

ALERT

CALIFORNIA CHAMBER OF COMMERCE

VOLUME 31, NUMBER 13 • APRIL 22, 2005



First Anniversary of Bill Signing

Workers' Comp Reforms Starting to Improve System

One year after Governor Arnold Schwarzenegger signed the California Chamber-supported workers' compensation reform package, the system is showing signs of improvement.

"Insured employers are beginning to realize declines in insurance premium rates," said Chamber President Allan Zaremborg. "We are further encouraged by signs that insurance premiums will continue to drop. Moreover, competition in the insurance marketplace has been reinvigorated, giving employers more options for coverage."

The reform package, SB 899 (Poochi-

gian; R-Fresno), fundamentally changed the workers' compensation system in California. The Governor signed the bill on April 19, 2004.

Rate Reductions

Since enactment of SB 899, the reforms have caused a steady decrease in workers' compensation premiums for employers, as well as an increase in insurer options being offered to employers.

The Division of Workers' Compensation reports that average workers' compensation rates dropped 16 percent

See Workers': Page 4

Assembly Insurance Committee Rejects UI Tax Amnesty



John J. Benoit

Legislation sponsored by the California Chamber of Commerce to create a one-time unemployment insurance (UI) tax amnesty program and increase the revenue level of the nearly insolvent UI Trust Fund

failed to pass an Assembly committee this week.

AB 793 (Benoit; R-Riverside) was modeled on a UI tax amnesty program implemented in 1995 that brought more than \$37 million in new revenues to the UI Trust Fund.

Insolvency Concerns

In 2004, the UI Trust Fund skirted insolvency by borrowing money from the U.S. Department of Labor. It was the first time the state had ever sought emergency bailout funds from the federal agency.

The fund's solvency woes are not over, however. The newest fund forecast from the state Employment Development Department (EDD) projects that the fund balance will drop to only \$300 million by the end of this year, with the fund becoming insolvent next year — approximately

See Assembly: Page 5

Rwanda President Speaks at Chamber Luncheon



California Chamber President Allan Zaremborg, His Excellency Paul Kagame and first lady of the Republic of Rwanda Madame Jeanette Kagame take questions from guests at the Chamber's International Luncheon Forum on April 14. See story on Page 5.

Inside

Chamber Pushes to Confirm Workers' Comp Director: Page 3

Labor Law Corner

Certain Notices Required When Employees Join, Leave Workplace



Susan Kemp
Senior Labor Law
Counsel

What pamphlets/notices must I provide to new employees and those who are on a leave of absence or terminated?

New Employees

Employers must provide the following information to new employees only:

- **Sexual Harassment Information Sheets.**
- **Workers' Compensation Pamphlet** — at the time of hire or by the end of the first pay period.

New/Absent Employees

New employees and those who are absent for a qualifying reason must be given:

- **Disability Insurance Pamphlet (SDI)** — DE 2515, within five working days of hire and to an employee who becomes disabled due to pregnancy, or who becomes ill, injured or hospitalized due to causes unrelated to work, within 10 days of notification that the absence is the result of any of these occurrences.
- **Paid Family Leave Pamphlet** — DE 2511, if the absence is to care for a family member or time off to bond with a new baby.

Discharge/Layoff/Leave

Employees who are discharged, laid off, or placed on a leave of absence must be given:

- **For Your Benefit** — DE 2320; and
- **Notice to Employee as to Change in Relationship.**

If an employee is on a leave of absence that is also pregnancy disability leave (PDL), family and medical leave (FMLA) or California Family Rights Act (CFRA), you must provide the employee with notice that the absence will count toward their leave entitlement, as well as information about any rights and responsibilities

during the leave.

For example, your policy may require that employees who are absent for PDL or their own serious illness or injury provide medical certification of their ability to return to work.

Health Benefits

Note that you may be required to provide new hires, employees on a leave of absence or terminated employees with information about continuation of health benefits under state or federal law.

However, these requirements occur only if the employer offers health insurance benefits and the employee is covered by the health insurance. See the California Chamber's **California Labor Law Digest** or **HRCalifornia.com** for information on COBRA and Cal-COBRA.

Information/Notices

Pamphlets are available from www.calchamberstore.com. Sample letters and notices are available at HRCalifornia.com.

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.

Seminars

For more information on the seminars listed below, visit www.calchamber.com/events.

Business Resources

- Governor's Older Worker and Exemplary Employer Awards. Employment Development Department. May 17, Sacramento. (916) 654-7079.
- Society for Human Resource Management Annual Conference. Society for Human Resource Management. June 19-22, San Diego. (800) 283-7476.

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.

California Chamber Officers

Eugene J. Voiland
Chair

Donna F. Tuttle
First Vice Chair

Russell Gould
Second Vice Chair

To be elected
Third Vice Chair

John W. Koeberer
Immediate Past Chair

Allan Zarembeg
President

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 \$199 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: Danielle Kando-Kaiser. Art Director: Andrew Larsen. Graphics Assistant: Jason Untalan. Capitol Correspondent: Kearsten Shepherd.

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.

*E-mail: alert@calchamber.com.
Home page: www.calchamber.com.*

Chamber Calendar

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



Chamber Continues Push to Confirm Andrea Hoch as Workers' Comp Director

The confirmation hearing for California Chamber-supported workers' compensation director Andrea Hoch, which was postponed by the Senate Rules Committee, has been rescheduled for April 27.

The Chamber is urging employers to send letters to committee members to voice support for Hoch, who has been implementing the Chamber-backed reforms enacted last year.

The Chamber believes Hoch has been doing an outstanding job as administrative director of the Division of Workers' Compensation. Her leadership has ensured the division met the deadlines to implement the reforms so that employers could begin realizing actual savings as quickly as possible.

Governor Arnold Schwarzenegger named Hoch to head the Division of Workers' Compensation in April 2004.

The California Applicants' Attorneys Association (CAAA) is leading the opposition to Hoch's confirmation. CAAA also is fighting the reforms with lawsuits to prevent them from going into effect.

Andrea Hoch

Before being appointed to the administrative director position, Hoch had served at the California Department of Justice since 1992, serving as chief assistant attorney general for the Civil Law Division since 2002. In the Justice Department post, she managed the Civil Law Division's eight statewide sections and advised the attorney general and chief deputy attorneys general.

Her previous assignments included stints with the department's Government Law Section, Energy Task Force, Tobacco Litigation Section and Health, Education and Welfare Section.

Before joining the Department of Justice, Hoch was legal advisor to the Public Employment Relations Board from 1988 to 1992 and staff counsel to the Agricultural Labor Relations Board from 1987 to 1988. From 1985 to 1987, she was in private practice.

Hoch is a member of the California State Bar and received her law degree from the McGeorge School of Law, University of the Pacific. She earned her

Sample Letter
Supporting Andrea Hoch, Administrative Director,
Division of Workers' Compensation

Date

The Honorable Don Perata
Senate Rules Committee
State Capitol, Room 205
Sacramento, CA 95814

Dear Senator Perata:

I urge your support for the confirmation of Andrea Hoch as Administrative Director of the Division of Workers' Compensation.

As a business owner in _____, I experienced first-hand the effects of California's broken workers' compensation system. My business had experienced a _____-fold increase in just _____. As a result, we had to forgo expansion and decrease employee benefits.

Today, it is clear that the system is on the mend because of the reforms passed by the Legislature last year and approved by Governor Arnold Schwarzenegger and further implemented by Ms. Hoch.

The workers' compensation system is being transformed to a workable, efficient system. Without Ms. Hoch's efforts, we might not be here today. If Ms. Hoch isn't confirmed, the system risks going into a downward spiral. Don't stand in the way of reform by blowing up the system that is being repaired.

Please confirm Ms. Hoch as Administrative Director of the Division of Workers' Compensation.

Sincerely,

Name
Title
Company

cc: California Chamber of Commerce
Fax (916) 325-1272

bachelor's degree from Stanford University.

Send Letters Now

To make sure Hoch can continue her exemplary work, employers should urge Senate Rules to confirm her appointment. Send letters **immediately** to: The Honorable Don Perata, Senate Rules Committee,

State Capitol, Room 205, Sacramento, CA 95814.

Be sure to send a copy to the Chamber, fax (916) 325-1272 or e-mail ccc@calchamber.com.

The sample letter above also is available in an easy-to-use format at www.calchamber.com.

Staff Contact: Charles Bacchi

Workers' Comp Reforms Starting to Improve System

From Page 1

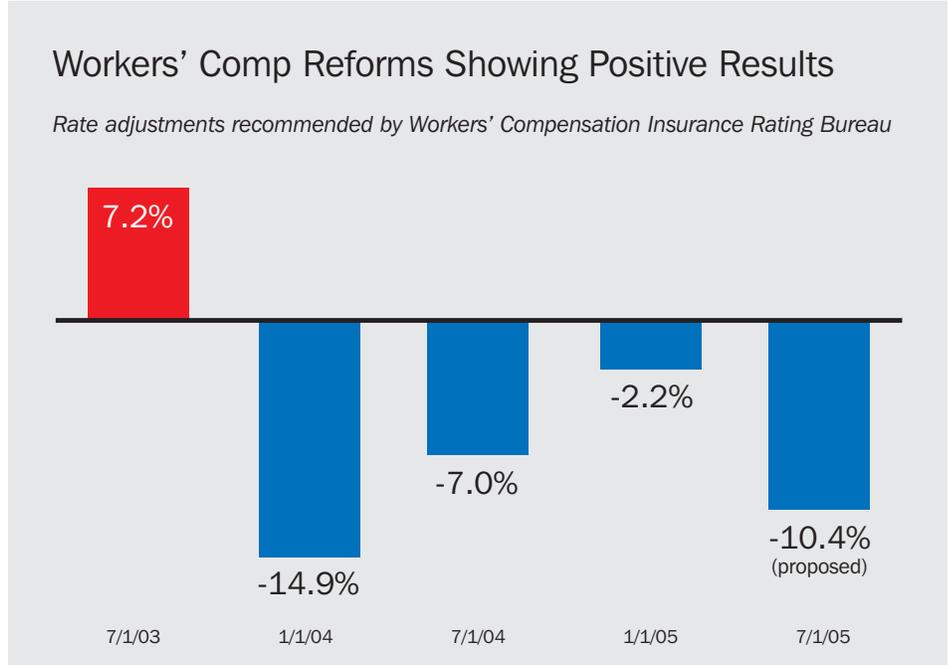
— from a peak of \$6.35 per \$100 of payroll during the last quarter of 2003 to \$5.34 per \$100 of payroll by the third quarter of 2004. The Workers' Compensation Insurance Rating Bureau has recommended more reductions this year. Rates should continue to drop once the permanent disability rate regulations are adopted.

Fundamental Changes

SB 899 made fundamental changes in the way the workers' compensation system determined the level of injury and the amount of disability assigned to an injury. It also created a new medical network to provide quality, cost-effective care to workers. This package ensured that medical treatment follows nationally recognized guidelines and sets clear parameters for what is acceptable treatment for injured workers in the system, while also reducing excessive litigation.

Although the system is showing improvement, there is still more work to be done. SB 899 was a comprehensive package that has just begun fixing the problems within the workers' compensation system. Adoption of the permanent disability rating system will further overhaul the system.

The confirmation of Andrea Hoch as director of the Division of Workers' Compensation will ensure continued implementation of the reforms in a way that assures employers can realize actual savings as



quickly as possible (see story on Page 3).

“Employers and employees will both benefit — and California’s economy will continue to grow — if our workers’ compensation system is more affordable, more efficient and less litigious,” Zaremberg said. “Our challenge going forward will be to beat back the legal, regulatory and political threats intended

to undermine those goals.”

The Chamber continues to fight for and promote legislative, judicial and regulatory actions that maintain an efficient workers’ compensation system and provide adequate worker benefits while protecting the competitive position of California employers.

Staff Contact: Charles Bacchi

Chamber Calls for Workplace Posters Written in Plain Language



Julianne Broyles, director of employee relations and small business for the California Chamber of Commerce, urges members of the Assembly Labor and Employment Committee to approve Chamber-sponsored legislation to reduce confusion and increase understanding of workplace rights and responsibilities by requiring all workplace posters to be written in plain, simple language. Committee Chair Paul Koretz (D-West Hollywood) expressed interest in the concept of the bill if language for the required posters would be the product of a joint labor-employer task force of some sort. But he and the committee majority ultimately voted no on the bill, AB 1709 (Wyland; R-Del Mar), which failed on a party-line vote of 2-6. The bill was granted reconsideration.

Rwanda President Spotlights Opportunities for Business in Talk at Chamber Luncheon

The President of Rwanda, His Excellency Paul Kagame, highlighted economic opportunities and development in his country in remarks at the California Chamber of Commerce International Luncheon Forum on April 14.

President Kagame won a landslide victory in the first-ever democratic, multi-party elections in the Republic of Rwanda, becoming the nation's fourth President in 2003.

Under his leadership, Rwanda has written a constitution, established free universal education, created a system to bring to justice those responsible for the genocide, and has elected a Parliament where close to half of the members are women.

Focus on Stability, Growth

After years of civil war, the newly elected government of Rwanda is committed to encouraging stability and economic growth. The government is focused on poverty reduction, infrastructure development, privatization of government-owned assets, expansion of the export base, and liberalization of trade.

"You may be asking yourselves, 'Why



His Excellency Paul Kagame, President of Rwanda

Rwanda?" said Kagame to the more than 150 guests in attendance. "We are creating an attractive place for business."

The Africa Growth and Opportunity Act, which eliminates tariffs on Rwandan exports to the United States, is expected to significantly increase Rwandan trade, investment and development. The Chamber supported the act, which was signed on May 19, 2000. The act of 2000 grants more than 70 African and Caribbean countries broad new trading privileges by expanding their duty-free access.

President Kagame focused on the current growth in agricultural exports, which is driving future growth in other export areas, including mineral and horticulture. For the future, Rwanda is concentrating on investment in the area of hotels and lodging, transportation, printing and the agriculture of tropical fruit and vegetables.

Chamber Policy

The Chamber, in keeping with long-standing policy, enthusiastically supports free trade worldwide, 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. New multilateral, sectoral and regional trade agreements ensure that the United States may continue to gain access to world markets, resulting in an improved economy and additional employment of Americans.

For more information on the Chamber's international trade activities, visit www.calchamber.com/international.
Staff Contact: Susanne Stirling

Assembly Committee Rejects Chamber-Backed UI Tax Amnesty



From Page 1
\$100 million in the red by the end of 2006.

Even with California employers paying taxes at the highest UI tax level — the F tax schedule — plus the 15 percent emergency solvency surcharge, the trust fund still won't be able to avoid continuing solvency problems due to the steep increases in benefit levels.

In 2004, California employers paid \$4.6 billion in UI taxes into the trust fund. That amount will increase by \$400 million in 2005 to \$5 billion and then to \$5.2 billion in 2006.

These amounts include the emergency solvency surcharge, which EDD projects

will be levied for the foreseeable future.

Amnesty Proposal

AB 793 would have required EDD to develop and administer a three-month amnesty program, enabling eligible employers to apply for the waiver of either:

- unpaid penalties and interest owed on those penalties due to the non-payment or underpayment of tax liabilities or failure to file reports; or
- penalties that are imposed or may be imposed and taxes that must be withheld that are owed due to non-reporting or underreporting of tax liabilities or failure to file reports for periods ending on or before December 31, 2004.

Chamber Position

The Chamber believes that the revenue

collected from a new UI tax amnesty program, as proposed by AB 793, would alleviate some of the pressure for further tax hikes on employers and help restore the financial solvency of California's UI fund.

Key Vote

The Assembly Insurance Committee vote on AB 793 was 4-6.

Ayes: Benoit (R-Riverside), Bogh (R-Beaumont), Mountjoy (R-Monrovia), Umberg (D-Santa Ana).

Noes: Vargas (D-San Diego), Calderon (D-Montebello), Frommer (D-Glendale), Karnette (D-Long Beach), Lieber (D-Mountain View), Nava (D-Santa Barbara).

The bill was granted reconsideration.
Staff Contact: Julianne Broyles

Legislative Outlook

An update on the status of key legislation affecting businesses. Visit www.calchamber.com/position_letters for more information, sample letters and updates on other legislation. Staff contacts listed below can be reached at (916) 444-6670. Address correspondence to legislators at the State Capitol, Sacramento, CA 95814. Be sure to include your company name and location on all correspondence.

Chamber-Opposed Biomonitoring Bill Keeps Moving



A California Chamber-**opposed** bill to establish a biomonitoring program lacking a sound basis in science continues to move in the Senate.

SB 600 (Ortiz; D-Sacramento) makes California unfriendly to business by establishing a biomonitoring program that could lead to the potential elimination or reduction of use of certain chemicals based on mere detection, even if those chemicals are not scientifically proven to be harmful, and without taking economic considerations into account.

The Chamber, along with a broad coalition of businesses and organizations, opposes SB 600.

Without a scientifically sound framework for interpreting results — one based on procedures reviewed by technical experts and their peers — the program will produce only a jumble of results that fail to distinguish between trivial levels of exposure and those of potential concern to public health.

SB 600 is based on a flawed premise that chemicals can be presumed to be harmful without considering the degree of exposure. The bill also fails to acknowledge that for any chemical there is likely to be a low exposure level that doesn't pose a significant health risk.

Key Vote

SB 600 passed the Senate Environmental Quality Committee on a vote of 5-2 on April 18.

Ayes: Chesbro (D-Arcata), Figueroa (D-Fremont), Kuehl (D-Santa Monica), Lowenthal (D-Long Beach), Simitian (D-Palo Alto).

Noes: Runner (R-Lancaster), Cox (R-Fair Oaks).

Absent/abstaining/not voting: Campbell (R-Irvine), Escutia (D-Norwalk).

The bill will be considered next by the Senate Appropriations Committee.

Staff Contact: Trudi Hughes

Chamber-Backed Boost to Career Tech Education Moves



California Chamber-**supported** legislation to help career technical education programs is moving in the Legislature.

AB 1425 (Daucher; R-Brea) gives California community colleges much-needed flexibility to hire instructors for career technical education programs and vocational education courses.

California's economy needs a well-trained workforce. The California Community College System plays an important role in educating the public and preparing people for the workplace.

Existing law, however, makes it difficult for colleges to hire part-time instructors for career technical and vocational education courses and still meet the goal that 75 percent of faculty be hired on a full-time basis.

AB 1425 allows districts to hire part-time faculty members who have valuable experience in the private sector to come on campus and help students prepare for jobs without jeopardizing the districts'

compliance with the mandate. Only instructional hours spent on career technical and vocational education would be excluded from the 75 percent full-time standard.

The Chamber believes this is a commonsense reform that provides colleges with much-needed flexibility to improve the workplace readiness of their students.

Key Vote

AB 1425 passed the Assembly Higher Education Committee on a vote of 4-2.

Ayes: Liu (D-La Cañada Flintridge), Leslie (R-Tahoe City), S. Horton (R-Chula Vista), Matthews (D-Tracy).

Noes: Nava (D-Santa Barbara), Ruskin (D-Palo Alto).

Absent/abstaining/not voting: Bass (D-Los Angeles).

The bill goes next to the Assembly Appropriations Committee.

Staff Contact: Charles Bacchi

Hearings on Chamber-Sponsored Bills Set for Early May



SUPPORT

California Chamber-sponsored legislation to improve state labor laws will be considered by policy committees in the Senate and Assembly in early May.

Set for hearing May 3 in the Senate Judiciary Committee is **SB 855 (Poochigian; R-Fresno)**, which helps stop predatory shakedown lawsuits under the Americans with Disabilities Act (ADA). The bill requires a specific notice of intent to sue and brief period where a business can repair an ADA access problem. (See March 18 *Alert*.)

Set for hearing May 4 in the Assembly Labor and Employment Committee is **AB 822 (Benoit; R-Riverside)**, which expands employer options for compensating employees to include electronic paycheck cards. (See April 1 *Alert*.)

Action Needed: Contact committee members and ask them to **support** SB 855 and AB 822. For an easy-to-use sample letter to send legislators, visit the Government Relations section at www.calchamber.com.

Staff Contact: Julianne Broyles

Chamber-Opposed Container Fee Passes Committee



OPPOSE

California Chamber-opposed legislation that would put California ports at a competitive disadvantage and severely damage the economy of the state passed the Senate Environmental Quality Committee this week.

SB 760 (Lowenthal; D-Long Beach) imposes a \$30 fee per twenty-foot equivalent unit (TEU) on containers delivered to the Ports of Los Angeles and Long Beach. The bill requires that moneys earned from the fees be spent on congestion relief (excluding capacity upgrades for freeways), enhanced security and container screening, and a portion administered by the South Coast Air Quality Management District for emissions mitigations.

If implemented, the bill would place the Ports of Los Angeles and Long Beach at a competitive disadvantage in the goods movement arena. No other port facility in the state or nation would be subject to this fee. Ultimately, the fee required by SB 760

would force shippers to look for more cost-effective alternatives to these ports.

In addition, the fee proposed by SB 760 violates current obligations under various international trade agreements, thereby raising the potential for costly litigation and international disputes.

Key Vote

SB 760 passed Senate Environmental Quality by a vote of 5-2 on April 18:

Ayes: Chesbro (D-Arcata), Figueroa (D-Fremont), Kuehl (D-Santa Monica), Lowenthal (D-Long Beach), Simitian (D-Palo Alto).

Noes: Runner (R-Lancaster), Cox (R-Fair Oaks).

Absent/abstaining/not voting: Campbell (R-Irvine), Escutia (D-Norwalk).

The bill will be considered next by the Senate Appropriations Committee.

Staff Contact: Bruce Magnani

Chamber Members Get Discount on Employment Background Screening

The California Chamber of Commerce has formed a partnership with HireRight to provide online employment background screening services at a discount.

Through this new program, California Chamber members will receive a 15 percent discount off the standard rates for HireRight's one-stop shop of employment background screening services.

The web-based services provide human resources professionals the tools they need to make informed hiring decisions. HireRight offers users the peace of mind of employing an industry leader,

plus the convenience of working with a single service provider for background screening.

HireRight's wide range of comprehensive employment screening services are accessible via the Internet with all results provided in an integrated, web-based report.

Services available include criminal records checks, employment and education verification, professional reference checks, credit and motor vehicle record checks, drug screening and other specialized verification services.



CALIFORNIA
CHAMBER OF
COMMERCESM

More Information

More information is available at www.hrcaifornia.com, or by calling (800) 649-4921.

Staff Contact: John Gouveia

Receive a 15% discount on employment background screening

The California Chamber of Commerce partnership with **HireRight** gives you the tools to make informed hiring decisions for a safer, smarter workplace.

Get the information you need, faster.

- Web-based, quick and accurate
- Extensive menu of background screening services

Comprehensive employment screening services, including:

- Criminal records checks
- Employment and education verification
- Professional reference checks
- Credit and motor vehicle record checks
- Drug screening
- Other specialized verification services



CALIFORNIA
CHAMBER of
COMMERCE

For information, visit www.hrcalifornia.com or call (800) 649-4921.

ADDRESS SERVICE REQUESTED

Helping California Business Do Business™

P.O. BOX 1736 SACRAMENTO, CA 95812-1736
(916) 444-6670 FACSIMILE (916) 444-6685
www.calchamber.com



CALIFORNIA CHAMBER OF COMMERCE

ALERT

Periodicals
Postage
PAID
Sacramento, CA