

ALERT

CALIFORNIA CHAMBER OF COMMERCE

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Chamber Says Budget Plan Good for Economic Health

No New Taxes, Restores Transportation Funding

Following up on the strategic growth plan he outlined in his State of the State message last week, Governor Arnold Schwarzenegger this week presented a state budget proposal that doesn't increase taxes, invests in education and transportation, and continues to reduce the state's debt.

The Governor's \$125.6 billion budget plan for 2006-07 uses increased revenues from the state's recovering economy to repay funds that were borrowed from the transportation program to balance the budget in previous years.

It also will allocate sales taxes from gasoline for roads and highways, as required by Proposition 42, approved by California voters by a 2-to-1 margin in 2002 following a Chamber-led campaign in support. The total transportation

commitment in the budget plan tops \$2 billion.

The Governor noted that his budget proposal reduces the state's structural deficit — the built-in gap between ongoing revenues and spending commitments — from the \$16.5 billion projected when he took office to \$4.7 billion.

Chamber Comment

Chamber President Allan Zaremborg called the budget proposal "great news for California."

He pointed out, "Over the past two years, California's economy has grown and strengthened. We've fixed our severely broken workers' compensation system and sent the message across the country and the world that jobs are wanted in our

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Chamber Names New Members of Public Policy Team



Marti Fisher

The California Chamber of Commerce this week named a new legislative advocate and promoted a legislative assistant to do more work on public policy.

Joining the Chamber as a legislative advocate specializing in workers' compensation, health care and insurance issues will be Marti Fisher.

Promoted to the position of policy analyst is Amisha Patel.

"Protecting the ability of employers to control



Amisha Patel

costs is essential to the ongoing recovery of California's jobs climate. Marti Fisher's extensive background in workplace benefit issues makes her a strong advocate for business in this arena," said Chamber President Allan Zaremborg.

"I am also pleased to announce the expanded role for Amisha Patel. Her ana-

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State Finance Director Michael C. Genest presents an overview of the Governor's 2006-07 budget proposal to a California Chamber Luncheon Forum audience on January 12, two days after the Governor released the plan.

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Labor Law Corner

Guidelines for Proper Suspension of Exempt, Non-Exempt Employees



Sunny Lee
Senior Labor Law
Consultant

Are there any problems with suspending an employee for one week?

An employer may suspend an employee, assuming that the suspension is not applied for absenteeism, which may be protected by the federal Family Medical Leave Act, California Family Rights Act,

federal Americans with Disabilities Act, workers' compensation, pregnancy leave or any number of other protected bases.

Before deciding to suspend an employee, however, employers should also consider the following factors:

- the reason for the suspension;
- whether the suspension is with or without pay; and
- whether the suspension will result in termination.

Reason for Suspension

● **Investigative Suspension.** If the reason to suspend the employee is due to an internal investigation, and the employer does not want the employee under investigation to remain in the workplace, an employer may choose to suspend the employee until the investigation is complete.

This type of suspension is not disciplinary in nature and generally results in the employee continuing to be paid until a decision is reached about continued employment or discipline. The reason that pay is continued is that guilt or blame has not been determined; therefore, punishment should not be assessed.

● **Disciplinary Suspension — Non-Exempt Employee.** The other form of suspension is disciplinary suspension. This generally is the last step in a progressive disciplinary policy. It can be very effective when used as a final warning or wake-up call to let the employee know what it will feel like to not be able to go to work or be paid for that time.

● **Disciplinary Suspension — Exempt Employee.** An employer also may place an exempt employee on a disciplinary suspension; however, the employee's salary must be continued. Although an employer may feel that if you have to continue to pay an employee, there is no punishment, being placed on suspension is a very strong disciplinary action and can be effective in changing performance. The suspension also will document that the employer used progressive discipline.

Pay During Suspension

Employers must treat exempt and non-exempt employees differently in regards to pay.

Although federal law permits limited

deductions from an exempt employee's pay, there are no provisions in state law that would allow any employer to make a deduction from an exempt employee's pay for disciplinary reasons; therefore, his/her salary must be continued.

Termination After Suspension

One additional factor employers need to be aware of is that the Labor Commissioner characterizes the last day of work as the date that an employee must receive his/her final paycheck. This applies to all employees, exempt and non-exempt.

To avoid waiting-time penalties, employers should consider that the time an employee is on suspension will be counted as waiting-time penalties against them if they follow up the suspension with termination.

A classic case where this comes up with some regularity is where the employer already has decided to terminate the employee, but is not ready with the final paycheck, so the employer tells the employee that he/she is on suspension. The employee's final day of work is the first day of suspension, and, for purposes of a Labor Commissioner claim, that day also will be the first day of waiting-time penalties if the employee does not receive his/her final pay that day.

Waiting-time penalties are equal to the employee's daily wages for up to 30 days maximum. To avoid waiting-time penalties, the employer should pay the employee's final wages on his/her last day of work. If the employer is not ready to terminate the employee, the employer should forgo a suspension or pay the employee while he/she is suspended.

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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**Next Alert:
January 27**



Chamber Hosts National Gathering of Political Affairs Specialists

Governmental and political affairs executives from chambers of commerce and business associations across the country gathered in Santa Barbara last week at a conference hosted by the California Chamber of Commerce.

The agenda at the 20th Annual USA Roundtable, January 5-7, focused on re-organizing the business community to be more self-sufficient in the realm of political advocacy.

Discussion topics included candidate recruitment and bench-building, fundraising, grassroots mobilization and list management.

Insightful Speakers

Keynote speakers Mike Murphy, political adviser to Governor Arnold Schwarzenegger, and Mark Barabak, national correspondent for the *Los Angeles Times*, commented on the national election scene and what to expect in 2006 and 2008.

Other featured speakers included Rick Claussen of Goddard Claussen Public Affairs, who spoke about ballot initiative trends; Democratic consultants Garry South and Darry Sragow, who discussed candidate and independent expenditure campaigns; and Michael Ramirez, an editorial cartoonist with *Investor's Business Daily* and formerly with the *Los Angeles Times*, who offered an insightful, humorous take on national politics.



Michael Ramirez, editorial cartoonist with *Investor's Business Daily* and a featured speaker at the 2006 USA Roundtable, shows samples of his work to conference participants.

The conference also included a reception at the home of Beth Rogers, a Chamber Board Member, and a wine tour that culminated in dinner at the Firestone winery, where Brooks Firestone led the group

on a private tour of his family winery.

The 2007 conference will take place January 4-6 in San Antonio, Texas.

Staff Contact: Michele Zschau

Chamber Names New Members of Public Policy Team

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lytical skills will enhance the Chamber's policy work and provide additional support for our legislative advocate on environmental issues."

Marti Fisher

Fisher brings to the Chamber more than 15 years of experience in occupational safety and advocacy. Most recently she served as director of safety, health and regulatory services with the Associated General Contractors of California (AGC).

She successfully advanced the association to the forefront of construction safety with regulators and contractors statewide

and led the association to develop and administer a successful group workers' compensation program. Fisher is considered an industry expert, speaking at associations and conferences statewide.

Fisher earned a bachelor's degree in public administration from California State University, Chico, and a master's degree in business from California State University, Sacramento.

Amisha Patel

Patel joined the Chamber in June 2004 as a legislative assistant in the air and waste, health care, housing and land use, and education policy arenas.

As policy analyst, she will be tracking

and lobbying on energy, government procurement, outsourcing and environmental justice issues for the Chamber, in addition to assisting on other environmental issues, including air and waste management.

Before coming to the Chamber, Patel garnered Series 7 and 63 broker's licenses while working at E*Trade Financial. She also served as a public policy intern at the Sacramento Metro Chamber of Commerce.

Patel graduated from the University of California, Davis, with a B.A. in political science/public service and a double minor in economics and communications.

Staff Contact: Dominic DiMare

California Chamber Says Budget Plan Good for Economic Health

From Page 1

state — and the message has worked.

“Because of our strong economy, we now have the revenues to fund the programs essential to this state, like education, public safety and transportation. The Governor’s budget proposal is a responsible and reasonable use of the increased revenues produced by our robust economy. With no new taxes, the Governor’s proposed budget is a good step toward keeping California’s economy thriving.

“We encourage the Legislature to enact this budget for the 2006-2007 fiscal year.”

Structural Deficit

The Governor credited the state’s increased revenues to a growing economy and pointed out that the state still has a “structural deficit. . . a budget process that is programmed to spend more money than it takes in.”

He said he wants to work with legislators to find a solution and proposed “at a minimum we should restore the authority that California governors had up until 1983 to make budget corrections before they get out of control.”

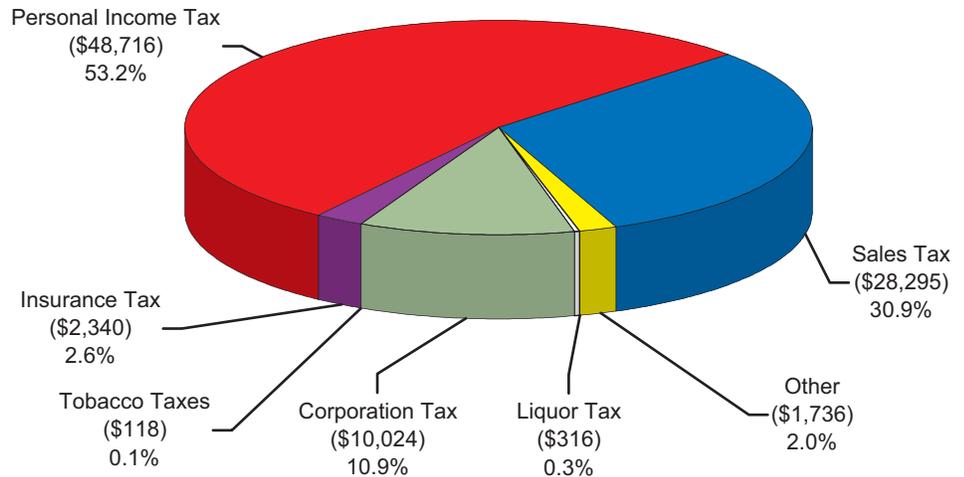
The Governor said he would exclude the Proposition 98 guarantee for education from mid-year budget adjustments, but that having the authority to make mid-year corrections, like the governors in 38 other states, would ease budget problems.

Highlights

The Governor’s budget proposal also includes:

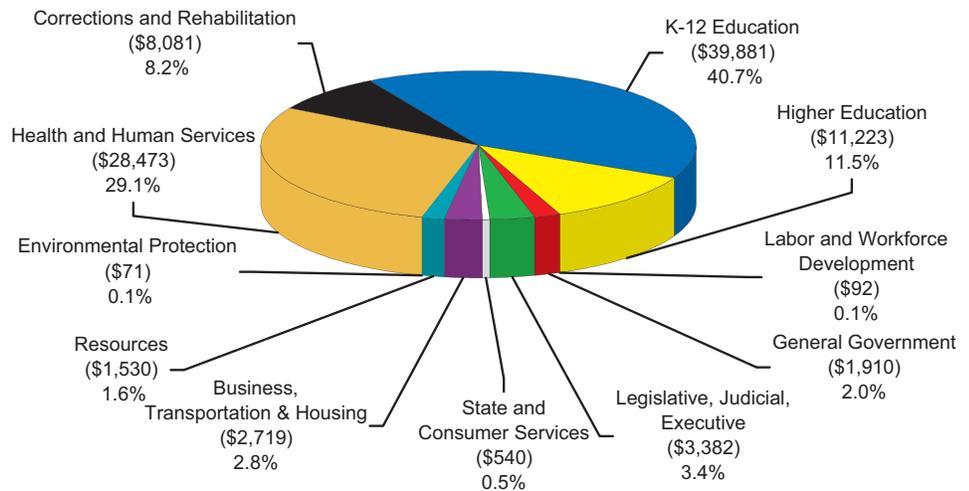
- a \$4.3 billion increase in funding for K-12 education, including new funding for music, art and physical education. For the first time, there will be additional funding available for after school programs under Proposition 49, the initiative the Governor proposed and campaigned for in 2002;
- enough funding to prevent higher education student fee increases;
- funding to support caseload increases in health and human services, plus expanded funding to cover more children through the Healthy Families and Medi-Cal health insurance programs;
- \$20 million to combat gang violence, methamphetamine production, sexual assault, and financial and identity crimes;
- establishing a Statewide Emergency Preparedness Initiative to enhance the

**2006-07
General Fund Revenues and Transfers
(Dollars in Millions)**



Source: Governor’s Budget Summary 2006-07

**2006-07
General Fund Expenditures
(Dollars in Millions)**



Source: Governor’s Budget Summary 2006-07

state’s ability to respond to disasters, whether natural or man-made;

- enhanced funding for flood control personnel and projects, as well as additional funding to address the Governor’s environmental priorities.

The Governor’s budget proposal, summaries and chart are available on the Department of Finance website at www.ebudget.ca.gov.

Staff Contact: Dominic DiMare

Chamber Releases List of Mandatory, Recommended Products for 2006

The California Chamber of Commerce has released a list of mandatory and recommended products for California businesses in 2006.

California businesses must purchase a number of mandatory posters and pamphlet products in order to be in compliance with federal and state laws. The **2006 Employment Notices** poster must be displayed in a conspicuous place in the workplace where all employees and applicants can see it, while pamphlets and information sheets must be distributed to employees on their hire date, or when they go on leave.

The products are available for purchase at CalBizCentral™. Presented by the Chamber, CalBizCentral™ is a one-stop shop for affordable compliance resources that make California businesses run better.



Required Products

CalBizCentral™ offers the poster and all required handouts individually or in a **Required Notices Kit**. The **Kit** includes the following:

- **California Employer Poster:** Contains all 16 federal and state notices on one 28"x53" poster. The poster includes:
 - ✓ USERRA military leave benefits notices (released December 2005);
 - ✓ emergency notice;
 - ✓ pay day notice;
 - ✓ safety and health (Cal/OSHA);
 - ✓ workers' compensation;
 - ✓ Discrimination and Harassment Is Prohibited (DFEH);
 - ✓ minimum wage, federal and state;
 - ✓ family/medical leave, pregnancy (federal and state);
 - ✓ whistleblower protection;
 - ✓ equal employment opportunity;
 - ✓ Time Off for Voting;
 - ✓ polygraph protection;
 - ✓ unemployment insurance/state disability insurance/paid family leave (UI/SDI/PFL).

- **Paid Family Leave Pamphlets:** Provides notice to employees of their right to paid family leave benefits. Must be given to all new employees and employees taking leave for a covered reason.

- **Sexual Harassment Information Sheets:** Every employer is required to distribute a **Sexual Harassment Information Sheet** to new hires, independent contractors and all employees — once a year is advised.

- **Unemployment Insurance/State Disability Insurance Pamphlets:** The UI pamphlet must be given to any employee terminated, laid off, or given a leave of absence. The SDI pamphlet must be given to new employees and anyone leaving on a non-work-related disability, including pregnancy.

- **Workers' Compensation Rights and Benefits Pamphlets:** This pamphlet must be given to all new employees to advise them of their right to workers' compensation benefits should they sustain an on-the-job injury.

Recommended Products

The Chamber also recommends the following products for small business owners, office managers, human resources novices and experts:

- **California Labor Law Digest:** Created by legal experts, this two-volume **Digest** is the most comprehensive resource available for both California and federal labor law. Helpful charts, case histories and discussions show where federal and state laws intersect, while delving into all

areas of compliance.

- **HR Handbook for California Employers:** Presented in an easy-to-read, question-and-answer style, **HR Handbook** focuses on steps to follow, forms to use and helpful checklists. The guide addresses the seven topic areas of concern to California businesses, including:

- ✓ hiring employees;
- ✓ development policies;
- ✓ providing benefits;
- ✓ paying employees;
- ✓ workplace safety;
- ✓ preventing discrimination and harassment;
- ✓ termination.

- **Employee Handbook Software for California Employers:** The **Employee Handbook 2006** software lets employers create their own handbook using a step-by-step question-and-answer session. The result will be a handbook customized to an individual company's size and type of benefits offered.

To Order

These products are available to order at CalBizCentral™. Products are available for purchase by any business. California Chamber preferred and executive members receive a 20 percent discount. **Staff Contact: Terry Ulick**

Bill to Guard Against Identity Theft Fails to Pass Senate Committee



California Chamber-supported legislation to battle identity theft failed to pass a Senate committee this week.

The Senate Public Safety Committee rejected **SB 839 (Poochigian; R-Fresno)** on a vote of 2-4.

The bill aimed to create greater disincentives for the crime of identity theft by increasing the penalties for trafficking in identity theft and targeting certain vulnerable populations, and by giving law enforcement new tools to combat the problem.

Top Complaint

Identity theft is the number one consumer complaint reported to the Federal Trade Commission (FTC). The FTC recorded 43,839 identity theft complaints last year from California consumers.

The average victim spends about 175 hours over a two-year period clearing off an average of \$17,000 of fraudulent expenditures from credit reports. Some victims spend years trying to clear their names and re-establish their credit histories.

Employers suffer right along with their employees who are victims of identity theft. The crime causes missed hours of work, increased administrative paperwork, and can significantly slow the em-

ployment process, especially background checks.

The Chamber believes that anti-identity theft legislation is too often misguided in its attempts to reduce the frequency of such crimes. Rather than addressing the criminals who steal the financial and personal information of consumers, legislation often only targets the businesses that regularly operate with such sensitive data. When data is stolen from legitimate businesses — such as data brokers and financial institutions — the state imposes greater restrictions and monetary penalties on the business victims, but does not similarly impose greater penalties on the perpetrators of the crime.

Good Approach

SB 839, however, would have enhanced the penalties associated with identity theft by adding a consecutive two-year prison term for each prior felony conviction and an additional one-year enhancement for targeting minors, seniors and military personnel.

The bill also would have helped to fund regional computer forensic laboratories that are used to identify potential identity theft and financial fraud schemes. Victims would have saved time and resources because cases could be tried in the community where the victim lived, rather than where the criminal lived or where the crime was committed.

The Chamber believes that a com-

bination of increased penalties for the perpetrators of identity theft crimes, along with data security responsibility in the business community, will best protect California businesses and consumers from identity theft.

Key Vote

Voting in favor of SB 839: Poochigian (R-Fresno); Margett (R-Arcadia).

Voting no: Migden (D-San Francisco), Cedillo (D-Los Angeles), Perata (D-Oakland), Romero (D-Los Angeles).

Staff Contact: Valerie Nera

Seminars/Trade Shows

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

Labor Law

Labor Law Update Seminar. California Chamber of Commerce. January 19 - Sacramento; January 23 - Irvine; January 24 - Pasadena; January 25 - San Diego; January 30 - Oakland; January 31 - Santa Clara; February 7 - Sacramento. (800) 331-8877.

Labor Law Web Seminar. California Chamber of Commerce. February 21. (800) 331-8877.

California Business Legislative Summit April 25, Sacramento



Registration information at www.calchamber.com

U.S.-Bahrain Free Trade Agreement Clears Final Hurdle as President Signs It



The California Chamber of Commerce-supported U.S.-Bahrain Free Trade Agreement (FTA) was signed by President George W. Bush on January 11.

The FTA won approval from both the U.S. House and U.S. Senate in December 2005. Representatives

from the United States and the Kingdom of Bahrain signed the FTA on September 14, 2004, in Washington, D.C.

Bahrain is the first Persian Gulf state and third Arab country, after Jordan and Morocco, to have an FTA with the United States.

Trade Agreement Details

On the first day the agreement goes into effect, 100 percent of consumer and industrial products and 81 percent of U.S. agricultural exports will be duty free.

Under the agreement, Bahrain will open its services market, streamline digi-

tal trade, protect intellectual property, facilitate government procurement and provide for effective enforcement of labor and environmental laws.

This FTA will create new opportunities for U.S. farmers, manufacturers, financial service providers, and telecommunications, audiovisual, express delivery, distribution, health care, architecture and engineering firms.

Two-way trade between the United States and Bahrain totaled nearly \$706 million in 2004. U.S. goods exports were \$301 million, including machinery, aircraft, vehicles, toys and other manufactured products. Foreign direct investment between the two countries is nearly \$195 million.

Last year alone, California exports to Bahrain were more than \$16 million. California is one of the nation's top exporters, with exports of transportation equipment and crop production showing strong growth in recent years. The U.S.-Bahrain FTA will help continue this growth.

Other Trade Agreements

FTAs with other Arab nations include

the U.S.-Jordan FTA, signed in 2000; the U.S.-Morocco FTA, signed in 2004; and the U.S.-Oman FTA, which will be signed January 19 in Washington, D.C.

The U.S.-Morocco FTA entered into force on January 1. It eliminates tariffs on 95 percent of trade in consumer and industrial products with all remaining tariffs to be eliminated within nine years.

Follow-up negotiations for the U.S.-United Arab Emirates FTA are scheduled to take place at the end of this month. A decision to initiate negotiations for a U.S.-Egypt FTA is scheduled to be made by the end of this month, as well.

These agreements all are integral pieces of the Bush administration strategy to create a Middle East FTA (MEFTA) by 2013. The goal of the MEFTA is to expand trade with and investment in the Middle East to further domestic reforms, protect intellectual property and establish a foundation for economic growth in order to bring greater stability and economic opportunity to the region.

For more information, visit www.calchamber.com/international.
Staff Contact: Susanne Stirling

Attend the most valuable training available to learn about new labor laws, regulations and court decisions.

Each **Labor Law Update Seminar** — both half-day and web — will cover new federal and California legislation and regulations, as well as important case law that you should be aware of as an employer. Key topics are:

- Workers' compensation — finalized regulations
- Sexual harassment and discrimination
- Meal and rest period regulations
- Review of 2005 California and federal court decisions affecting:
 - Discrimination and sexual harassment
 - Wage and hour issues
 - Recruitment and pre-employment testing, and much more

Half-day seminars will be held at the following locations:

Sacramento - 1/19/06

Irvine - 1/23/06

Pasadena - 1/24/06

San Diego - 1/25/06

Oakland - 1/30/06

Santa Clara - 1/31/06

Sacramento - 2/7/06

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Each month you will receive this eight-page publication loaded with current trends in California HR, important court decisions and featured column "California At Work." Written in plain English, **Labor Law Update** makes ever-evolving labor law easy to understand while the timeliness keeps you up to date.



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