

ALERT

CALIFORNIA CHAMBER OF COMMERCE

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Some 'Job Killer' Bills Fail in Assembly Committees



Strong opposition from the California Chamber of Commerce and other employer groups helped prevent a number of "job killer" bills from passing Assembly policy committees this week.

The Chamber and the Chamber-led Coalition for California Jobs deemed these bills, among others, especially harmful to the recovery and growth of California's economy.

Failed to Pass

Failing to pass Assembly policy committees and unlikely to be considered further this year were the following:

- **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 inserting new water supply requirements into general plans.

SB 409 failed the Assembly Water, Parks and Wildlife Committee on a vote of 6-8:

Ayes: Wolk (D-Davis); Berg (D-Eureka); Bermudez (D-Norwalk); Dymally (D-Compton); Pavley (D-Agoura Hills); Saldaña (D-San Diego).

Noes: Villines (R-Clovis); Baca (D-Rialto); Daucher (R-Brea); Emmerson (R-Redlands); Matthews (D-Tracy); Maze (R-Visalia); Parra (D-Hanford); S. Runner (R-Lancaster).

- **SB 757 (Kehoe; D-San Diego)** Gas tax. Introduces a new mandate to reduce

See Some: Page 7

Government-Run Health Care Bill Faces Hearing



The California Chamber of Commerce opposed "job killer" bill creating a government-run health care system will be heard by the Assembly Health Committee on July 5.

The Chamber considers **SB 840 (Kuehl; D-Santa Monica)** a "job killer" because it imposes a government-run health care system on all Californians.

"Just last November, California voters rejected Proposition 72, a multibillion-dollar tax to fund a new government-run health care program. That program would have been a blow to the California economy, just as SB 840 would," said Charles Bacchi, Chamber legislative advocate.

"SB 840 does nothing to address the true cost drivers within the system and instead creates a costly new health care bureaucracy that would likely require billions of dollars of increased taxes on California consumers and businesses. Establishing a single payer statewide bureaucracy is the wrong approach to solving California's health care crisis."

Multibillion-Dollar Cost

Several sources have estimated that operating the health care system envisioned by SB 840 would cost tens of bil-

See Government-Run: Page 3



Bruce Magnani, legislative advocate for the California Chamber of Commerce, testifies against a "job killer" bill increasing the cost of goods movement, SB 459 (Romero; D-Los Angeles), before it is held in the Assembly Transportation Committee at the author's request.

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Labor Law Corner

Summer Internships: State Standards Set Criteria for Paid versus Unpaid



Dale Louton
Labor Law Advisor

We want to hire a summer intern. What are the requirements for the job if the student will be paid versus unpaid?

Hiring an intern for the summer is no different from hiring a summer employee. The person must be eligible for employment, complete an I-9 Form, have a Social Security number, and be paid at

least the minimum wage and overtime for all hours worked. Appropriate taxes must be withheld, and the employee must be covered by workers' compensation insurance. Participation in your benefit plans, such as health and pension, is determined by your plan requirements. Vacation, holidays and sick leave benefits are determined by the employer's policy.

Criteria for Unpaid Internship

For an intern to be unpaid, the position must meet certain standards required by the state labor commissioner for the intern **not** to be considered an employee. Controlling factors in the standards are the emphasis in the work, the intention of the parties, and the motivating reasons for the relationship.

A business can engage an unpaid intern by meeting the following standards:

- The training is an essential part of an established course of training that equips a person for a skilled vocation or a profession.
- Internship is common, customary or necessary in the training of a person for the job in question. The training cannot reasonably be accomplished in the classroom.
- The clinical training should be part of an educational curriculum.
- The content and duration of training is prescribed by the school or a disinterested agency.
- The training is supervised by the school or disinterested agency, and the student receives regular evaluation of progress and suggestions for improvement.
- There is a person, or persons in adequate numbers, at the place of work qualified to and actively engaged in the teaching of the trainee.
- The training is not for the specific benefit of any one employer.
- The trainee does not displace a regular employee.

Exceptions/Other Mandates

An intern/employee who does not meet the above standards must be paid the minimum wage of \$6.75 per hour. A provision in the IWC Wage Orders does permit a "learner" rate of \$5.75 per hour. A "learner" is an employee who has had

no similar or related experience. This reduced rate can be paid for the first 160 hours and then must be increased to the full minimum wage.

Before hiring minors who are less than 18 years old, employers must be sure the minor has a work permit. This requirement applies during summer vacation.

The exception to the work permit requirement is for minors who have graduated from high school or have been awarded a certificate of proficiency.

So-called "dropouts" under 18 are still subject to California's compulsory education laws and must have permits in order to work.

For a detailed discussion on employing minors, see Chapter 7 of the California Chamber's *California Labor Law Digest*.

The Labor Law Helpline is a service to California Chamber executive and preferred 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, 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 of Commerce. September 30, Temecula. (866) 876-5090.

International

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

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**Next Alert:
July 22**

Governor, Senate Leader Reach Agreement on Bay Bridge Completion, Financing

Late last week, Governor Arnold Schwarzenegger announced that he and Senate President Pro Tem Don Perata (D-Oakland) have reached an agreement on how to complete construction and financing of the new San Francisco-Oakland Bay Bridge.

The agreement, which still must be approved by the Legislature, includes retaining the self-anchored suspension bridge design chosen by Bay Area officials and increasing by \$1 the toll on all state-owned bridges in the Bay Area, starting January 1, 2007.

Statewide Benefit

The Governor said in a statement that the bipartisan agreement will give the Bay Area a safe bridge “as soon as possible at a reasonable cost to the state’s taxpayers” and will be good for the region and the state.

“This solution will speed completion of a bridge design chosen by the Bay Area, while protecting other important transportation projects around California, and the state’s taxpayers,” the Governor said.

The new Bay Bridge is part of the ongoing program the state launched after the 1989 Loma Prieta earthquake to retrofit or replace bridges throughout the state. A portion of the eastern span of the old Bay Bridge collapsed in the 1989 earthquake.

The cost of the Toll Bridge Seismic Retrofit Program, passed by the Legislature in 1996, has been increasing, and the current budget contains insufficient funds for completing the new eastern span of the Bay Bridge. Cost overruns on the Bay Bridge project have reached an estimated \$3.6 billion.

Cost Allocations

Under the agreement, the state will contribute an additional \$630 million to the total retrofit program to pay for demolishing the old Bay Bridge, plus cost increases on the Richmond-San Rafael Bridge and increased costs for Caltrans. Any additional costs are to be covered by the toll increase.

In addition, authority over state toll bridge revenue in the region will be transferred to the Bay Area Transportation Au-



A photo from the Caltrans website shows part of the construction of the new eastern span of the San Francisco-Oakland Bay Bridge next to the current structure.

thority (BATA), which will be responsible for ensuring there is sufficient funding to complete the bridge, including any future cost increases. The authority transfer will allow for bonding against future revenue.

BATA and Caltrans will share in managing the project’s completion. BATA

will assume financial responsibility for maintaining the seven bridges in the Bay Area once the bridge retrofit and replacement work is completed.

The projected completion date for the new Bay Bridge is 2012 or 2013.

Staff Contact: Dave Ackerman

Government-Run Health Care Bill Faces Hearing

From Page 1

lions of dollars. A study of a single payer health care initiative defeated in Oregon in 2002, for example, concluded that such a system would have increased health care costs by \$2.5 billion to \$6.5 billion in just three years — approximately \$600 to \$1,800 per Oregon resident.

In addition, a government-run health care system would foster the creation of a large bureaucracy. Implementing the new system envisioned under SB 840 would require the creation of several new agencies, offices and countless state employee positions at a cost of billions of dollars in start-up and administration expenses alone.

These costs would be financed through new health care taxes on consumers,

employees and businesses in California. Thus, SB 840 will result in a multibillion-dollar tax increase on Californians.

The Chamber believes that the Legislature should look at current health care mandates and work toward making health care more affordable. Before adopting new costly mandates, the Legislature should consider ways to streamline regulations to increase efficiency and reduce overall administrative costs.

Action Needed

The Chamber is urging all employers to ask members of Assembly Health to **oppose** SB 840. A sample letter is available on the Chamber’s website at www.calchamber.com/jobkillers.

Staff Contact: Charles Bacchi

Chamber-Opposed Bill to Politicize Workers' Comp Rate Regulation Dies



A California Chamber-opposed bill creating a litigious process for reviewing workers' compensation rates died in the Assembly Insurance Committee this week.

Rejected on a 0-4 vote was **SB 46 (Alarcón; D-San Fernando Valley)**, which would have set up a new panel to dictate the rates insurers may charge for workers' compensation coverage, establishing a process where attorneys could intervene and delay rate filings.

More Litigation

Ultimately, SB 46 would have led to more litigation, higher costs and fewer choices for employers, in direct conflict to the workers' compensation reforms signed by the Governor last year, SB 899

(Poochigian; R-Fresno).

"The reforms contained in SB 899 and previous legislation are delivering relief to employers, who were being hit with significant, consecutive cost increases just a short time ago," said Chamber President Allan Zaremborg. "The difference today is that the system has become more predictable and reliable, costs are going down, and there are more insurers competing for business, and that is good news for employers."

Recent reports show at least four new insurers have entered the California market since the reform law was enacted, while others have decided to remain or invest more in California's workers' compensation market.

Proposed Rate Decreases

Workers' compensation rates proposed to begin July 1 show decreases averag-

ing 15 percent and ranging as high as 26 percent. Insurers have reduced workers' compensation rates more than 30 percent, on average, since July 2003, according to the American Insurance Association.

In opposing SB 46, the Chamber noted that the bill sends the wrong message to new and existing insurers and could put a chill on the competition that is helping to drive down rates for employers.

Some employers still may not see the full effect of the recommended rate reductions since insurance rates vary from company to company. The many factors contributing to when businesses will see a decline in rates, in addition to the reform laws and regulations, include the history of workplace injuries, changes to employee industry classifications, projected policyholder liability and anticipated losses.

Staff Contact: Charles Bacchi

Businesses Seek Online Harassment Training with Classroom-Like Setting

In response to the growing need for harassment training for supervisors in California as prescribed by AB 1825 (Reyes; D-Fresno; Chapter 933, Statutes of 2004), businesses are using online training courses more frequently.

Along with the need for accurate legal content, frequent quizzes and effective navigation, businesses must choose an online program that also provides a classroom-like setting with a qualified expert or instructor who can answer the questions of everyone taking the course.

'Classroom-Like' Setting

To provide a "classroom-like" environment, online courses must offer students the ability to interact with the course instructor via e-mail. Many online harassment courses marketed today are totally computer based and do not offer access to an instructor who can address questions on the content of the course.

Some online courses offer a feature that allows the learner to send e-mail questions to someone within the company, or participate in an e-mail discussion group that can be set up for that specific company. This may cause additional concern for the business though, when questions are sent directly to someone within

the company and the employer must double-check and be certain that the person who is answering these questions has the "knowledge and expertise" required by law. The employer is legally obligated to ensure that this person is familiar with federal and state laws on harassment and sexual harassment.

Although the law does not specify who is qualified to provide training, it specifies certain required course content and that the training "shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination and retaliation."

If a human resources manager addresses employee questions about course content, the manager is acting in the role of the instructor and must be a "qualified" expert relative to the course content.

Chamber Online Course

The California Chamber of Commerce now offers an online course that was developed for businesses with the interactive online university courses in mind. The Chamber's course provides the content required by law and allows the learner to ask a qualified instructor/expert questions at any time during the course.

An "Ask the Trainer" button is located

on every page of the course, so each learner can send direct questions to the course instructor. Once questions are submitted, the learner receives a response within the next business day. The course instructors are practicing labor law attorneys.

Attorneys and training experts developed the course, which contains information and guidance regarding federal and state laws about prohibiting, preventing and correcting sexual harassment. The course also covers the remedies available to victims.

Key course features that enhance the learning experience include an audio version, frequent quizzes, summary review sections, case studies, a supervisor handbook that includes best prevention practices and the "Ask the Trainer" option.

Each course includes a timer, which obliges each learner to spend the required two hours in the course before the course can be completed.

The course also is available in English or Spanish and comes in both California and national versions.

More information is available at www.calchamberstore.com.

Staff Contact: John Gouveia

New Report Highlights Long-Term Issues Facing California, Business Environment

The Public Policy Institute of California (PPIC) recently released a comprehensive, highly anticipated report detailing the challenges California will face over the next 20 years—with a transformation of the state’s business environment at the forefront.

Edited by Ellen Hanak and PPIC Director of Research Mark Baldassare, *California 2025: Taking on the Future* is a multi-disciplinary study that provides a long-term perspective on issues such as population growth, transportation infrastructure, education and job opportunities. The authors are touring the state presenting the study’s findings.

“California generally focuses on issues of immediate concern,” said Baldassare. “As a result of this tendency, *California 2025* shows that some of the most pressing issues the state will face 20 years from now are not part of the public forum of discussion taking place today. We are not advocating specific actions with which to confront these issues. What we are saying is that these are the issues Californians must begin to address now.”

Job Growth in Service Sector

A central focus of Baldassare’s presentations is the transformation the business environment will experience over the next two decades. By 2020 there will be roughly 20 million jobs in California, with all regions of the state contributing to this growth.

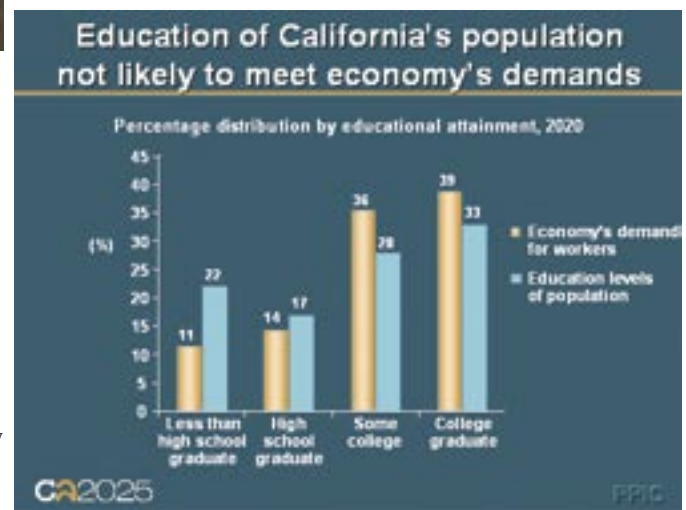
San Diego is projected to lead this job growth, increasing 51 percent to 4.3 million jobs. Sacramento, the San Joaquin Valley, Los Angeles and the San Francisco Bay Area all will see their employment increase between 20 and 40 percent.

Not all sectors of business will see such job growth, however. *California 2025* shows that the share of Californians employed in the manufacturing industry will decline from 13.2 percent to 8.4 percent.

The employment increase largely will come in the professional services industry, with business, health, legal and educational services all demanding more workers. This, in turn, will create



Mark Baldassare, director of research for the Public Policy Institute of California, discusses the institute’s new report on long-range issues for California’s future at the California Chamber of Commerce this week.



PPIC’s research shows that California’s projected supply of college-educated workers will not meet the state’s future economic demands.

a greater demand for workers with associate, bachelor’s and advanced college degrees.

Projections indicate, however, that California’s population is not necessarily on track to meet the needs of the future business environment.

College Education Key

“Our education system is lagging behind the demands of our workforce, and that shortfall will begin to become more apparent over the next 20 years,” said Baldassare. “The demand for workers with a college education will be 39 percent by 2020, but the share of the population with a college education realistically will not reach that figure. Policy leaders and the general population

need to understand that a college education is becoming more critical to California’s economic prosperity and individual employment opportunities.”

Target Audience

Hanak and Baldassare’s audiences have included senior staff from the Governor’s administration, California business leaders, local politicians and statewide media. Each briefing presents these and other key issues, allowing the respective audience to draw its own conclusions about actions to be taken.

For more information on PPIC and to download a copy of *California 2025: Taking on the Future*, visit www.ca2025.org.

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.

Hearing Set on Bill Opening Leave Law to Abuse



Next week the Assembly Labor and Employment Committee will hear California Chamber-**opposed** “job killer” legislation that sets up the state’s leave law for potential abuse.

SB 300 (Kuehl; D-Santa Monica) opens California’s leave law to potential abuse by removing controls that require that the employee actually provides the care, among other provisions.

The bill unreasonably imposes new liability and establishes new mandated duties and obligations on employers subject to the California Family Rights Act (CFRA).

Some changes SB 300 proposes are:

- establishing a new ability for employees to file lawsuits for retaliation under the state’s family leave law;
- establishing a new employer violation for failure to grant leave in accordance with SB 300 requirements;
- expanding the definition of caring for a family member that does not necessarily require the employee’s direct involvement or participation in the medical care.

CFRA requires employers with 50 or more employees to grant up to 12 work-weeks of leave in a 12-month period to permit an employee to care for a seriously ill child, spouse or parent. Moreover,

employers do not have a business necessity or undue hardship defense — if an employee meets the requirements for leave, it must be granted. Employers who deny family leave in violation of CFRA provisions face liability for back wages, compensatory damages, punitive damages, court costs and attorney fees.

California employers operate under the most complex and punitive labor laws in the country. The Chamber sees no reason to expand a leave program that already is cumbersome to administer.

The Chamber believes that bills such as SB 300 send 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 for Californians.

Action Needed

Assembly Labor and Employment will hear SB 300 on July 6. The Chamber is urging all employers to write letters **opposing** this legislation to their Assembly representatives and to members of the committee.

Staff Contact: Julianne Broyles

‘Sue Your Boss’ Bill to Go Before Another Committee



California Chamber-**opposed**, “job killer” legislation creating new reasons to sue employers will be heard by the Assembly Judiciary Committee next 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” lawsuits. This bill:

- authorizes two new types of class action lawsuits when a dispute over minimum wage or overtime payment is involved;
- permits individual employees and their private attorneys to bring a civil action both on behalf of the employee and

on behalf of any other current and former employees;

- proposes to eliminate the mandatory requirements needed to prove the need for class action status; and
- unreasonably provides class action status to nearly all future wage-and-hour violation claims filed in the state.

Action Needed

Assembly Judiciary will hear SB 174 on July 5. The Chamber is urging all employers to write letters **opposing** this legislation to their Assembly representatives and to members of the committee.

Staff Contact: Julianne Broyles

Bill Closing Workers' Comp Loophole Moves in Assembly



A California Chamber of Commerce-supported bill to close a loophole allowing some medical providers to overcharge for workers' compensation prescriptions passed the Assembly Insurance Committee on a 6-1 vote this week.

By closing a loophole in law enacted in 2003, **SB 292 (Speier; D-San Francisco/San Mateo)** reduces out-of-control pharmaceutical costs for repackaged drugs.

The Chamber supported the enactment of fee schedule and system changes in 2003 as first steps in reining in out-of-control workers' compensation costs. One of those reforms was the creation of new reimbursement rates for medical services, including pharmaceuticals, in the workers' compensation system.

SB 292 closes a loophole in that law that allows medical providers to repackage drugs and avoid the fee schedule. This practice is plainly not in accordance with the intent of the law. According to some employers, it

has begun to erode some of the cost savings of the reforms. SB 292 will help ensure that medical costs in the workers' compensation system are reduced.

Key Vote

SB 292 passed Assembly Insurance on a vote of 6-1:

Ayes: Benoit (R-Riverside); Harman (R-Huntington Beach); Lieber (D-Mountain View); Mountjoy (R-Monrovia); Nava (D-Santa Barbara); Umberg (D-Santa Ana).

Noes: Vargas (D-San Diego).

Absent/abstaining/not voting: Calderon (D-Montebello); Frommer (D-Glendale); Karnette (D-Long Beach).

Action Needed

SB 292 goes next to the Assembly Appropriations Committee. The Chamber is urging all employers to write the committee and their Assembly representatives to **support** SB 292.

Staff Contact: Charles Bacchi

Some 'Job Killer' Bills Fail in Assembly Committees



From Page 1

gasoline use and without taking population growth into consideration, which would likely lead to a massive gas tax causing higher gasoline prices, increased costs for consumer goods and thousands of lost jobs for California.

The vote on SB 757 in the Assembly Transportation Committee was 6-5, one short of the majority needed for passage:

Ayes: Oropeza (D-Long Beach); Chan (D-Oakland); Karnette (D-Long Beach); Hancock (D-Berkeley); Pavley (D-Agoura Hills); Ridley-Thomas (D-Los Angeles).

Noes: Huff (R-Diamond Bar); Bogh (R-Beaumont); S. Horton (R-Chula Vista); Mountjoy (R-Monrovia); Niello (R-Fair Oaks).

Absent/abstaining/not voting: Salinas (D-Salinas); Torrico (D-Newark).

● **SB 852 (Bowen; D-Redondo Beach) Business cost increase.** Imposes unworkable requirements governing non-electronic data on government agencies, education institutions, businesses and non-profits.

SB 852 failed the Assembly Business and Professions Committee on a vote of 1-5:

Ayes: Koretz (D-West Hollywood).
Noes: S. Horton (R-Chula Vista); Maze (R-Visalia); Nation (D-San Rafael); Tran (R-Garden Grove); Yee (D-San Francisco).

Absent/abstaining/not voting: Negrete McLeod (D-Chino); Bass (D-Los Angeles); Coto (D-San Jose); Vargas (D-San Diego).

Held in Committee

Assembly Transportation held two bills after hearings were cancelled at the authors' requests:

● **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 762 (Lowenthal; D-Long Beach) Ports: cost increase.** Makes California ports less competitive by assessing a fee on motor carriers and creating a government-run bureaucracy to

regulate truck movement in and out of the ports.

Amended

Amended in Assembly Insurance to remove their onerous provisions were **SB 2 (Speier; D-San Francisco/San Mateo) and SB 518 (Kehoe; D-San Diego) Homeowner's insurance cost increase.** Before the amendments, SB 2 and SB 518 would have driven 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.

With the amendments, the Chamber is neutral on SB 2 and SB 518.

Other 'Job Killers' Moving


Numerous "job killer" bills are still moving through the Legislature. The Chamber urges all employers to contact their Senate and Assembly representatives and members of the committees hearing these bills to **oppose** the remaining "job killers."

For updates and sample letters, visit www.calchamber.com/jobkillers.

Staff Contact: Dominic DiMare

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.

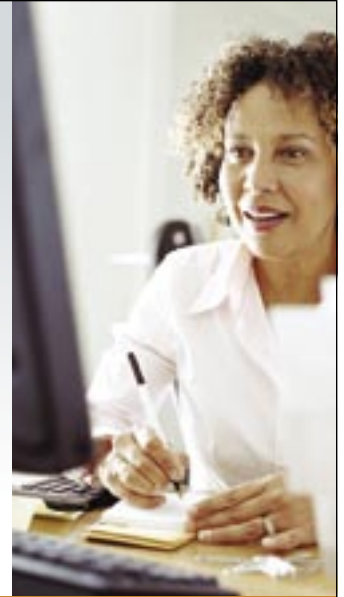
 **Preventing Harassment**
in the Workplace
(2 Hour Supervisor Version)

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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