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ALERT

CALIFORNIA CHAMBER OF COMMERCE

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Bureau Suggests Additional Workers' Comp Rate Cuts

More Savings Due to Chamber-Supported Reforms

In another indication that the California Chamber-supported workers' compensation reforms adopted last year are working, the Workers' Compensation Insurance Rating Bureau (WCIRB) this week increased its recommended rate reduction.

To recognize projected savings from the new permanent disability rating schedule, the WCIRB called for a 13.8 percent reduction — 3.4 percent more than the 10.4 percent it recommended in March.

More Reductions

The rate reduction is only advisory and still must be approved by California's insurance commissioner. If approved, it will be the third rate decrease since Governor Arnold Schwarzenegger signed the Chamber-**supported** reform bill, SB 899 (Poochigian; R-Fresno) in April 2004 (see chart on Page 4).

The WCIRB also is recommending a 3.8 percent reduction starting July 1 for the outstanding portion of policies that began from January 1 through June 30.

Reforms Working

"The Bureau's recommendation to reduce workers' comp rates beyond what

See Bureau: Page 4

Governor's Revised Budget Plan: No New Taxes, Repay Debt

Finance Director Tom Campbell

Governor Arnold Schwarzenegger's revised 2005-06 budget plan contains no new taxes and no borrowing, in addition to paying down future debt.

An improving economy is projected to generate more funds, permitting the Governor to restore more than $1.3 billion in transportation funding.

The California Chamber of Commerce applauded the budget revision, released May 13, as good news for California's economy.

Responsible Budget

"By proposing a budget that is balanced, and contains no new borrowing or new taxes, the Governor is responsibly helping California's economy continue on the road to recovery," said Chamber President Allan Zaremberg.

"By paying off significant portions of our debt ahead of schedule and thereby saving us money in the long run, the Governor is helping stabilize California's future," Zaremberg said.

See Governor's: Page 4

State Official Seeks Health Care Reform Input

Lucinda "Cindy" Ehnes, director of the state Department of Managed Care, invites listeners at a recent California Chamber of Commerce Luncheon Forum to work with her to reform California's health care delivery system, which she described as the finest in the nation, but weighed down by cost shifting from government to privately funded health plans, and in need of regulatory streamlining.

Inside

Labor Law Corner

Benefits Available to Employee Unable to Work Depend on Many Factors

**Susan Kemp
Senior Labor Law
Counsel**

What kind of wage replacement benefits are available for a current employee who is unable to work and on a leave of absence?

The type of benefit available will depend upon the reason for the leave and possibly the type of benefits that you offer employees. In some cases, employees may be able to use employer-provided benefits, such as sick leave and vacation, in addition to state-mandated benefits.

Combinations

With Pregnancy Disability Leave (PDL) or PDL in combination with the Family and Medical Leave Act (FMLA), you may require the use of sick leave during the leave, but you may not require the use of vacation or paid time off (PTO).

Employees who are eligible for state disability insurance benefits (SDI) will have to serve a seven-day waiting period before SDI benefits begin. You may require the use of sick leave during the waiting period, or the employee may use PTO or vacation.

Once the employee is receiving SDI benefits, you may require the use of sick leave to supplement the SDI benefits, or the employee could choose to use an employer benefit to supplement SDI.

The receipt of sick leave or PTO benefits does have an impact on the SDI benefit amount, so the employer should coordinate those payments with the Employment Development Department (EDD). SDI benefits may be paid for a maximum of 52 weeks.

Eligible employees may take advantage of the California Family Rights Act (CFRA) or CFRA/FMLA for bonding with a newborn or adopted child.

If the employee is eligible for Paid Family Leave (PFL) benefits and has not yet served a seven-day waiting period, you may require the use of up to two weeks of vacation before the employee receives PFL benefits. You may require the use of sick leave, vacation or PTO, consistent with your company policy, during the seven-day waiting period.

Or, you may require that employees supplement PFL benefits with other paid leave. PFL benefits are available for a maximum of six weeks in a 12-month period. This benefit is administered by EDD.

Employee's Own Injury/Illness

If the leave is for the employee's own illness or injury, you may require the use of any paid time off that is consistent with your benefits and policies. You cannot, however, interfere with an employee's right to collect SDI benefits.

You may choose to require or permit the use of paid time off during the seven-day waiting period before SDI benefits begin. You may then require or permit the use of paid time off to supplement the SDI benefit payment. The use of paid sick leave and PTO conflict with the receipt of SDI benefits, and would result in a reduction of benefits.

Coordinating the benefit with EDD would allow the employee to receive the maximum SDI benefit with a supplemental payment from sick leave, vacation or PTO to bring the employee's wages to 100 percent of normal compensation. Nothing would prevent you from requiring or the employee from requesting payout of all vacation. Vacation benefits do not conflict with the receipt of SDI benefits.

Caring for Family Member

If the leave is to care for a family member, the employee may be eligible for PFL benefits. You may require that the employee use up to two weeks of vacation before eligibility for PFL benefits begin.

Or, you may require the use of paid time off during the seven-day waiting period.

And, you may require or permit the employee to supplement PFL benefits with paid time off.

The use of paid sick leave and PTO conflict with the receipt of PFL benefits, and would result in a reduction of benefits. Coordinating the benefit with EDD would allow the employee to receive the maximum PFL benefit with a supplemental payment from sick leave, vacation or PTO to bring the employee's wages to 100 percent of normal compensation.

Nothing would prevent you from requiring or the employee from requesting payout of all vacation. Vacation benefits do not conflict with the receipt of PFL benefits, unless the employer's policy requires the use of two weeks of vacation before receipt of PFL benefits.

Workers' Compensation

Employees who are ill or injured as

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'Job Killer' Bills on Move in Legislature

Despite the negative impact the "job killer" bills would have on the California economy, legislators are supporting the proposals, which are moving through the legislative process.

The Senate has already sent two "job killers" on to the Assembly:

● **SB 646 (Kuehl; D-Santa Monica) Water discharge; burdensome requirements.** Jeopardizes jobs and agriculture and timber industry revenues by imposing mandatory annual fees for water discharge waivers with no accountability requirements.

● **SB 833 (Bowen; D-Redondo Beach) Onerous fax communication restrictions.** Increases costs by placing onerous administrative and economic burdens on associations and employers by requiring express written consent from their own members and/or customers prior to sending certain fax communications.

The Assembly has sent one "job killer" to the Senate:

● **AB 875 (Koretz; D-West Hollywood) Government agency potential harassment of employers.** Opens the door to potential harassment by government labor and taxing agencies by requiring the referral of an unspecified labor violation to the taxing agency for a tax audit and requiring the referral of an unspecified tax violation to the labor regulator, exposing employers to an expensive, time-consuming fishing expedition for possible employer tax or labor code violations.

Assembly Floor

Four "job killers" were awaiting action by the full Assembly this week:

● **AB 169 (Oropeza; D-Long Beach) Excessive litigation.*** Negatively distinguishes California from the rest of the country by exposing every business to excessive litigation and increases the cost of doing business by mandating damage awards and new civil penalties for gender pay equity violations.

● **AB 802 (Wolk; D-Davis) General plans cost increase.** Slows development of affordable housing and increases opportunity for unnecessary litigation by forcing local government to integrate two incompatible planning processes.

● **AB 1310 (Núñez; D-Los Angeles) Severance offers; increased litigation.** Establishes new reasons to sue private sector employers of all sizes by setting in statute a very detailed notice process that an employer must follow exactly in order to be able to utilize any severance agreement.

● **AB 1700 (Pavley; D-Agoura Hills). Proprietary information.** Exacerbates an already hostile legal environment by impeding a business' ability to maintain the confidentiality of its proprietary information.

Senate Floor

● **SB 2 (Speier; D-San Francisco/ San Mateo). Homeowner's insurance cost increase.** Drives up the cost of homeowner's insurance, contributing to the problem of unaffordable housing, by mandating excessive claims payments to a small group of policyholders.

● **SB 44 (Kehoe; D-San Diego) Affordable housing development impediment.** Slows development of affordable housing and increases the opportunities for unnecessary litigation by forcing local government to integrate two incompatible planning processes.

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

● **SB 399 (Escutia; D-Norwalk) Health care cost increase.** Increases litigation costs on insurers and the self-insured by requiring medical payments in excess of Medi-Cal reimbursement rates and increasing non-economic damage awards.

● **SB 409 (Kehoe; D-San Diego) General plans; increased complexity.** Slows development of affordable housing by adding increased complexity and delay to the planning process and creates another opportunity for legal challenges to new housing by making urban water management plans subject to the California Environmental Review Act.

● **SB 459 (Romero; D-Los Angeles) Goods movement; cost increase.*** Increases the cost of goods movement and discourages job creation by imposing a fee on railroad companies that operate in the counties of Los Angeles, Riverside and San Bernardino.

● **SB 764 (Lowenthal; D-Long Beach) Ports: Goods movement cost increase.*** 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.

Staff Contact: Sara Lee

*Bill either vetoed or failed last year.

Seminars

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

Business Resources

Society for Human Resource Management Annual Conference. Society for Human Resource Management. June 19-22, San Diego. (800) 283-7476.

International

Mexico Economic Review and Political Outlook 2005. U.S.-Mexico Chamber. May 24, Los Angeles. (310) 586-7901.

Labor Law

Employee Discipline and Termination Web Seminar. California Chamber of Commerce. June 8. *www.calchamberstore.com/Store/Products/edt.*

Bureau Suggests Additional Workers' Comp Rate Cuts

From Page 1

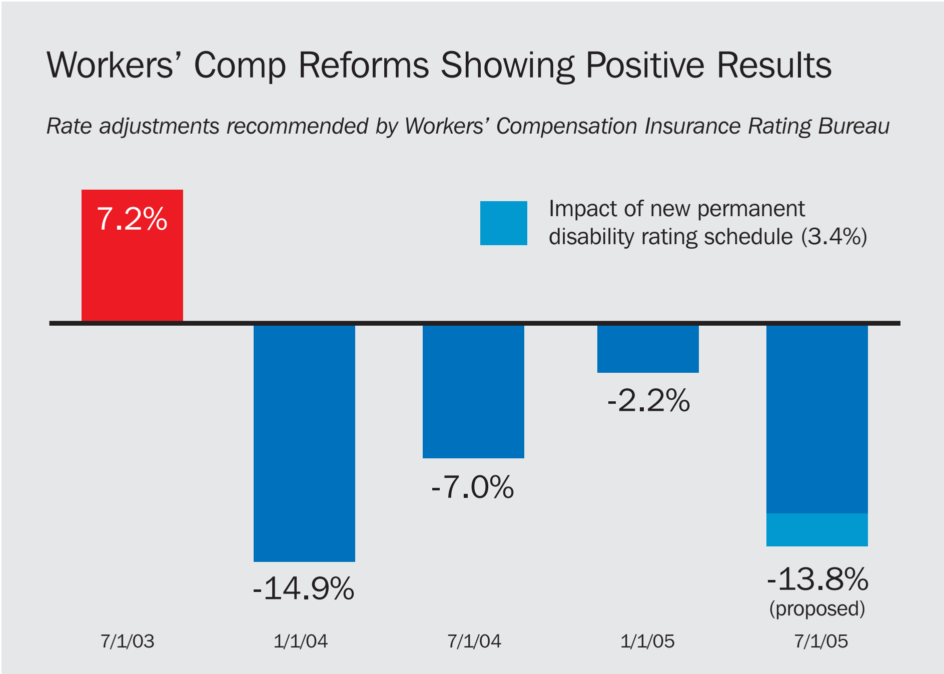
it suggested less than two months ago shows the positive impact of the emergency permanent disability regulations that went into effect at the start of the year," said Charles Bacchi, Chamber legislative advocate. "All signs continue to show that the reforms in SB 899 are working to the benefit of employers and the California economy."

Although the WCIRB announcement shows a great improvement to the workers' compensation system, some employers still may not see the full effect of the recommended rate reductions. California insurance rates vary from company to company.

Many factors contribute to when businesses will see a decrease in rates, including history of workplace injuries, changes to industry classifications for employees, projected liability for all policyholders, anticipated losses for policies, and the newly enacted reform laws and prospective regulations.

If the insurance commissioner approves the WCIRB's recommendation, it will serve as the advisory rate for workers' compensation rates filed July 1.

Staff Contact: Charles Bacchi



Governor's Revised Budget Plan: No New Taxes, Repay Debt

From Page 1

Key Provisions

The Governor's revised budget:

- eliminates any borrowing;
- invests in a transportation infrastructure, which has been neglected for years due to California's financial crisis;
- goes beyond Proposition 98 requirements in funding education and adds to the spending increase the Governor proposed for schools in January; and
- pays city and county governments nearly $600 million in debt the state owes them — half the amount due to them next year for vehicle license fee revenues they failed to receive two years ago.

Legislative Analyst

The Legislative Analyst's Office (LAO), the state's non-partisan fiscal and policy advisor, praised as "sensible in light of the state's structural budget shortfall" the administration's "general approach of using the resources [from the recovering economy] for debt reduction and one-time purposes."

"We strongly urge the Legislature to aim at ongoing solutions which are of the same magnitude as the administration's proposal," the LAO wrote in its overview of the Governor's May budget revision.

The LAO's report noted that the Governor's budget revision proposes to use some $4 billion in new funds due to the improved revenue outlook to reduce budgetary debt and restore the Proposition 42 transfer to transportation.

Proposition 42, the Chamber-**supported** measure approved by voters in 2002, requires that gasoline sales tax revenues be used for transportation. During the state's fiscal crisis, those funds had been borrowed for other budget purposes.

Transportation Commitment

"The Governor's commitment to a strong transportation infrastructure is essential for job creation, economic growth and the future of California's business climate, and will create thousands of jobs in our state," said Zaremberg. "The May revision of the budget shows that his commitment to the economy is paying off. Increased revenues are helping the Governor to invest in California's essential services. We applaud Governor Schwarzenegger for his continued commitment to California's economy."

Staff Contact: Sara Lee

Chamber Calendar

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

Trade Brings California to World

Californians will spotlight the beneficial impact of trade in our state during World Trade Week, making it a fitting time to review the positive aspects that trade brings to our communities.

Globalistic economics continue to bring opportunities to California businesses, both small and large, through exports, imports and investment within the state.

California, one of the top 10 economies in the world and home of the first World Trade Week in 1926, will mark its 79th annual observance recognizing the connections and importance of world trade. In 1937, President Franklin D. Roosevelt expanded this commemoration nationwide and President George W. Bush continued this recognition of trade by proclaiming May 15-May 21 for this year's observance.

Trade = Jobs

The statistics show trade has been good for the California economy:

- About one in 10 jobs in California's private sector is export-related.
- Foreign direct investment in California provides 550,000 jobs.
- Workers in jobs supported by trade earn, on average, wages that are 13-18 percent higher than the national average, (based upon studies by the former California Technology, Trade and Commerce Agency).

Exports Up!

California's exports grew in 2004, according to the U.S. Department of Commerce, mirroring growth in U.S. exports, which rose from $723 billion in 2003 to $818 billion in 2004. California exports increased to more than $109 billion, over $15 billion from the previous year. California maintained its perennial position as a top exporting state, with exports accounting for more than 13 percent of total U.S. exports in 2004.

While U.S. export growth was in capital goods and industrial supplies, California's leading exports were computers and electronic products, with other top exports including machinery, transportation equipment and chemicals.

Boosting Trade

Governor Arnold Schwarzenegger recognizes the value that trade plays

Commentary
By Susan Corrales-Diaz

in relation to the economic growth and health of the state, and has been working hard to promote California exports abroad, as well as letting the world know that California is both a great place to visit and to do business.

At the federal level, free trade agreements open opportunities for businesses across the nation to expand export markets faster and are better tailored with our interest than World Trade Organization agreements.

Recovering from the numerous preferential trade agreements that had excluded it, the United States since 2002 has negotiated free trade agreements with 12 countries in addition to our previously signed agreements with Israel, Canada and Mexico. Agreements with Australia, Chile, Jordan, Morocco and Singapore are in place.

Still awaiting congressional approval are agreements with Bahrain and the six nations in the U.S.-Dominican Republic/Central American Free Trade Agreement (DR-CAFTA): Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras and Nicaragua. Implementing these pending agreements, along with those currently in place, will remove more than $6.4 billion in tariffs for U.S. exports.

The United States also is negotiating further agreements with 10 other nations.

Action Needed on DR-CAFTA

The upcoming congressional vote on DR-CAFTA will be the major trade vote of the year, significant both because of the size of the market it will open, and as a sign of how Congress will treat future trade agreements. California exports to the DR-CAFTA market totaled nearly $660 million in 2004. California is the fourth largest of state agricultural exporters to the DR-CAFTA market, and the fourth largest exporter of computers and electronic products to the region.

As part of a national campaign to build support for DR-CAFTA, the California Chamber provided a forum for the ambassadors of the DR-CAFTA nations to highlight benefits of the agreement at a Sacramento luncheon and a Los Angeles breakfast held in conjunction with a meeting of the Chamber Board of Directors.

The Chamber is urging businesses to encourage their congressional representatives to support DR-CAFTA. A sample letter is available on the Chamber website, ***www.calchamber.com/documents/caftasupport1.doc.***

International Policy

International trade remains an essential ingredient in the state's continued economic growth and development. That is why the Chamber has a long-standing policy to enthusiastically support 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.

The Chamber is dedicated to continuing its efforts to enhance California's international trade abilities.

Susan Corrales-Diaz, chair of the California Chamber International Trade Committee, is president of Systems Integrated in Orange.

www.calchamber.com/international

- FAQs
- trade issue updates
- statistics on leading markets
- links to research markets, buyers, suppliers

Added Transportation Funds in Budget Revise Permit More Funding for Variety of Projects

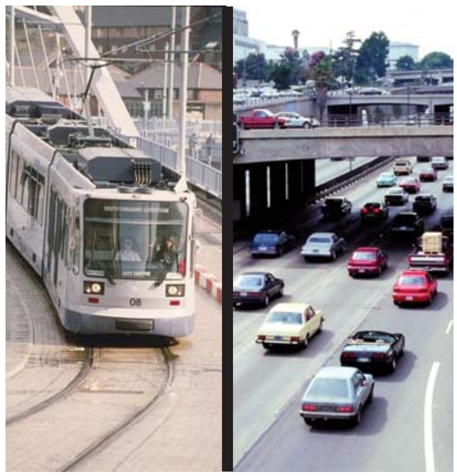
A variety of projects throughout the state will benefit from the $1.3 billion Governor Arnold Schwarzenegger is proposing to restore to transportation funding in the May revision to his 2005-06 budget plan.

The recovering economy has led to higher state revenues than expected at the start of the year, enabling the Governor to restore funds as called for by Proposition 42, the California Chamber-**supported** and voter-approved measure passed in 2002 to require that the gasoline sales tax be used for transportation.

Fund Distribution

The $1.3 billion is to be distributed as Proposition 42 prescribes:

- $678 million to the Transportation Congestion Relief Program (TCRP) to fund 141 state and local transportation projects;
- $254 million to the State Transportation Improvement Program (STIP) to fund state and local transportation projects;



$254 million to cities and counties for deferred maintenance of local streets and roads ($127 million to cities, $127 million to counties);

- $127 million to the Public Transportation Account, with half ($63.5 million) of those funds available for STIP projects and half ($63.5 million) for State Transit Assistance.

Proposition 42 was partially suspended in the 2003-04 budget and fully suspended in the 2004-05 budget.

As part of the May budget revision, the administration is proposing an increase in funding for the project-related workload at the California Department of Transportation (Caltrans).

Project Lists

Lists of STIP and TCRP projects approved by the California Transportation Commission that may receive money with the full funding of Proposition 42 are linked from the Governor's press release announcing his intent to restore the funds.

The projects range from adding four-lane expressways, high-occupancy vehicle lanes and extending rapid transit lines to rehabilitating local roads.

Staff Contact: Dave Ackerman

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

* Name ____________________

* Mailing Address ____________________

* Mailing City ____________________

* Mailing State ____________ *Mailing Zip Code ____________

* Phone ____________ Work Phone ____________

Fax ____________ E-mail ____________

* Occupation ____________________

* Employer ____________________

Contribution ____________ Payment Method ❑ Check ❑ Credit Card

Credit Card Account # ____________ Exp. Date ____________

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

*Required by law

Governor Outlines Plan to Consolidate State Entities Dealing with Energy Issues

Governor Arnold Schwarzenegger has submitted to the Little Hoover Commission a proposal to reorganize the state's energy programs by consolidating functions under a Cabinet-level energy department.

"One of my primary goals as Governor is to ensure that California has adequate, reliable and affordable energy supplies so that we can keep the power on," said Governor Schwarzenegger in a press release. "The plan I submitted to the Little Hoover Commission will meet these goals by establishing a Cabinet-level energy department entrusted with managing energy issues in California and throughout the region."

In his May 12 cover letter to the Little Hoover Commission, the Governor noted that "the need to consolidate responsibility for energy policy and streamline the energy bureaucracy" has been recognized in the last three decades by the legislative analyst, the attorney general, previous governors and the commission.

Consolidation Plan

The Governor's plan makes the current California Energy Commission and the Electricity Oversight Board part of the proposed Department of Energy. The Energy Commission, made up of four commissioners and chaired by the new secretary of energy, will continue to license power plants that are 50 megawatts or larger, and to develop and approve building and appliance energy efficiency standards.

The reorganization plan also gives the Energy Commission expanded licensing authority over new natural gas pipeline proposals, natural gas storage facilities and 200 kilovolt (kV) transmission lines operated by the Independent System Operator.

Smaller projects between 50kV and 200kV are to be processed through an expedited Energy Commission process modeled after the process in use by the California Public Utilities Commission (PUC).

Transmission and natural gas pipeline and storage licensing responsibilities within the PUC will be consolidated with electricity, transmission and natural gas assessment programs from the Energy Commission to increase analytical expertise and capability.

The reorganization also moves the state's natural gas and electricity contracts managed by California Energy Resources Scheduling from the Department of Water Resources to the new energy department, as well as the financing authority from the California Consumer Power and Conservation Authority (currently unfunded).

Market oversight functions of the Electricity Oversight Board will be transferred to the Office of Energy Market Oversight within the new Department of Energy. That office will represent ratepayer interests before the Federal Energy Regulatory Commission, thereby eliminating confusion at the federal level over which state energy entity represents California's interests.

Process

The Little Hoover Commission has 60 days to review the Governor's reorganization plan and report to the Legislature. The Governor can submit the plan directly to the Legislature 30 days after submitting it to the Little Hoover Commission.

If neither house of the Legislature votes down the plan within 60 days of it being submitted to the Legislature, the reorganization becomes operational by law.

The administration noted that its reorganization proposal is derived from the California Performance Review (CPR), during which a panel spent nine months looking at ways to make government more efficient and accountable to the people, holding hearings across the state.

Before submitting its energy reorganization plan, the administration also solicited additional comments from consumer, environmental and business groups, electric utilities, public utilities and other stakeholders.

Chamber Position

In the last legislative session, the California Chamber of Commerce supported legislation that sought to consolidate state energy functions under the direction of a secretary of energy. That bill stalled in a Senate policy committee.

The Chamber believes consolidation will bring efficiency, stability and predictability to energy regulations and policy in California. The return of stability and confidence to the marketplace will, in turn, allow for increased investment in the new projects needed to assure an adequate, reliable energy supply for California.

Staff Contact: Dominic DiMare

Benefits Available to Employee Unable to Work Depend on Many Factors

From Page 2

a result of a work-related incident are covered by workers' compensation insurance. Workers' compensation provides temporary disability payments to eligible employees.

The benefit is not a total wage replacement, and you may require the use of sick leave, vacation or PTO during the three-day waiting period before benefits begin, and to supplement the benefit thereafter.

You may also by policy require the payout of all benefits while the employee is on a leave of absence, as long as you require this for any type of disability. Payment of sick leave, vacation or PTO does not interfere with the employee's rights to workers' compensation benefits.

Most employers are covered by workers' compensation insurance, and the insurance carrier is responsible for payment of benefits.

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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