005-06 state budget and will not happen until a consensus is first reached on how to pay for the Bay Bridge. The common theme among all legislators is we have to get California moving again.

**Staff Contact: Dave Ackerman**

# Just-Released Council Report Emphasizes California's Need to Retain Military Bases

The California Council on Base Support and Retention, co-chaired by Donna Tuttle, first vice chair of the California Chamber of Commerce, presented a report last week to the Governor outlining strategies for state base retention.

The report detailed the council's military base retention strategies for the state and local communities and provided a comprehensive assessment of military sites in California.

This report is a critical element of the state's campaign to retain military installations during the federal government's Base Realignment and Closure (BRAC) process now underway.

The Chamber, in collaboration with local government and business organizations, pledged its support for the state's base retention efforts in December 2004. The support of the Chamber, along with these other organizations, underscores the strong, unified effort to protect California jobs during the 2005 round of base closures.

This year's round of base closures will be the nation's fifth since 1988. Twenty-nine bases have been closed in California out of a total of 91 bases closed nationwide.

California has lost 99,000 jobs, roughly half of all jobs lost nationwide, in the four rounds of base closures to date.

## Base Support/Retention

Governor Arnold Schwarzenegger

appointed the 19-member council in November 2004 to advise the state and local communities on the BRAC process.

The council conducted six public hearings around the state to gather information from communities about local retention efforts and to compile data for the base inventory requested by the Governor. The council held three subsequent meetings to analyze the data and devise strategies presented in the council's report.

The council's report included the following recommendations:

- California must present a clear vision of its unique and irreplaceable role in the nation's defense.
- California must remain a strong partner for the military and work to become an even better one.
- California must demonstrate that maximizing national readiness for the threats of the future requires maximizing the use of California's unique defense assets.
- California must preserve and strengthen the regional defense complex that stretches across the Southwest.
- California must extend and deepen its leadership in developing technological expertise and resident human capital.
- The state should provide assistance to local communities affected by BRAC throughout the entire BRAC process.
- The California council shall develop action teams to assist local communities in responding to potential targeting by the

Department of Defense for closures.

● Should communities be affected by BRAC 2005, California must help them deal with the impact of closure and help them plan for reuse, if necessary.

● California must remain united in its approach to BRAC 2005 and beyond.

## California's Role

In its report, the council stresses that California must present a clear vision of the state's unique and irreplaceable role in the nation's defense. Revolutionary advances in military technology and the future strategic importance of the nation's Pacific interest place a premium on assets that are unique to the state. California's training areas and strategic West Coast location are unmatched for preparing military forces in the coming decades.

The council's full report is available online at [www.omas.ca.gov](http://www.omas.ca.gov).

## State Resolution

In line with the council's efforts, the Chamber is supporting an Assembly joint resolution, AJR 12 (Gordon; D-El Segundo), which would send a unified message to the federal government that California's military bases not only serve an important function in providing security for our nation, but also are an important part of our economy.

AJR 12 will be reviewed by the Assembly Veterans Affairs Committee later this month.

**Staff Contact: Charles Bacchi**

# Governor Recommends More Dollars to Promote California Tourism

*From Page 3*

For the past two years, the state has been unable to fund its portion of this partnership.

With the current \$7 million promotional budget — privately funded, with no money from the state — California is 31st in the nation in overall state spending and investment to promote tourism and attract visitors.

In supporting the Governor's recom-

mendation, the Chamber and other travel industry groups note that a robust state and private sector partnership can help California become competitive with other states and provide strong economic returns.

Although the Chamber recognizes that the state is suffering under a severe budget crisis and that general funds are scarce, the Chamber considers this funding essential to the commission — help-

ing to raise state tax revenues through increasing spending by consumers in the state.

The state's experience has shown that each \$1 invested in tourism marketing creates \$196 of economic activity and returns almost \$7 to the state and local treasuries in the form of taxes.

**Staff Contact: Charles Bacchi**

MAY 24-25, 2005

# California Business Legislative Summit

SACRAMENTO CONVENTION CENTER

**Employers and business owners — Don't miss out on this opportunity to learn how you and your company can have an impact on decisions at the state level.**

## HOT ISSUES

- Updating Infrastructure (highways, housing, energy, ports)
- Stopping Lawsuit Abuse (including Americans with Disabilities Act reform)
- Battling Health Care Costs
- Building Strong Grassroots Political Action
- Removing Barriers to Workplace Progress
- Reforming Policy through Ballot Initiatives

Register today at [www.calchamber.com](http://www.calchamber.com), or for additional information, contact Amy Orr at (916) 444-6670, ext. 263 or e-mail [events@calchamber.com](mailto:events@calchamber.com).



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