

ALERT

CALIFORNIA CHAMBER OF COMMERCE

VOLUME 32, NUMBER 23 • JULY 14, 2006

Prop. 89 Spells Disaster for Business in Politics

Gives Anti-Business Forces Upper Hand in Campaigns

The California Chamber of Commerce is helping organize opposition to a November ballot measure that virtually eliminates the ability of businesses to participate in the political process.

If approved by voters, Proposition 89, sponsored by the California Nurses Association and the Foundation for Consumer and Taxpayer Rights (a trial lawyer front group), will give anti-business forces such as the plaintiffs bar and nurses union, a big advantage in campaigning for or against candidates and ballot measures.

“Proposition 89 is step one — disarming the business community. Step two will be to pass every bad initiative the business community has fought in the last decade,” said Chamber President Allan Zaremborg, who is co-chairing the No on Proposition 89 campaign.

“Unless we stop Proposition 89 now, we’ll be facing excessive litigation, increased costs for energy and health care, and a rollback of the workers’ compensation reforms that have reined in runaway premium increases. These would all be from bad initiatives we won’t be able to fight. The result would be disastrous for the California economy and jobs,” Zaremborg said.

“The business community would lose the ability to defeat bad proposals, sponsor needed reforms and overturn poorly con-



November Ballot Measures

sidered laws passed by the Legislature,” he said.

Taxpayer Funding for Negative Campaigns

Falsely touted by its supporters as a “clean money” measure, Proposition 89 increases the income tax rate on corporations, banks and financial corporations by 0.2 percent per year to fund a new public campaign financing system.

Many small businesses, even mom-and-pop shops that are incorporated,

would be subject to the tax.

Candidates for office would be able to tap taxpayers to fund their campaigns, including paying for negative television ads and hit-piece direct mailers. The measure places practically no limits on how the politicians spend the taxpayer-provided campaign funds.

Restrictions on Business

The new contribution restrictions on business include:

- a \$10,000 limit on corporate expenditures to support or oppose any given ballot measure;
- a ban on corporate contributions to political parties or political action committees;
- a ban on corporations making independent expenditures to support or oppose candidates or contributing to an

See Prop. 89: Page 4

Secretary of State Announces November Ballot Lineup

The Secretary of State has assigned proposition numbers to the measures that have qualified for the November 7 General Election ballot, including those supported and opposed by the California Chamber of Commerce.

Support

The Chamber **supports** the following measures:

● **Proposition 1A: Transportation Funding Protection.** A constitutional amendment to protect gas tax revenues from being used for purposes other than transportation.

● **Proposition 1B: Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006.** A \$19.9 billion bond measure.

● **Proposition 1C: Housing and Emergency Shelter Trust Fund Act of 2006.** A \$2.9 billion bond measure.

● **Proposition 1D: Kindergarten-University Public Education Facilities Bond Act of 2006.** A \$10.4 billion bond measure.

● **Proposition 1E: Disaster Preparedness and Flood Prevention Bond Act of 2006.** A \$4.1 billion bond measure.

Oppose

The Chamber **opposes** the following measures:

See Secretary: Page 4

Inside

Chamber Brief Supports Exit Exam: Page 3

Labor Law Corner

Deducting Absences from Exempt Salaries Hinges on Basis for Status



Barbara Wilber
Labor Law Consultant

Our outside salespeople are exempt, salaried employees. We want to deduct from their salary for absences when the employee is sick or needs personal time off, but we realize that strict rules apply to any deductions from an exempt employee's salary. Please explain the rules.

California Chamber Officers

Donna F. Tuttle
Chair

Russell Gould
First Vice Chair

Edwin A. Guiles
Second Vice Chair

Frederick R. Ruiz
Third Vice Chair

Eugene J. Voiland
Immediate Past Chair

Allan Zaremborg
President

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 Zaremborg. Executive Editor: Ann Amioka. Associate: Trina Filan. Art Director: Andrew Larsen. Graphics Assistant: Jason Untalan. Capitol Correspondent: Christine Haddon.

Permission granted to reprint articles if credit is given to the California Chamber of Commerce Alert, and reprint is mailed to Alert at address above.

*E-mail: alert@calchamber.com.
Home page: www.calchamber.com.*

The strict rules for deductions from an employee's salary do not apply to exempt outside salespersons who meet the definition of outside salespersons as stated in the Industrial Welfare Commission (IWC) orders.

The orders define outside salespersons as "any person, 18 years of age or over, who customarily and regularly works more than half their working time away from the employer's place of business selling tangible or intangible items or obtaining orders or contracts for products, services or use of facilities."

Basis for Status Is Key

The basis for an employee's exempt status determines whether a deduction may be made from that employee's salary.

Employers often confuse the basis or reason particular employees are exempt. The IWC orders and the Labor Code provide exempt status to employees for different reasons. Employees may be exempt only from overtime, exempt from the entire IWC order or exempt only from certain sections of the orders.

Because an outside salesperson is exempt from the entire IWC order and no minimum salary requirement applies, an employer may deduct for absences. It is best to establish an agreement with your outside salespersons and to follow your employee handbook regarding payment to these employees.

'Salary Test' Adherence

Deductions from the salaries of exempt administrative, executive or professional employees are subject to a minimum "salary test." To maintain this administrative, executive or professional exemption, the employer must adhere strictly to the rules for allowable deductions from the minimum salary requirement.

In the case of the outside salesperson

exemption and certain other types of exemptions, however, strict adherence to a salary test is not necessary. For example, some employers choose to pay salespersons a salary plus commission, which is not subject to the salary test.

Keep in mind that the most common method of payment for exempt outside salespersons is commission only. The salary question is not an issue with this type of payment.

Burden Lies with Employer

When classifying an employee as "exempt," the burden is on the employer to establish the basis for that exemption. To avoid confusion and possibly costly mistakes, always determine which section in the IWC order or the Labor Code applies to each employee exemption.

New Tool Available

The California Chamber of Commerce has a new Exempt Wizard to help determine whether your employees are exempt or non-exempt. To use the wizard, visit www.calchamber.com/HRC/BusinessResources/Tools/.

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 submit your question at www.hrcalifornia.com.

Seminars/Trade Shows

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

Labor Law

State Wage, Hour and Payroll Tax Seminar. California Division of Labor Standards Enforcement and the Employment Development Department. July 26, Long Beach. (866) 873-6086.

International Trade

International Human Resources Management Conference. National Foreign Trade Council. July 26-27, Santa Clara. (212) 399-7128.

Chamber Calendar

Immigration Task Force:

July 24, Sacramento

Health Care Policy Committee:

July 25, Sacramento



California Chamber, Business Groups File Brief Supporting High School Exit Exam



The California Chamber of Commerce, California Business Roundtable and California Business for Education Excellence filed a friend-of-the-

court brief in late June with the 1st District Court of Appeal in support of the California High School Exit Exam (CAHSEE).

The lawfulness of the state's exit exam is being challenged in an appeal of *O'Connell v. Superior Court* (Alameda), A113933.

The brief, signed by respective organization presidents Allan Zarembeg, Bill Hauck and James Lanich, argues that the CAHSEE plays a crucial role in the education of California's workforce.

Issue of Great Interest

"The principal issue raised on this appeal — whether the state of California may require students educated in its public high schools to demonstrate minimum proficiency in English and math as a requisite to graduation — is of great interest" to the organizations filing the brief.

These organizations' "members are significantly affected by the large

percentage of high school students that graduate without basic English and math skills, unable to succeed in the workforce or continue on to higher education without costly and redundant remedial education," the filers argued.

Standard Uniformity

Legislation instituting the CAHSEE was passed by the Legislature and signed into law by Governor Pete Wilson in 1999.

The CAHSEE was designed to address deficiencies in California's public school system, specifically a lack of uniformity in high school graduation standards among California's 1,003 school districts.

Before the implementation of the CAHSEE, schools measured the requisite knowledge to receive a diploma by course work completion. The many students who have initially failed the CAHSEE, only to be assisted, later pass and earn their diploma, demonstrate that coursework completion is not a measurement of actual knowledge because there is no standard metric of success.

The class of 2006 was the first required to pass the CAHSEE in order to graduate from high school. With each test administration, more students are passing the exam, demonstrating they are able to acquire basic aptitude in English and math.

Test results from the class of 2006 illustrate that the CAHSEE is an effective tool in identifying students in danger of completing high school without these fundamental skills.

Preserve Powerful Tool

The friend-of-the-court brief argues that the CAHSEE needs to be preserved, citing the following:

- the Legislature intended the CAHSEE to serve as a tool ensuring high school graduates have basic skills in English and math;
- the CAHSEE will help students become better prepared to take advantage of economic, political and social opportunities;
- the CAHSEE is a mechanism that ensures graduating high school seniors obtain the requisite knowledge and skill needed to succeed;
- with the CAHSEE in place, the state and national economy will benefit from California high school graduates.

The CAHSEE is a powerful tool in identifying at-risk students and in helping students be successful in education and in their careers, thus positively affecting the business community and the economy.

A copy of the brief appears with the story at www.calchamber.com.

Staff Contact: Erika Frank

U.S. Supreme Court Splits on Federal Wetlands Protections



In an effort to determine the scope of the federal Clean Water Act as it applies to an estimated 300 million acres of wetlands, the U.S. Supreme Court in June set some general

limits on the federal government's power, but failed to reach a majority opinion.

The decision split the court 4-1-4, with swing Justice Anthony Kennedy holding

the middle ground between the court's conservative and liberal camps.

'Waters of the United States'

The pivotal question being considered was how the nation's wetlands fall under jurisdiction of the Clean Water Act, which gives federal regulators — the Army Corps of Engineers (the Corps) — authority over the "waters of the United States."

Earlier court cases already had concluded that "waters of the United States" gives federal authorities jurisdiction over

wetlands adjacent to navigable, open bodies of water, but it is less clear whether their reach extends to wetlands adjacent to non-navigable waters.

Divergent Opinions

The plurality opinion given by Justice Antonin Scalia offered a narrow interpretation of the law and argued for overturning the earlier courts' rulings because the act should apply only to "relatively permanent, standing or flowing bodies of water" with surface connections to

See U.S.: Page 7

Prop. 89 Spells Disaster for Business in Politics

From Page 1

independent expenditure committee;

- a \$10,000 limit on corporate contributions to a candidate-controlled ballot measure committee;

- a ban on corporate contributions to candidates who opt to receive public funding. Individuals may contribute only up to \$100 during specified periods and only if they live in the district in which the candidate seeks office;

- a significant decrease in the amount a corporation may give to a non-publicly funded candidate for state office — only \$500 per election for legislative and Board of Equalization candidates and \$1,000 per election for statewide candidates, with a combined annual limit of \$7,500 to all candidates for state office.

Referendum Essentially Barred

Californians enjoy the right of referendum to take laws passed by the Legislature directly to the people before they take effect. Under Proposition 89, businesses would in effect be barred from the referendum process due to the measure's severe limits on the ability of businesses to contribute to issue and ballot measure campaigns.

Had Proposition 89 been on the books, SB 2, the \$7 billion employer health care mandate, might well be the law today. The business community would not have been able to wage the successful campaign to place the Proposition 72 referendum on the November 2004 ballot, giving voters an opportunity to reject the mandate for a government-run health care system.

Similarly, insurers would not have been able to put before voters in March 2000 a referendum on the "bad faith" legislation, sponsored by trial lawyers and signed into law by Governor Gray Davis. Voters rejected the legislation, which would have added billions in costs to insurance bills.

Trial Lawyers Advantage

Proposition 89 does not expressly include trial lawyers in its restrictions on expenditures to ballot measure campaigns, political parties, political action committees or independent expenditure committees. But trial lawyers are particularly advantaged by Proposition 89, giving them the ability to move their anti-jobs/pro-law-suit agenda forward.

Other Provisions

Not only does Proposition 89 give tax

money to politicians to spend on their campaigns; it also permits publicly funded candidates to receive additional "matching funds" to offset contributions and independent expenditures beyond a certain level on behalf of privately funded opponents.

The measure also prohibits state contractors or anyone seeking state contracts from contributing to any candidate for or holder of an office with which the contractor has or seeks a contract. State contractors could not contribute to political party committees or independent expenditure committees to support or oppose candidates, or to legal defense funds of candidates or office holders.

Join Opposition

Proposition 89 is a blatant effort to deprive California's job providers of a voice in the political process. The Chamber urges members of the business community and their supporters to join the campaign to **oppose Proposition 89**.

For more information on how to get involved, please call the campaign at (916) 448-4234. A campaign website will be announced shortly.

Staff Contact: Jeanne Cain

Secretary of State Announces November Ballot Lineup

From Page 1

- **Proposition 86: Tax on Cigarettes.** This measure increases the state's excise tax by 300 percent, adding an additional \$2.60 per pack tax to the price of cigarettes sold in California, with the majority of the revenue used to fund health care services.

- **Proposition 87: Alternative Energy. Research, Production, Incentives. Tax on California Oil.** This measure places a new tax only on oil produced in California, thereby increasing California's dependence on foreign and imported oil by significantly adding to the cost of oil production and diverting funds that would be available for domestic oil exploration and development.

- **Proposition 89: Political Campaigns. Public Financing. Corporate Tax Increase. Contribution and Expenditure Limits.** This initiative increases corporate income taxes to pay for publicly

financed campaigns. The proposition limits corporate contributions or spending to \$10,000 to support or oppose any state ballot measures. In addition, it prohibits corporate contributions to candidates who opt to receive public funding.

To Be Considered

The Chamber has not yet taken positions on the following measures:

- **Proposition 83: Sex Offenders. Sexually Violent Predators. Punishment, Residence Restrictions and Monitoring.** Increases penalties for violent and habitual sex offenders and child molesters.

- **Proposition 84: Water Quality, Safety and Supply. Flood Control. Natural Resource Protection. Park Improvements. Bonds.** A \$5.4 billion bond measure.

- **Proposition 85: Waiting Period and Parental Notification Before**

Termination of Minor's Pregnancy.

Amends the state Constitution to prohibit abortion for an unemancipated minor until 48 hours after the physician notifies the minor's parent or legal guardian.

- **Proposition 88: Education Funding. Real Property Parcel Tax.** Imposes additional property tax and earmarks new revenues for classrooms.

- **Proposition 90: Government Acquisition, Regulation of Private Property.** Forbids state and local governments from condemning or damaging private property to promote other private projects.

The Chamber Board of Directors will discuss possible action on the remaining measures at its September meeting.

For more information on these measures or the November 7 ballot, please visit the Secretary of State website at www.ss.ca.gov.

Staff Contact: Jeanne Cain

Small Business Advocate of the Year Award

Personal Conviction, Community Dedication Guide Advocate's Steps

Bill Baron believes passionately in applying his personal principles to his work and his advocacy.

Baron, a recipient of the California Chamber of Commerce Small Business Advocate of the Year Award, is a partner in the real estate investment and development firm Brandenburg, Staedler & Moore and sits on the board of the Brandenburg Family Foundation.

Baron says his parents showed him and his brother, through their own actions, how vital helping one's community is. "It's all about helping other people and organizations," Baron says. "Advocacy is just a simple outreach to help all people fulfill their desires. A rising tide raises all ships."

One's efforts, he says, "can't just be for some people. An economy of scale for all to participate needs to exist."

In Baron's estimation, chambers of commerce are ideal organizations for providing those opportunities.

Leadership Directions

Baron is deeply involved in volunteer leadership with the San Jose/Silicon Valley Chamber of Commerce, having served two terms on the board of directors and as chairman of the board in 2005. When his terms are up, he intends to serve on chamber committees for as long as possible. "They've got me for life," he says.

Baron joined the chamber because he wanted to help shape the business environment in San Jose.

According to Pat Dando, president/ chief executive officer of the San Jose/Silicon Valley Chamber, Baron "has imbued the organization with renewed energy and commitment. His presence at so many Chamber functions has spurred greater involvement by the majority of other board members."

During his board tenure, Baron has incorporated his personal philosophies into his leadership.

"As I have become more involved in the board, I have recognized the need to broaden the leadership of the chamber so it represents the full spectrum of the Silicon Valley economy," Baron says. He encouraged a greater diversity of business owners to join in order to broaden the board's interests, input and perspective.



Bill Baron

Baron also emphasized the efficacy of smaller groups, implementing and focusing on committees to get things accomplished.

"It's great to say you want to be an advocate, but doing the work is something different," Baron comments. "Board members are not there to sit on their hands; they are there to be effective to the chamber's membership."

Committees allow board members to be more nimble and successful in their advocacy and member outreach because they have more ownership of and personal commitment to committees in which they choose to participate, he says.

Baron's new focus is on identifying people who are interested in running for public office and who "understand that from a sound economy, all else flows," he says. Finding, encouraging and assisting business-friendly candidates — "which does *not* mean anti-labor or anti-communities!" Baron emphasizes — is the legacy for chambers.

"Without people who are prepared to be open-minded about policies affecting business," Baron says, there is disconnect between government and business, and that is where trouble for the business community ensues. It's the business of business to be serious, resolute and determined about getting the message out, he says, be it through advocacy or promot-

ing pro-business candidates.

Future of California Business

According to Baron, the ongoing business-as-usual, make-more-laws-and-regulations nature of state politics is the biggest barrier to the future success of California's economy and to the transformation of its business climate.

"Politicians don't get the big picture," he says. "We have lived too long on wonderful laurels: our weather, great recreational opportunities, good universities, an influx of talent. But we can't rest on those laurels. We have to do more."

In Baron's view, the organizations driving the economy are businesses, not the government. "We have to be diligent in the message that we can't do business as usual in the world of global competition," he insists. "We need to be smart and realize California's future is absolutely interdependent on how it's viewed on an international basis."

Focus on Small Business

According to Dando, Baron is "always at the forefront of business issues that impact all businesses in the area." Baron's desire to ensure the creation of business-friendly policies derives from his concern for small businesses. In his estimation, small business is a bedrock of the community and of chamber membership, and he feels a great sense of urgency and obligation to help those companies succeed.

"It's an ominous task for a small business owner to take on city hall," Baron says. "Local chambers and the state Chamber, their mission is to fight the battles. We have to have strategies that support small business."

He continues: "Those folks who risk their life savings, what they are, who they are, they risk it every day, and they need a partner at the table with name recognition and relationships and credibility to help them fight the battle. Chamber advocacy should play a huge role in sustaining business and encouraging business growth. It's an extension of what I've been used to all my life — giving back and supporting so you end up with a quality of life better than the one you inherited."

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' Health Care Mandate Moving through Assembly



A California Chamber of Commerce-**opposed** bill that places a new health care mandate on large employers as part of a nationwide effort by organized labor to increase costs of non-union employers is moving in the Assembly.

SB 1414 (Migden; D-San Francisco) imposes a tax on employers with over 10,000 employees to spend the equivalent of 8 percent of their total payroll on health care or pay the equivalent amount to the state.

SB 1414 fails to address factors behind the rising health care costs that are the main reason some employers and employees cannot afford to buy coverage.

Key Votes

● SB 1414 passed the **Assembly Health Committee** on June 27 on a vote of 10-4:

Ayes: Chan (D-Oakland), Berg (D-Eureka), Mullin (D-South San Francisco), Dymally (D-Compton), Frommer (D-Glendale), Jones (D-Sacramento), Lieu (D-Torrance), Montañez (D-San Fernando), Negrete McLeod (D-Chino),

Ridley-Thomas (D- Los Angeles).

Noes: Aghazarian (R-Stockton), Nakanishi (R-Lodi), Richman (R-Northridge), Strickland (R-Thousand Oaks).

● The bill passed the **Assembly Labor and Employment Committee** on June 29 on a vote of 5-2 and awaits action in the Assembly Appropriations Committee when legislators return from summer recess.

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

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

Absent/abstaining/not voting: Klehs (D-Castro Valley).

Action Needed

The Chamber is strongly urging employers to ask their Assembly members and members of Assembly Appropriations to **oppose SB 1414**. For sample letters, visit the Government Relations section at www.calchamber.com.

Staff Contact: Marti Fisher

Political Contribution Refund Mandate Fails



OPPOSE

A California Chamber-**opposed** bill that would have chilled business participation in the political process failed to pass an Assembly committee shortly before the summer recess.

SB 1354 (Dunn; D-Garden Grove) failed passage in the Assembly Banking and Finance Committee on a vote of 5-3, one vote short of the majority needed.

SB 1354 would have chilled business participation in the political process and interfered with shareholder dividends by placing significant administrative burdens on corporations to return a shareholder's pro rata share of a political contribution to which the shareholder objected.

In opposing SB 1354, the Chamber and a number of business and industry groups pointed out that the bill is unnecessary. Corporate contributions already are contained in mandated Fair Politi-

cal Practices Commission major donor reports. In addition, the website for the Secretary of State includes a user-friendly political activity database.

These sources provide enough information about political contributions to enable shareholders to decide to sell their stocks if they disagree with the corporation's campaign expenditures.

Key Vote

Voting for SB 1354 were: J. Horton (D-Inglewood), Lieu (D-Torrance), Parra (D-Hanford), Ruskin (D-Palo Alto), Vargas (D-San Diego).

Noes: Calderon (D-Montebello), Niello (R-Fair Oaks), Tran (R-Garden Grove).

Absent/abstaining/not voting: Chavez (D-La Puente), La Malfa (R-Richvale).
Staff Contact: Dominic DiMare

Chamber Advocate to Represent Employers on Wage Board



Julianne Broyles

The Industrial Welfare Commission (IWC) has named a California Chamber of Commerce legislative advocate to the Wage Board that will be examining the minimum wage.

Julianne Broyles, Chamber

director of employee relations and small business, was appointed as an employer

representative to the IWC Wage Board during the last IWC meeting on July 5.

The Wage Board will consider and make recommendations to the IWC regarding the adequacy of the state minimum wage. The Wage Board consists of an equal number of employer and labor representatives and a non-voting chairperson. It's charged with considering:

- the adequacy of the current minimum wage of \$6.75 per hour and whether the state minimum wage should be increased;
- if it's inadequate, how much the minimum wage should increase and the timing of such an increase or increases;

● whether future increases in the minimum wage should be placed on autopilot, with annual hikes to match inflation.

The Wage Board will hold a public meeting in Sacramento at 10 a.m. on August 4 at the Department of Health Services Auditorium, 1500 Capitol Avenue. While the meeting is open to the public, no oral presentations will be permitted. Written testimony or other evidence may be submitted no later than July 20 at 5 p.m.

Instructions on how to submit written testimony or evidence can be found on the IWC website at: www.dir.ca.gov/iwc.

Staff Contact: Julianne Broyles

Employment Training Panel Budget Gets Boost for 2006-07

A California Chamber of Commerce-supported training program that uses revenues from an employer-paid tax to provide job-training grants to companies of all sizes and industries in order to make the companies more competitive has received a sizable program budget increase for the 2006-07 fiscal year.

The Employment Training Panel (ETP) budget appropriation will be \$53.2 million, an



increase of more than 40 percent over the last fiscal year and the largest amount the program has received in five years.

In the 2006-07 budget, ETP initially was slated to keep only \$40.3 million for job training grants. Action in June by both Governor Arnold Schwarzenegger and the Legislature, urged by the Chamber, the ETP and a coalition of labor and business organizations, resulted

in the budget augmentation.

With the additional funding, ETP not only will be able to continue its role as an incentive in key business attraction and retention projects, but also will be able to target key industries vital to the success of California's economy — including small businesses, biotech and life science companies — while continuing to assist manufacturers and their suppliers.

Staff Contact: Julianne Broyles

U.S. Supreme Court Splits on Federal Wetlands Protections

From Page 3
navigable waterways.

Justice John Paul Stevens gave the opposite opinion, arguing that the extensive authority claimed by the Corps was supported by 30 years of environmental regulation that has helped to protect the quality of the nation's water.

Justice Kennedy sided with Scalia on overturning the lower courts' rulings, but said that slightly reining in federal authority over such wetlands would be the best solution.

'Significant Nexus'

Justice Kennedy concluded that important public interests are served in protecting wetlands, but said the Corps

had an overly broad standard for claiming jurisdiction over wetlands adjacent to non-navigable waters.

Kennedy stated that the Corps, in order to have jurisdiction, must show a "significant nexus" exists between the wetlands and navigable waters, which would be true if the wetlands affected "the chemical, physical and biological integrity" of waters already covered by the Clean Water Act.

Because no opinion represented a majority of the justices on the bench, Justice Kennedy's "significant nexus" test will be the standard used by the lower courts when reassessing pending cases.

Chamber Position

The California Chamber of Commerce

believes that the federal government has overextended its authority by regulating wetlands not adjacent or significantly connected to a navigable water of the United States. Private property rights have been unduly restricted with no appreciable benefit to the environment at the expense of landowners.

Staff Contact: Valerie Nera

**Next Alert:
July 28**

Responsible for effective HR management? You'll be covered with this.

Your company turns to you for employment-related answers and solutions. With this set of **HR Best Practices** guides on your desk, you'll be prepared for every HR situation:

- Paying Employees in California
- Leaves of Absence in California
- Recruiting, Performance & Termination in California
- Sexual Harassment in California
- Workers' Compensation in California

HR Best Practices Series: All five guides for **\$238.96**



New
Lower Price!



To order, visit www.calbizcentral.com or call (800) 331-8877.

Periodicals
Postage
PAID
Sacramento, CA

ADDRESS SERVICE REQUESTED

Helping California Business Do Business™
www.calchamber.com
(916) 444-6670 FACSIMILE (916) 444-6685
P.O. BOX 1736 SACRAMENTO, CA 95812-1736



CALIFORNIA CHAMBER OF COMMERCE