

ALERT

CALIFORNIA CHAMBER OF COMMERCE

VOLUME 31, NUMBER 21 • JUNE 24, 2005



‘Job Killer’ Bill Has Billion Dollar Employer Price Tag

Huge Managerial Employee Cost Impact



California Chamber of Commerce-**opposed** legislation to increase California’s minimum wage to the highest in the nation — thereby imposing more than \$9 billion in

new costs on employers — passed the Senate Labor and Industrial Relations Committee this week.

“California currently has the nation’s highest energy costs and unemployment insurance tax rates for businesses,” said Julianne Broyles, Chamber director of employee relations and small business. “An increase to the minimum wage would be another cost driver hurting

California’s economy just as we are on the road to recovery.”

AB 48 (Lieber; D-Mountain View) is on the Chamber’s annual “job killer” list because it provides a significant disincentive for employers to create jobs in California by giving the state the highest minimum wage in the country.

AB 48 increases the cost of doing business by more than \$9.06 billion annually by raising the state minimum wage to \$7.25 in 2006 and to \$7.75 in 2007, and indexing increases every year thereafter. The Governor vetoed similar legislation last year.

When AB 48 was originally introduced, the Chamber estimated the cost on employers would be \$2.08 billion

See ‘Job Killer’: Page 4



California Chamber of Commerce-**opposed** legislation that creates two new types of class action “sue your boss” lawsuits

passed the Assembly Labor and Employment Committee on a 6-2 vote this week.

The Chamber considers **SB 174 (Dunn; D-Garden Grove)** a “job killer” because it 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 174 is a ‘job killer’ that provides new incentives for plaintiffs and their attorneys to file meritless lawsuits on minimum wage and overtime,” said Julianne Broyles, Chamber director of employee relations and small business.

“This bill undermines some of the work that went into fixing the original ‘sue your boss’ legislation by creating yet another way to file frivolous lawsuits against employers,” Broyles said.

SB 174 provides new incentives to file lawsuits because the bill proposes to grant what is essentially class action status to one worker’s wage-and-hour claim without having to meet any of the current standards or scrutiny associated with a

See New: Page 4



Julianne Broyles, California Chamber director of employee relations and small business, emphasizes to a Senate committee the enormous costs associated with legislation to increase the minimum wage and index it annually. Employers will suffer huge cost increases to maintain exempt status for managers, whose salaries must be double the minimum wage. The Senate Labor and Industrial Relations Committee passed the bill, AB 48 (Lieber; D-Mountain View).

Inside

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Labor Law Corner

Verifying Employment Eligibility: Changes in I-9 Form, Documentation



Sunny Lee
Senior Labor Law
Advisor

What are the employer's obligations in regard to the I-9 Form — Employment Eligibility Verification? Have there been changes in the documents considered acceptable for verifying eligibility?

All employers are responsible for completing and retaining the I-9 Form for

each employee hired after November 6, 1986.

Upon hire, the employee must complete the I-9 Form and present the employer with acceptable original documents that verify both the employee's identity and employment eligibility. The employer is under no obligation to investigate the applicant's Social Security number or determine whether the documents are valid. The only obligation on the employer is to see that the form has been completed, view original documents, and certify on the form that s/he viewed the original documents and that they appeared genuine.

Retaining Documents

There is no requirement that the employer retain copies of the documents that the employee provided. Although the employer is not prohibited from retaining copies of the document(s), it may be prudent *not* to retain that information due to identity theft issues.

The employer must retain the I-9 Form for three years from the date of hire or one year from the date of termination, whichever is longer. A good rule of thumb to adopt to avoid confusion is to retain all I-9s for three years from the date of termination.

Although the employer may keep the form in the employee's personnel file, most employers keep the I-9s in a separate I-9 Form file, so they are more readily accessible in the event of an inspection by authorized U.S. government officials.

New I-9 Form

A new I-9 Form, dated 5/31/05, is now posted on the U.S. Citizenship and Immigration Services (USCIS) website. This form does not eliminate the documents that are no longer acceptable under List "A," but it does reflect the name change of the overseeing agency. The revised form may be downloaded directly from the agency website, <http://uscis.gov/graphics/formsfee/forms/index.htm>.

Even though a new I-9 Form is available, old I-9 Forms may still be used until December 31, 2005.

The I-9 Form consists of three pages. Instructions appear on the first page; the I-9 Form appears on the second page; and

the Lists of Acceptable Documents appear on the third page.

Acceptable documents are categorized under three lists:

- List "A" documents establish *both* identity and employment eligibility.
- List "B" documents establish only identity.
- List "C" documents establish only employment eligibility.

Changes in I-9 Documents

Since the I-9 Form publication date of November 21, 1991, the **Permanent Resident Card, Form I-151, has been withdrawn** from circulation and is no longer a valid List "A" document. A new version of that form, Form I-551, was issued in 1990 to permanent residents of the United States. Older versions of Form I-551 remain valid until the expiration date shown on the document.

In addition, the **following documents are no longer acceptable** to use to establish identity and employment eligibility under List "A" of the I-9 Form:

- **Certificate of U.S. Citizenship – Form N-560 or N-561,**
- **Certificate of Naturalization – Form N-550 and N-570,**
- **Unexpired Reentry Permit – Form I-327,**
- **Unexpired Refugee Travel Document – Form 571.**

One additional document has been added as an acceptable Employment Authorization Document (EAD): Form I-766. This document was introduced in January 1997, and it may be recorded under List "A," Section 10, which currently lists Form I-688B. Both of these documents are acceptable EADs.

For more information, please refer to Chapter 4 of the California Chamber's **California Labor Law Digest**, visit the website at www.calchamber.com or call the 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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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.

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*E-mail: alert@calchamber.com.
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Political Communications with Employees: Time to Brush Up on Dos and Don'ts



I've always been a firm believer that employers should inform their employees how certain pending legislation, regulations and

ballot measures may affect them and their jobs.

California companies don't operate in a vacuum. Our success depends on multiple factors, one of the most basic of which is ensuring that our revenues exceed our costs. Although specifics vary from industry to industry, cost considerations for most businesses include areas such as labor, energy, health care, workers' compensation, unemployment insurance, taxes, fees, rent, maintenance, utilities, property taxes, transportation and education.

Impact on Jobs/Benefits

Government action or inaction in these areas has huge impacts on both sides of the revenue/cost equation. What lawmakers and regulators do, or fail to do, affects the general business climate and ultimately our ability to be successful and provide good-paying jobs and benefits to our employees.

What I've outlined here, most employers know all too well. Yet I often hear from colleagues that they worry about making employees aware of concerns about pending legislation, regulations or ballot measures for fear of running afoul of the law.

Quick Overview

The California Chamber of Com-

merce has prepared a brochure that gives a quick overview of what employers can and can't do when communicating with employees about legislation, regulations or ballot measures.

You are within your rights as a business owner to inform your employees and stockholders about the potential impacts of proposed state legislation, regulations or ballot measures. State law and regulations, however, do lay out certain require-

Commentary

By Eugene J. Voiland

ments about what you can and can't do, as well as when you need to report what you spend on political communications.

Many studies suggest that employees listen to and want information from their companies regarding things that affect the well-being of the company. After all, the success of the company is vital to its employees!

The Chamber brochure will help you understand the basic issues involved with political communications to your employees and where you might need to seek more information, depending on your company's circumstances.

I urge you to take a moment to read the "***Guidelines for Political Communications to Employees***" brochure posted on the Chamber's website at www.calchamber.com.

Employees Want Information

Many studies suggest that employees listen to and want information from their companies regarding things that affect the well-being of the company. After all, the success of the company is vital to its employees!

The extent to which you choose to

communicate with your employees and stockholders about political matters is up to you, of course; but I encourage you to do *something*. The issues facing California are too important to leave the message to someone else.

Our employees and stockholders need to hear the employers' side of the story in order to make informed decisions. With three elections coming up between now and November 2006, there will be numerous items on the ballot that will affect their jobs, your business, and the future health of the state's economy.

Add to the ballot measures the huge number of "job killer" bills that too many legislators still seem to be advancing, and the need for employees and stockholders to hear from employers becomes even more urgent, as does the need for legisla-

tors to hear from the employees who will feel the impact of these misguided proposals.

Encourage Communication

Employers need to take the time to tell their story. We need to encourage employees to communicate their concerns to their elected representatives.

Ultimately, when employees understand the consequences of pending proposals, they are more likely to engage in the public policy-setting process. The greater the participation by *well-informed* employees, the better the outcome will be. I urge you to take advantage of the ***Guidelines*** the Chamber has developed. It can and will make a difference.

Eugene J. Voiland, 2005 chair of the California Chamber of Commerce, is president and chief executive officer of Aera Energy LLC, Bakersfield.

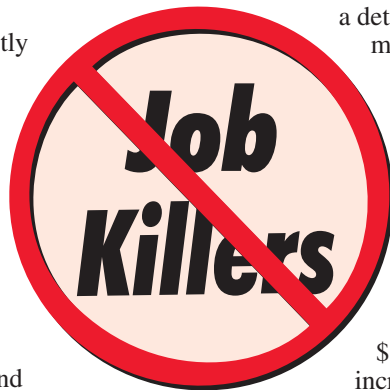
‘Job Killer’ Bill Has Billion Dollar Employer Price Tag

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annually, which was directly related to the mandated wage increase. The bill also affects managerial and other exempt worker salaries, however, due to the 1999 enactment of AB 60 (Chapter 134).

Managerial Salaries

That statute recast California overtime law and permanently linked the threshold for classifying salaried executive, administrative and professional employees as exempt to the state minimum wage. As a result, AB 48 also mandates a \$6.98 billion wage increase for 1.6 million exempt workers.

To be exempt from state overtime requirements, executive, administrative and professional employees must earn at least two times the state minimum wage for full-time employment, as well as meet



a detailed duties test. This means that any salaried employee who makes less than \$28,080 per year today must be classified as a non-exempt salaried employee.

AB 48 would increase the exempt worker annual base salary requirement by \$4,160 to no less than \$32,240 in 2007, with increases to follow in each subsequent year.

Economic Impact

Consequently, on top of the \$2.08 billion increase in direct minimum wage payments, AB 48 would also force an increase in exempt worker wages in California by \$6.98 billion to meet California's exempt worker base wage test.

According to the Employment Development Department, there are more than 1.6 million exempt workers in California that would be directly affected by AB 48's mandated \$4,160 annual wage increase.

In addition, business costs such as

workers' compensation, health care premiums and other employment-related taxes all go up whenever payroll costs increase. If AB 48 were enacted, workers' compensation costs for employers of minimum wage workers would rise by an additional \$120 million annually, according to estimates by the Workers' Compensation Insurance Rating Bureau.

Key Vote

AB 48 passed Senate Labor and Industrial Relations on a vote of 4-3:

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

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

Action Needed

AB 48 goes next to the Senate Appropriations Committee. The Chamber is urging employers to write letters **opposing AB 48** to their Senate representatives and committee members.

For a sample letter and updates on AB 48 and other "job killer" bills, visit www.calchamber.com/jobkillers.

Staff Contact: Julianne Broyles

Seminars

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

Government Relations

Board of Equalization 2005 Small Business Fair. July 15, Los Angeles. (310) 342-1055.

Southwest California Legislative Summit. Temecula Valley Chamber. September 30, Temecula. (866) 676-5090.

International

Luncheon with His Excellency Dr. Tarek Kamel, Egyptian Minister of Communications and Information Technology. American Chamber of Commerce in Egypt. June 27, San Jose. Fax: (202) 289-5938.

Mexico and China Conference, Offshore Manufacturing — Country Analysis. *Mexico Now Magazine*. June 28-29, San Diego. (877) 864-8528.

U.S.-Kazakhstan Trade Conference — Industrial and Innovation Strategy: New Business Opportunities. September 8-9, San Diego. (202) 857-9736 or (415) 596-0804.

New ‘Job Killer’ ‘Sue Your Boss’ Bill Passes

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recognized, court-supervised class action lawsuit.

Considering that nearly half of all employment-related lawsuits in the California court system today include overtime issues, SB 174 will unreasonably provide class action status to nearly all future wage-and-hour violation claims filed in California.

The Chamber believes SB 174 sends the wrong message to businesses looking to establish or expand here. Instead, policymakers should be looking at ways to improve California's image as a place to start or grow a business as a way to create jobs in California.

Key Vote

SB 174 passed Assembly Labor and Employment on a 6-2 vote:



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

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

Action Needed

SB 174 will be heard next by the Assembly Judiciary Committee. The Chamber is urging all employers to write letters in **opposition** to SB 174 to members of the committee.

For a sample letter and updates on SB 174 and other "job killer" bills, visit www.calchamber.com/jobkillers.

Staff Contact: Julianne Broyles

Small Business Advocate of the Year Award

Business Leader 'Fully Engaged and Committed' to Advocacy

Mike Fox Jr. is a consummate and tireless promoter of small business and economic strength in the San Jose / Silicon Valley area and throughout the state.

Fox, one of the recipients of the California Chamber of Commerce Small Business Advocate of the Year Award, has been president of M.E. Fox and Company, Inc., for five years. The 125-employee beverage distribution firm in Silicon Valley was founded by his father, Mike Fox Sr., in 1965; Fox Jr., has been formally involved in various roles in the company for 23 years.

"There is perhaps no greater advocate for small business . . . than Mike Fox Jr.," said Jim Cunneen, president and chief executive officer of the San Jose Silicon Valley Chamber, who joined Kristin Davis, past executive director of the Saratoga Chamber, in nominating Fox for the award.

Indeed, the list of Fox's advocacy endeavors is broad and deep, and he doesn't hesitate to assume a leadership role in each project he undertakes.

He is founder and chair of Baseball San Jose, a growing grassroots effort to bring a major league ball club to the city. He co-chaired the West Valley-Mission Community College District bond measure that infused the tech industry-focused district with \$235 million to revitalize its campuses. He also co-chaired the ballot initiative to expand the San Jose Airport, which will bring an expected \$3 billion into the local economy.

Chamber Work

Fox also is unhesitatingly active in chamber-related roles. He chaired the San Jose Silicon Valley Chamber in 2003 and is chair-elect for that chamber's political action committee for 2006; he currently sits on the San Jose Silicon Valley Chamber's board of directors. He led chamber-supported efforts for Propositions 57 and 58, the Governor's California Recovery Plan, and for SB 899, the workers' com-



Mike Fox Jr., winner of the California Chamber's Small Business Advocate of the Year Award, addresses legislators at a San Jose Silicon Valley Chamber-sponsored Access Sacramento event.

pensation reform bill. He also has led chamber-based delegations on public policy advocacy trips to San Jose City Hall, the State Capitol, and the U.S. Congress.

This extensive participation comes naturally to Fox. His grandfather and father both played leading roles in their local business communities — Fox Sr. is past chair of the San Jose Silicon Valley Chamber, as well — and they imparted the necessity of this involvement to their children, according to Fox Jr. As a youngster, Fox helped his father at any number of functions, learning first-hand the value of assisting in a larger cause. Fox is moved to uphold and continue this "family record of contribution."

Small Business Leadership

Fox's advocacy goes all the way to the grassroots. He makes it a point to connect with his customers and to listen to their concerns as small business owners. "It's important to talk to them and see what's going on with them," Fox says. "Small business owners get frustrated with the

difficulties. They are risking everything and hoping for a return. A small tax here, a small fee there — they add up."

When asked about the biggest challenge he faces in advocacy, Fox is quick to answer: "The biggest issue is that people need to show up. Power is in the numbers. If I can get 20 to 25 small business owners to show up at a meeting, that is powerful." The message he wants to send to business owners is that it's not just important to invest dollars into businesses; time and effort also need to be invested. Business owners "need to make sure there's a community there to do business in," Fox says. "They have to get their employees involved, as well. They have to understand that [the employers] are not just investing a salary in them. Owners need to show [employees] how complex the issues are, so that they can make their voices heard" in partnership with owners.

Committed Involvement

Cunneen says Fox is "among the first people civic, political and business leaders call on when trying to move critical issues, and more often than not, Mike is actually driving these critical issues. . . . Mike is a community leader in every sense of the word."

According to Cunneen and Davis, Fox is "a leading advocate for nearly every major civic, political or business effort in Silicon Valley. . . . It is not an exaggeration to say that no major effort to improve the quality of life or business climate in Silicon Valley is undertaken without Mike's involvement. . . . When Mike looks to make a difference, his dedicated efforts can move mountains."

Fox is modest about his contributions: "It's not just me" who has made changes happen, he says. "My biggest strength is bringing people together and getting people involved, enthused and excited. I've walked precincts, gotten signatures, all that. If people see you doing something, it's easier to get people to do it with you."

Visit calchamber.com for sample letters to use in contacting your legislators on the issues that affect your business.

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.

'Job Killer' Port Bill Passes Assembly Committee



A California Chamber of Commerce-**opposed** "job killer" port bill passed the Assembly Transportation Committee this week on a 7-5 vote.

SB 760 (Lowenthal; D-Long Beach), now moving on for consideration by the Assembly Natural Resources Committee, increases the cost of goods movement in California by assessing a \$30 fee per 20-foot equivalent unit on containers processed through the Los Angeles and Long Beach ports.

If passed, SB 760 would put these ports at a competitive disadvantage for future business and would put California in the position to lose market share in the goods movement industry as shippers search for more cost-effective alternative ports. The bill is damaging to the state's economy and ultimately will cost jobs in the industry.

Key Vote

SB 760 passed Assembly Transportation on a 7-5 vote:

Ayes: Oropeza (D-Long Beach); Huff (R-Diamond Bar); Karnette (D-Long Beach); Liu (D-La Cañada Flintridge); Pavley (D-Agoura Hills); Ridley-Thomas (D-Los Angeles); Salinas (D-Salinas).

Noes: Bogh (R-Beaumont); S. Horton (R-Chula Vista); Mountjoy (R-Monrovia); Niello (R-Fair Oaks); Torrico (D-Newark).

Action Needed

The Chamber is urging all employers to write letters **opposing** SB 760 to members of Assembly Natural Resources. **Staff Contact: Bruce Magnani**

Strike Subsidy Bill Moves in Senate



A California Chamber of Commerce-**opposed** "job killer" bill that forces employers to subsidize a strike against their own company passed the Senate Labor and Industrial Relations Committee on a 4-3 vote this week.

AB 391 (Koretz; D-West Hollywood) increases the cost of doing business in California by forcing California employers to subsidize a strike against their own company by providing unemployment insurance (UI) benefits to workers unemployed due to a strike.

Estimates from the state Employment Development Department are that AB 391 would cost at least \$16 million, further exacerbating the problems of California's insolvent UI Trust Fund, when the provisions are triggered after January 1, 2007.

California employers already are paying \$2.6 billion more in UI taxes this year than in 2004 due to the enactment of benefit increases that failed to contain any cost-saving or streamlining reforms. The Chamber believes that adding AB 391's

new costs to a system that is already skirting bankruptcy would be fiscally irresponsible.

Key Vote

AB 391 passed Senate Labor and Industrial Relations on a vote of 4-3:

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

Noes: Campbell (R-Irvine); Ackerman (R-Tustin); Runner (R-Lancaster).

Action Needed

AB 391 goes next to the Senate Appropriations Committee. The Chamber is urging all employers to write letters **opposing** AB 391 to the committee and their Senate representatives.

Staff Contact: Julianne Broyles

Bill Moving in Assembly to Weaken Workers' Compensation Reforms



Despite strong **opposition** from the California Chamber, legislation that undercuts one of the cost-saving workers' compensation reforms enacted just last year continues to move.

The Assembly Insurance Committee this week approved legislation that interferes with a change designed to curb workers' compensation medical costs, **SB 538 (Kuehl; D-Santa Monica)**.

Costly Mandate

SB 538 imposes costly new mandates on the new workers' compensation Medical Provider Networks (MPN) that are intended to provide improved care to injured workers and deliver cost savings to employers.

"Employers are still experiencing high workers' compensation costs," said Charles Bacchi, Chamber legislative advocate, "but rates have been declining. All signs continue to show that the reforms in SB 899 are working to the benefit of employers and the California economy. This is not the time to start tinkering with cost-saving measures."

"Without even giving the Medical Provider Networks a chance to prove themselves, SB 538 increases their costs and reduces their flexibility," Bacchi said.

SB 538 requires each MPN to develop a bureaucratic staff to monitor care, maintain at least two doctors on a full-time basis and meet numeric staffing ratios.

New Medical Tool

During the discussions surrounding the creation of MPNs last year, the employer community steadfastly insisted that flexibility be allowed for in developing this new medical tool. The applications that have been approved by the Division of Workers' Compensation show that this approach is paying off. Some employers and insurers have opted to create very large networks that cover the entire state with thousands of doctors, while others have opted for smaller, regional networks that can cater to the



Charles Bacchi, legislative advocate for the California Chamber of Commerce, urges the Assembly Insurance Committee to oppose **SB 538 (Kuehl; D-Santa Monica)**, which imposes costly new mandates on a tool for keeping workers' comp medical costs under control.

unique needs of their workplace.

SB 538 would stifle this creativity and place smaller networks at a disadvantage by forcing them to meet these costly mandates.

Key Vote

SB 538 passed Assembly Insurance on a vote of 7-3:

Ayes: Vargas (D-San Diego); Calderon (D-Montebello); J. Horton (D-Inglewood); Karnette (D-Long Beach); Lieber (D-Mountain View); Matthews (D-Tracy); Nava (D-Santa Barbara).

Noes: **Benoit (R-Riverside); Aghazarian (R-Stockton); Mountjoy (R-Monrovia)**.

Action Needed

SB 538 will be considered next by the Assembly Appropriations Committee. Contact your Assembly representatives and members of Assembly Appropriations and urge them to **oppose SB 538**.

Let them know Medical Provider Networks are an innovative approach that needs flexibility and an opportunity to work so California can continue to bring workers' compensation costs under control and keep the state on the road to economic recovery.

Staff Contact: Charles Bacchi

Join Effort to Elect Pro-Jobs Candidates

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.


Even if the races are outside an employer's district, ChamberPAC provides a unique opportunity for contributors to pool resources

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

Contribute online at
calchamber.com/chamberpac

Sexual Harassment Training Is Now Mandatory

California law, AB 1825, now mandates two hours of sexual harassment training for supervisors before January 1, 2006 for companies with 50 or more employees. Online training is an easy, cost-effective way to protect your company.

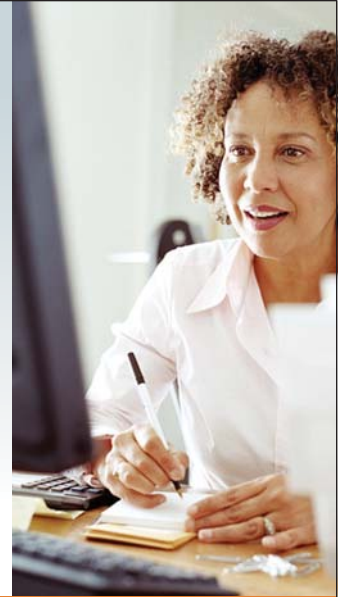
 **Preventing Harassment**
in the Workplace
(2 Hour Supervisor Version)

Here's why **Preventing Harassment in the Workplace** online training is the easy way to meet the mandatory requirements:



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- Significant savings over in-person training
- No need to spend time planning an in-person presentation
- Supervisors can train at their own pace
- Questions go directly to the course instructor
- Record-keeping tools track who has taken the course and automatically emails reminders to those who haven't completed it



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