

ALERT

CALIFORNIA CHAMBER OF COMMERCE

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Assembly Committee Stops Chamber-Backed Labor Bills

Legislature May Reconsider Proposals Next Year



An Assembly policy committee has stopped two bills **sponsored** by the California Chamber of Commerce to improve state labor laws.

One Chamber-sponsored bill aimed to make labor law

posters easier for employees and employers to understand. The other gave employers and employees the option to mutually agree to a four-day workweek. Both bills failed to pass the Assembly Labor and Employment Committee on April 20, but were granted reconsideration.

“By stopping these common-sense
See Assembly: Page 4

Chamber-Backed Workers’ Comp Director Wins OK



Andrea Hoch

The Senate Rules Committee voted 3-2 on April 27 in support of keeping employers’ workers’ compensation rates down by confirming California Chamber of Commerce-supported Andrea Hoch as the director of workers’ compensation.

The next morning, the full Senate confirmed Hoch with 21 votes.

Chamber Praise

“The California Chamber of Commerce applauds members of the Senate for confirming the nomination of Andrea Hoch,” said Chamber President Allan Zaremberg. “She has done an exceptional job this far in implementing the cost-saving reforms enacted last year, and her continued leadership is key to bringing costs down further for California’s employers.”

See Chamber: Page 3

French Ambassador Highlights History of Shared Concerns with U.S.



California Chamber President Allan Zaremberg (left) and His Excellency Jean-David Levitte, Ambassador of France to the United States, greet guests at the Chamber International Luncheon Forum this week featuring remarks by Levitte. The ambassador noted that California is the state with the most exports to France and called attention to the role of trade and economic ties in the evolution of the European Union and the longest peaceful era in the history of Europe. He also highlighted the long history of shared interests between France and the United States and applauded the role of U.S. veterans in the liberation of France at the close of World War II.

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Labor Law Corner

State Pregnancy Leave Rules Don't Require Employee to Use Vacation



Sunny Lee
Senior Labor Law
Advisor

Can I require an employee to use vacation during pregnancy leave?

If an employer is covered by the state pregnancy leave regulations, an employee may not be forced to use vacation during pregnancy leave.

A covered employer includes all

private employers with five or more full-time or part-time employees. California state, county, city and political or civil subdivisions of the state also are covered, irrespective of the number of employees.

Whereas the federal Family Medical Leave Act (FMLA) and the California Family Rights Act (CFRA) regulations do allow an employer to require the use of vacation during the leave, pregnancy leave regulations prohibit employers from forcing employees to use vacation.

Employee Option

Under the accrued time off section of the pregnancy leave regulations, the use of vacation or paid time off (PTO) is an option of the employee. "An employee may elect, at her option, to use any vacation time or other accrued personal time off (including any undifferentiated PTO) during the otherwise unpaid portion of the pregnancy disability leave."

If an employee chooses to use vacation, it will not affect either the employee's eligibility for State Disability Insurance (SDI) or weekly benefit amount the employee is entitled to receive. Because

there is a seven-day waiting period before payment of SDI benefits, an employee typically will use sick leave or, if not available, elect to use vacation pay for that first week.

Conform Policy

If an employer has had a policy or practice of requiring vacation to be used during pregnancy leave, that policy should be changed to conform to California law.

For more information, consult the *California Labor Law Digest*, Chapter 22, or call the California Chamber Labor Law Helpline.

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.

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Chamber Calendar

Luncheon Forum:

May 12, Sacramento
(Lucinda "Cindy" Ehnes, director, California Department of Managed Health Care. "Health Care Choices for California Employers.")

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.

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.

Hearings on Bills to Improve Labor Laws

Chamber-Sponsored Bills Target ADA Lawsuits, Modernizing Pay Options



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

Stopping ADA Lawsuit Abuse

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.

Employers support the ADA and its

objectives. Unfortunately, businesses throughout the state have been targeted by what have been called "frequent filers," who file look-alike lawsuits where a single plaintiff and his/her lawyers file lawsuits alleging the same ADA violation against numerous small businesses in a particular area.

Paycheck Cards

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.

Companies in other states already are using pay cards to compensate their work-

ers. Typically, the employee is able to use the pay card just like an ATM or debit card. The employer prepays the transaction fee on a certain number of withdrawals per month, permitting the worker to access some or all of those wages without fees or discount. Workers are also provided with either a written or electronic copy of their pay stub.

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-Backed Workers' Comp Director Wins Confirmation

From Page 1

Hoch, who was named to head the Division of Workers' Compensation in April 2004 by Governor Arnold Schwarzenegger, was key in implementing the reforms contained in the Chamber-supported workers' compensation package, SB 899 (Poochigian; R-Fresno).

These reforms, including medical provider networks and medical treatment guidelines, resulted in rate reductions for many California employers.

Hoch's regulatory actions have brought much-needed clarity to a number of crucial changes in law regarding the workers' compensation system. These clarifications have helped the system to run more efficiently.

Rates Going Down

In a letter to members of the Senate, urging that Hoch be confirmed, Zaremberg noted that enactment of the workers' compensation reforms has headed off a 17.7 percent increase in rates and instead delivered a 16.5 percent average reduction in rates.

Overall workers' compensation costs have been lowered from the all-time high of \$6.39 per \$100 of payroll down to \$5.34 at the beginning of this year.

The Workers' Compensation Insurance Rating Bureau has issued a preliminary recommendation that rates be reduced at least another 10.4 percent in July.

Zaremberg also pointed out that the California Applicants' Attorneys Association is trying to sidetrack the good work being done to reduce workers' compensation rates. The applicant attorneys have filed lawsuits challenging the reforms and "absent success on that front seek to remove the steward of the regulatory effort to implement the new laws," Zaremberg wrote.

"The choice facing the Legislature is simple," Zaremberg wrote. "Do you support lowering costs to employers by supporting the capable and effective leadership of the Division by Hoch? A vote against Hoch will be a vote in favor of higher rates, instability and delay. I urge you to stand up and support the reforms and support the confirmation of Andrea Hoch."

Thanks to Supporters

The Chamber thanks everyone who contacted members of Senate Rules in support of Hoch's confirmation.

"The bipartisan overhaul of California's broken workers' compensation

system is just beginning to bring cost savings to California's job creators," concluded Zaremberg. "It is essential that we keep on course to enact the entire reform package to improve our business climate, keep employers here and bring new jobs to California."

Key Votes

The 3-2 vote in Senate Rules was:

Ayes: Ashburn (R-Bakersfield), Battin (R-La Quinta), Perata (D-Oakland).

Noes: Bowen (D-Redondo Beach), Cedillo (D-Los Angeles).

Senators voting to confirm Hoch were: Aanestad (R-Grass Valley), Ackerman (R-Tustin), Ashburn (R-Bakersfield), Battin (R-La Quinta), Campbell (R-Irvine), Cox (R-Fair Oaks), Denham (R-Merced), Dutton (R-Rancho Cucamonga), Hollingsworth (R-Murrieta), Machado (D-Linden), Maldonado (R-Santa Maria), Margett (R-Arcadia), McClintock (R-Thousand Oaks), Migden (D-San Francisco), Morrow (R-Oceanside), Murray (D-Los Angeles), Perata (D-Oakland), Poochigian (R-Fresno), Romero (D-Los Angeles), Runner (R-Lancaster), Torlakson (D-Antioch).

Staff Contact: Charles Bacchi

Assembly Committee Stops Chamber-Backed Labor Bills

From Page 1

reforms, some members of the Assembly Labor and Employment Committee are hurting California's jobs climate, employers and employees," said Julianne Broyles, Chamber director of employee relations and small business. "When these bills are brought up for reconsideration next year, we will work to ensure that those who opposed these bills are fully aware of why these reforms are needed by California's workers and employers."

Workplace Flexibility

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

In California, current law requires that overtime compensation be paid for work 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.

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.

AB 640 would have permitted 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.

Plain Language

AB 1709 (Wyland; R-Del Mar) would have reduced confusion and would have increased understanding of workplace rights and responsibilities by requiring all state mandated workplace posters to be written simply and in plain language.

California employers and employees need workplace posters that are easy to understand, contain clear definitions of

obligations and make duties easy to administer and implement make.

Plain and simple language in workplace rules ensures that employers know how to comply with the law and aids workers with knowledge if workplace rights have been violated.

Key Votes

AB 640 and AB 1709 failed to pass Assembly Labor and Employment on party-line votes, but both bills were granted reconsideration.

AB 640 failed on a vote of 2-6:

Ayes: Nakanishi (R-Lodi); Houston (R-Livermore).

Noes: Koretz (D-West Hollywood); Chan (D-Oakland); Chu (D-Monterey Park); Klehs (D-Castro Valley); Laird (D-Santa Cruz); Leno (D-San Francisco).

AB 1709 failed on a vote of 2-5:

Ayes: Nakanishi (R-Lodi); Houston (R-Livermore).

Noes: Koretz (D-West Hollywood); Chan (D-Oakland); Chu (D-Monterey Park); Klehs (D-Castro Valley); Laird (D-Santa Cruz).

Absent/abstaining/not voting: Leno (D-San Francisco).

Staff Contact: Julianne Broyles

ChamberPAC Effort to Elect Pro-Jobs Candidates Offers Online Form

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

The form, available at 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.

For more information, visit the Government Relations section at www.calchamber.com or call (916) 444-6670, extension 275.

Join the campaign to elect pro-jobs candidates

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Committees OK Chamber-Opposed Bills that Will Boost Cost of Goods Movement



A number of California Chamber-**opposed** bills that ultimately increase the cost of moving goods in California have been passing legislative policy committees in recent weeks.

If the bills become law, they will hurt businesses, consumers and the economy.

Assembly Bills

The following bills passed the Assembly Transportation Committee over the **opposition** of the Chamber:

- **AB 1406 (Karnette; D-Long Beach)** increases the cost of goods movement by adding a \$10 fee on all containers for port security purposes. The vote was 7-5.

- **AB 1101 (Oropeza; D-Long Beach)** hampers operations at ports, rail yards, distribution centers and airports by shifting regulatory authority over emissions from state to local entities, thereby creating conflicts with federal law. The vote was 8-4.

- **AB 1407 (Oropeza; D-Long Beach)** creates a hidden tax on off-road diesel to raise funds for unspecified air quality programs. The vote was 7-5.

All three bills go next to the Assembly Appropriations Committee.

Senate Bills

The following bills passed the Senate Environmental Quality Committee on votes of 6-3 despite Chamber **opposition**:

- **SB 764 (Lowenthal; D-Long Beach)** increases the costs of goods movement and drives business and jobs from California ports by requiring the City of Los Angeles and the City of Long Beach to prohibit any growth at their respective ports unless that growth can be accomplished with no air pollution increases.

- **SB 757 (Kehoe; D-San Diego)** introduces a new mandate to cut gasoline use by 15 percent, which would likely lead to a gas tax causing higher gasoline prices, increased costs for consumer goods and thousands of lost jobs for California.

Key Votes

Assembly Transportation votes were as follows:

Voting aye on all three bills: Oropeza (D-Long Beach), Chan (D-Oakland), Karnette (D-Long Beach), Liu (D-La Cañada Flintridge), Pavley (D-Agoura

Hills), Ridley-Thomas (D-Los Angeles).
Voting aye on AB 1101 and AB 1407: Torrico (D-Newark).

Voting aye on AB 1406: Salinas (D-Salinas).

Voting no on all three bills: Huff (R-Diamond Bar), Bogh (R-Beaumont), Mountjoy (R-Monrovia), Niello (R-Fair Oaks).

Voting no on AB 1407 and AB 1406: S. Horton (R-Chula Vista).

Absent/abstaining/not voting on AB 1101: S. Horton (R-Chula Vista).

Absent/abstaining/not voting on AB 1407: Salinas (D-Salinas).

Absent/abstaining/not voting on AB 1406: Torrico (D-Newark).

The **Senate Environmental Quality votes** on SB 764 and SB 757 were:

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

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

SB 757 goes next to the Senate Appropriations Committee. SB 764 awaits action by the full Senate.

Staff Contact: Bruce Magnani

Advocacy Council Hears from D.C. Columnist, Sacramento Insider



The California Chamber Advocacy Council Spring Retreat this week provided opportunities for council members to hear a variety of comments on national and state political issues. Dinner speaker Bill Kristol (left), editor of *The Weekly Standard*, offered a conservative Republican perspective on national politics. Luncheon speaker Patricia Clarey, chief of staff to Governor Arnold Schwarzenegger, gave an overview on the Governor's reform package and offered anecdotes on working in the Schwarzenegger administration.

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.

Minimum Wage Increase Moves in Assembly



A California Chamber-**opposed** bill to increase the state minimum wage passed the Assembly Labor and Employment Committee last week on a party-line vote of 6-2.

AB 48 (Lieber; D-Mountain View) increases the state minimum wage from the current \$6.75 per hour to \$7.25 in 2006 and to \$7.75 in 2007. It also indexes the cost every year thereafter.

Employer costs would rise by at least \$2.08 billion annually, raising costs to consumers and driving employers to other states, if the bill becomes law.

AB 48's initial mandated 50-cent-per-hour wage increase would increase the base payroll costs for a small business with 20 workers by at least \$20,000 per year.

The second tier increase on July 1, 2007 would increase that business's costs by at least \$41,600.

Employers' costs — such as workers' compensation, health care premiums and other employment-related taxes — all increase when payroll costs rise. Accord-

ing to the Workers' Compensation Insurance Rating Bureau, enactment of AB 48 would cause workers' compensation costs to rise by an additional \$20 million annually.

The Chamber believes that rather than mandating a wage increase, the focus should be on removing barriers to productivity and wage growth that government has imposed on the private sector.

Key Vote

The Assembly Labor and Employment 6-2 vote on April 20 was as follows:

Ayes: Chan (D-Oakland), Chu (D-Monterey Park), Klehs (D-Castro Valley), Koretz (D-West Hollywood), Laird (D-Santa Cruz), Leno (D-San Francisco).

Noes: Houston (R-Livermore) and Nakanishi (R-Lodi).

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

Staff Contact: Julianne Broyles

Chamber-Opposed Telecommunications Bill Passes Committee



California Chamber-**opposed** legislation that will boost telecommunications costs and limit consumer choices passed the Senate Appropriations Committee this week.

SB 1068 (Escutia; D-Norwalk) stifles innovation and limits consumer choices by imposing antiquated regulations developed for monopolistic landline telephone services on the rapidly growing and competitive telecommunications industry.

At stake is the future of the \$30 billion wireless communications industry, one of the fastest growing in California, with 60,000 jobs and \$3.5 billion in payroll.

The Chamber has pointed out that the state's current regulatory structure prohibits the deployment of new technologies. The rules were designed to cover traditional wire-line service characterized by copper wire, dial tones and regional monopolies. Difficulties

arise in applying those rules today, when cable companies offer telephone service and telephone companies offer in-home entertainment.

Key Vote

Senate Appropriations passed SB 1068 by a vote of 7-4 on April 25:

Ayes: Alquist (D-Santa Clara), Ashburn (R-Bakersfield), Bowen (D-Redondo Beach), Escutia (D-Norwalk), Migden (D-San Francisco), Ortiz (D-Sacramento), Speier (D-San Francisco/San Mateo).

Noes: Aanestad (R-Grass Valley), Battin (R-La Quinta), Dutton (R-Rancho Cucamonga), Poochigian (R-Fresno).

Absent/abstaining/not voting: Florez (D-Shafter), Murray (D-Los Angeles).

The bill will be considered next by the full Senate.

Staff Contact: Dominic DiMare

New 'Sue Your Boss' Bill Passes Committee



California Chamber-**opposed** legislation creating new reasons to sue employers passed the Senate Labor and Industrial Relations Committee this week.

SB 174 (Dunn; D-Garden Grove) increases employer liability by providing new incentives for plaintiffs and their attorneys to file lawsuits by establishing new types of "sue your boss" class action lawsuits.

The bill authorizes two new types of "representative" or class action lawsuits when a dispute over minimum wage or overtime payment is involved. It permits individual employees and their private attorneys to bring a civil action, both on behalf of the employee, as well as on behalf of any other current and former employees.

Under current law, in order to protect against abuse of the class action process, several significant requirements must be met. SB 174 proposes to eliminate the mandatory requirements necessary to prove the need for class action status.

Nearly half of all employment-related lawsuits in California today include overtime issues. The Chamber pointed out that SB 174 will unreasonably provide class action status to nearly all future wage-and-hour violation claims filed in the state.

The Chamber believes bills such as SB

174 send the wrong message to businesses looking to establish or expand here. As a way to create jobs for California citizens, policymakers should instead be looking at ways to improve California's image as a place to start or grow a business.

Key Vote

The vote on SB 174 was 5-2:

Ayes: Alarcón (D-San Fernando Valley), Dunn (D-Garden Grove), Figueroa (D-Fremont), Kuehl (D-Santa Monica), Lowenthal (D-Long Beach).

Noes: Campbell (R-Irvine), Ackerman (R-Tustin.)

Absent/abstaining/not voting: Runner (R-Lancaster).

Staff Contact: Julianne Broyles

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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

FEATURED SPEAKERS



Governor
Arnold
Schwarzenegger



Chamber Chair
Eugene J. Voiland

Register before May 11 deadline at www.calchamber.com, or for additional information, contact Amy Orr at (916) 444-6670, ext. 263 or e-mail events@calchamber.com.



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