

ALERT

CALIFORNIA CHAMBER OF COMMERCE

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‘Job Killers’ Await Action When Legislators Return



Among the many priority bills for the California Chamber and business community that await action when legislators return from their summer recess on August 7 are several “job killer” bills.

The Assembly Appropriations Committee is scheduled to consider several bills that place expensive, unnecessary regulatory burdens on business and another that will lead to fuel price increases.

“Since Governor Schwarzenegger took office, virtually no ‘job killer’ legislation has become law and the state has enjoyed a corresponding period of economic growth, higher revenues and job gains,”

said Chamber President Allan Zarembeg. “To keep these positive trends going, legislators need to stop the ‘job killer’ bills now.”

August 9 Hearing

On the August 9 hearing schedule for Assembly Appropriations are:

● **SB 1205 (Escutia; D-Norwalk)**

Punitive Regulation: Makes California unattractive to business by raising maximum fines for emission violations, creating a new category of violators with no due process for the determination of who is a violator while ignoring that there is no demonstrated connection between penalties and emission rates.

● **SB 1252 (Florez; D-Shafter) Re-**

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Courts Uphold Chamber-Supported Prop. 64 Protections



Two recent state court decisions have bolstered California Chamber of Commerce-supported reforms enacted by voter-approved Proposition 64 to guard against frivolous lawsuit abuse.

The California Court of Appeal

determined in *Pfizer Inc. v. Superior Court (Galfano)* that Proposition 64 required, not only the named plaintiff, but also all members of a class action to have suffered actual injury.

The California Supreme Court, in *Californians for Disability Rights v. Mervyn’s, LLC*, determined that Proposition 64 affected cases pending when the measure took effect.

The Chamber, jointly with a number of business and industry associations, filed friend-of-the-court briefs in both cases.

Chamber Applauds Decisions

“These decisions are a victory for California businesses — and the voters — in the battle against frivolous lawsuits. The Chamber, in its *amicus curiae* briefs, argued that overly broad class actions

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California Chamber President Participates in Governor’s Health Care Summit



Allan Zarembeg

California Chamber of Commerce President Allan Zarembeg participated this week in Governor Arnold Schwarzenegger’s invitation-only policy summit on health care at the University of California, Los Angeles.

Participants at the half-day summit on July 24 included Chamber member companies, labor leaders, economists and health care experts.

Needs of Business Aired

“This health care summit presented an opportunity for the business community, which provides the majority of private health insurance to individuals, to highlight their successful practices and discuss their biggest obstacles to offering increased insurance,” said Zarembeg. “I thank the Governor for ensuring a broad spectrum of viewpoints was represented and for the thoughtful examination of this issue.”

During the discussion, Zarembeg highlighted the issue of escalating health care costs as a key obstacle to increasing

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Labor Law Corner

Workplace Drug Testing Policies Require Caution on Employer's Part



Dana Leisinger
Labor Law Consultant

We have employees in our manufacturing plant who operate heavy equipment. I'm concerned about drug use and would like to implement random drug testing because of these safety-sensitive positions. Can I put that policy into practice?

California is very sensitive to individ-

uals' right to privacy, and the state Constitution places strict restrictions on drug testing. Random drug testing as described above is not permitted in California.

Strict Limits on Testing

Drug testing is permitted in four circumstances only:

- pre-employment screening;
- "reasonable suspicion";
- post-accident; and
- random.

Random Testing Very Restricted

Random drug testing, which is when an employer informs employees they may have to submit to a drug test at any time, for any reason or no reason at all, is permitted by California law in very narrowly defined circumstances:

- for drivers of large trucks under Department of Transportation guidelines;
- for certain pipeline workers;
- for aviation personnel; and
- for correctional officers having contact with prisoners.

These exceptions have been tested by case law in California, and random drug testing is not allowed in other fields. Indeed, one case held specifically that safety is not a compelling reason for testing employees on a random basis (See *Luck v. Southern Pacific Transportation Co.*, 218 Cal.App.3d 1 (1990), cert. denied, 111 S.Ct. 344 (1990)).

'Reasonable Suspicion' Tests OK

California law does allow "reasonable suspicion" drug testing within narrow guidelines, however, if there is a concern about drug usage in the workplace.

"Reasonable" is not merely rumor or speculation, but a suspicion based on specific, objective facts and rational inferences from observing an employee's behavior.

According to various sources, examples of drug and/or alcohol abuse include but are not limited to the following signs:

- odor of alcohol;
- odor of marijuana;
- slurred speech;
- flushed, swollen face;
- red or runny eyes or nose;
- pupils dilated or constricted, or unusual eye movement;

- lack of coordination;
- tremors or sweats;
- weariness, exhaustion;
- sleepiness.

Caution Before Testing

Even with an accumulation of facts and rational inferences to be used for conducting a "reasonable suspicion" test, however, it can be very dangerous for the employer to order an employee to submit to drug testing. It is wise to have two separate witnesses to the behavior, including a supervisor; to have all supervisors trained to detect signs of usage; and to escort the employee to and from the lab involved.

All drug testing should be limited and carefully utilized to limit liability in the event the employer's decision should be challenged. Employers should have their policies posted and/or in their handbooks so their employees are aware of the possibility of being tested. It is wise to contact legal counsel regarding implementing these policies.

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.

Discrimination Poster Update

The Department of Fair Employment and Housing (DFEH) has revised its Discrimination and Harassment poster, but the agency has advised the California Chamber that posting the new version (dated May 2006) will not be mandatory until the agency publishes the Spanish version sometime later this year.

The Chamber will advise members and customers when the new poster must be displayed.

The revised poster contains new language about the extended time for minors to file claims with DFEH, reflecting an amendment passed in 2005.

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Chamber-Led Coalition Warns of Energy Shortages Under AB 32



For two weeks, California has experienced record peak energy demand, primarily from the state's investor-owned utilities, according to California's Independent System Operator (Cal ISO).

Three new usage records have been set in the last week alone:

- Monday, July 17 — 46,561 megawatts;
- Friday, July 21 — 49,036 megawatts;
- Monday, July 25 — 50,270 megawatts.

Concerned about the adequacy of the state's energy supply, the Governor visited Cal ISO last week, urged Californians to conserve power and directed state agencies to do the same.

AB 32: Potential Shortages

People worried about California

having sufficient electricity should know that California Chamber of Commerce-opposed AB 32 (Núñez; D-Los Angeles), a "job killer," very likely will lead to a reduction in the state's available energy supply.

In fact, one potential outcome is the loss of 17,000 megawatts of electricity currently generated by plants built before 1977 that may have to be taken off the grid to meet the requirements of AB 32.

Combine that loss of electricity supply with another heat wave, and California could easily be experiencing blackouts again — or mandatory curbs on electricity use. Which industry sector will the government have to turn off? High-tech? Financial? Health care?

Lose-Lose for State

AB 32 is a lose-lose for California

— it will increase consumer costs and drive jobs to neighboring states and may actually make the environment worse.

Instead of spending time on proposals that will hurt the economy and the environment, the Chamber encourages policymakers to focus on alternative approaches that can help stimulate the economy while actually having an impact on this global problem.

Join Opposition

The Chamber-led coalition Sustainable Environment and Economy for California (SEE California) is

seeking new business members to join its effort to stop AB 32. For more information on joining SEE California, visit www.seeca.org.

Staff Contacts: Dominic DiMare and Moira Topp



Settlement Preserves Options for Disability Insurance Buyers

The California Chamber of Commerce and insurance trade groups have reached a settlement with the state Department of Insurance (DOI) that enables insurers to continue offering a variety of disability insurance options in California.

Agreement Protects Employers

The agreement protects California employers from the anticipated increases in disability insurance costs that likely would have resulted if the department had proceeded unchecked with implementing the overly restrictive regulations contained in an October 2005 letter.

In December 2005, the Chamber and insurance trade groups filed suit to prevent the department from putting its cost-

ly, burdensome restrictions into effect.

Costly Proposed Regulations

A study by Milliman, Inc., an actuarial consulting firm, estimated that the DOI's proposed regulations would have caused premiums to increase as much as 46 percent for group disability insurance and 33 percent for individual converge if all of the proposed requirements had been enforced.

The proposed regulations would have priced out of the market policies for employers who offer disability insurance as an added benefit to their employees.

The settlement agreement, reached July 17, 2006, provides disability insurance policy alternatives and establishes a

process to ensure that products remain affordable and on the market for California consumers.

Staff Contact: Erika Frank

Seminars/Trade Shows

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

Labor Law

Workers' Compensation in California Web Seminar. California Chamber of Commerce. September 21. (800) 331-8877.

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

Courts Uphold Chamber-Supported Prop. 64 Protections

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brought under California's Unfair Competition Law were unfairly targeting businesses," said Chamber President Allan Zaremborg.

"The most recent court rulings in *Pfizer* and *Mervyn's* preserve the intent of the voters and will help protect California businesses against frivolous UCL lawsuits," said Zaremborg.

"A business that causes injury to a consumer through an unfair practice must be held accountable by the law. This ruling affirms the intent of the voters that a consumer must have suffered an actual injury in order to seek legal remedy — clearly an appropriate requirement," Zaremborg said.

Unfair Competition Law Abuse

Before voters overwhelmingly approved Proposition 64 in November

2004, California's Unfair Competition Law (UCL) allowed individuals to file lawsuits against businesses even though the individual had suffered no harm or injury. The plaintiff did not even have to be a customer of or have any connection to the business to file suit.

Even after Proposition 64 was enacted, businesses were forced to defend themselves against frivolous class actions in which persons were allowed to be a part of the lawsuit without showing that they had actually used the product or suffered any injury.

Pfizer and *Mervyn's* Cases

In *Pfizer*, the lower court allowed anyone who had purchased the product in California during a specified six-month period to be part of the class action. The Court of Appeal aptly ruled that the class was "plainly overbroad" because Proposi-

tion 64 requires that all class members must have suffered injury in order to be a part of the class.

In *Mervyn's*, the California Supreme Court considered whether Proposition 64 amendments to the UCL applied to cases already pending when Proposition 64 took effect.

The court ruled that "[f]or a lawsuit properly to be allowed to continue, standing must exist at all times until judgment is entered and not just on the date the complaint is filed" and the Californians for Disability Rights interpretation of the standing of an uninjured individual to file suit on behalf of an injured individual "cannot be defended as a plausible interpretation of the measure."

Staff Contact: Erika Frank

'Job Killers' Await Action When Legislators Return

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source Regulation: Penalizes businesses that are in the process of implementing the latest air standards by imposing an additional civil penalty.

● **SB 1379 (Perata; D-Oakland) Biomonitoring:** Makes California unfriendly to business by establishing a biomonitoring program that could generally lead to the elimination or reduction of use of certain chemicals that have not been sci-

entifically proven harmful, based on mere detection.

● **SB 1675 (Kehoe; D-San Diego) Increases Gas Prices:** Creates market volatility, ignores current operational limitations and supply availability by mandating the use of biodiesel in fuels.

Action Needed

The Chamber is urging businesses to contact members of Assembly Appropria-

tions and urge them to **oppose** the "job killers."

For a full list of the "job killer" bills and their status, visit www.calchamber.com/jobkillers.

A list including "job killers" and other major business bills, plus their status when legislators reconvene, begins on Page 5 of this *Alert*.

Staff Contact: Moira Topp

Chamber President Participates in Governor's Health Care Summit

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the provision of health care insurance to California's employees. Several other participants seconded this view.

Also discussed was what role the government should play in subsidizing the cost of increased health care insurance to employers and employees.

Voluntary Programs Urged

Zaremborg urged that any government-provided subsidy be combined with a voluntary program for employers

to provide insurance plans rather than a program that mandates a business spend a certain percentage of income per employee on health care.

He explained that without the program being voluntary, a government subsidy given to businesses to help control health care costs would actually remove incentives for cost containment and would likely lead to continued escalation of health care costs.

Zaremborg also noted the relationship between government underfunding

of public programs and cost shifts onto employer-paid or private health insurance plans.

Among the obstacles to increased provision of health care that were discussed were California's minimum coverage plan requirements, the differential tax treatment of Health Savings Accounts by California and the federal government, and most critically, the continued escalating cost of health care.

Staff Contact: Vince Sollitto

California Chamber Status Report on Major Legislation for Business

The following list summarizes top priority bills for the California Chamber of Commerce and their status as of June 29, when legislators began their summer recess.

Within each subject area, the list presents bills in order of priority, with the higher priorities at the top.

The Chamber will publish a second

status report in September, showing the status of priority bills when the Legislature adjourns on August 31. In October, the Chamber will publish the final status report on priority bills, showing the ultimate fate of legislation sent to the Governor this year.

The last day for the Governor to sign or veto bills passed by the Legislature

before it adjourns is September 30.

Each fall, the Chamber also publishes a record of legislators' votes on key bills affecting California's business climate. Generally, the bills selected for the vote record have appeared in one of the status reports. This year's vote record will be published on October 13.

Federal bills are marked with an *.

Status of bills as of June 29, 2006, the day the Legislature began its summer recess. Dates listed are the latest date of committee action, the next hearing date or when the bill reached the floor, unless action is stated. Key to status descriptions on Page 19.

Subject and Bill — Chamber Position	Status
Agriculture and Natural Resources	
Timber Rules. SB 1310 (Kuehl; D-Santa Monica) subjects certain forest landowners to costly mandatory, duplicative permitting and regulatory requirements that do not provide any additional benefits. Oppose.	Assembly Natural Resources 6/15/06
Heritage Trees. SB 1799 (Perata; D-Oakland) severely limits timber harvesting by prohibiting damage to certain trees without scientific qualification for the prohibition. Oppose.	Held in Senate Appropriations 5/25/06
Farmworker Housing. SB 1802 (Ducheny; D-San Diego) permits growers to build housing for up to 36 farmworkers in group quarters to alleviate chronic farmworker housing shortages. Support.	Assembly Second Reading 6/29/06
Forestry: Federal Roadless Area Conservation Rule. AB 715 (Levine; D-Van Nuys) inappropriately allows the Legislature to circumvent the federal process in place for the Governor to petition for action on issues regarding roadless areas in national forests. Oppose.	Assembly Inactive File 2/27/06
Pesticides. AB 2078 (Montañez; D-San Fernando) restricts certain scientific tests regarding human pesticide toxicity studies approved under current federal law with very strict standards for safety. Oppose.	Senate Environmental Quality Hearing 8/7/06
Agriculture. SB 1056 (Florez; D-Shafter) affirms that state regulation of seed law pre-empts local actions, preventing local ordinances banning genetically modified crops. Support.	Passed Assembly Agriculture 6/28/06
Air and Waste Management	
Halts Economic Growth. AB 32 (Núñez; D-Los Angeles) increases costs for California businesses, makes them less competitive and discourages economic growth with little or no proven environmental benefit by adopting an arbitrary cap on carbon emissions. Oppose/ Job Killer.	Passed Senate Environmental Quality 6/26/06
Biomonitoring. SB 1379 (Perata; D-Oakland) makes California unfriendly to business by establishing a biomonitoring program that could generally lead to the elimination or reduction of use of certain chemicals that have not been scientifically proven harmful, based on mere detection. Oppose/ Job Killer.	Assembly Appropriations Hearing 8/9/06

Subject and Bill — Chamber Position	Status
<p>Increases Gas Prices. SB 1675 (Kehoe; D-Santa Monica) creates market volatility, ignores current operational limitations and supply availability by mandating the use of biodiesel in fuels. Oppose/Job Killer.</p>	<p>Assembly Appropriations Hearing 8/9/06</p>
<p>Fuel Mandate. AB 1012 (Nation; D-San Rafael) disrupts California’s transportation fuels market by mandating the sale of scarce alternative fuels such as ethanol and biodiesel, resulting in significant gas price spikes. Oppose/Job Killer.</p>	<p>Passed Senate Environmental Quality 6/29/06</p>
<p>Excessive Litigation. SB 109 (Ortiz; D-Sacramento) increases litigation costs and potential lawsuits by allowing for both civil and criminal penalties for minor air quality violations. Oppose/Job Killer.</p>	<p>Failed Passage in Assembly 9/7/05; Reconsideration granted</p>
<p>Limits Technology. AB 2202 (Saldaña; D-San Diego) limits the availability of thousands of consumer electronic devices in California by prohibiting the sale of those devices if they contain certain heavy metals. Oppose/Job Killer.</p>	<p>Passed Senate Environmental Quality 6/26/06</p>
<p>Resource Regulation. SB 1252 (Florez; D-Shafter) penalizes businesses that are in the process of implementing the latest air standards by imposing an additional civil penalty. Oppose/Job Killer.</p>	<p>Assembly Appropriations Hearing 8/9/06</p>
<p>Punitive Regulation. SB 1205 (Escutia; D-Norwalk) makes California unattractive to business by raising maximum fines for emission violations, creating a new category of violators with no due process for the determination of who is a violator while ignoring that there is no demonstrated connection between penalties and emission rates. Oppose/Job Killer.</p>	<p>Assembly Appropriations Hearing 8/9/06</p>
<p>Indoor Air Pollution. AB 3018 (Lieber; D-Mountain View) chases manufacturers and businesses out of California by targeting specific sources as indoor air pollutants based on no absolute science and provides the Air Resources Board the authority to restrict or even ban household items. Oppose.</p>	<p>Failed passage in Assembly 5/31/06</p>
<p>Lead Plumbing. AB 1953 (Chan; D-Oakland) enacts a drastic and unrealistic reduction in the maximum level of lead in plumbing products and fixtures. Oppose.</p>	<p>Senate Appropriations Suspense File 6/26/06</p>
<p>Toxic Chemicals: Release Form. SB 1478 (Speier; D-San Francisco) undermines federal efforts to streamline and reduce costs of reporting chemical use by creating a duplicate state program requiring more reporting with no added public benefit. Oppose.</p>	<p>Assembly Appropriations Hearing 8/9/06</p>
<p>Oil Conservation, Efficiency and Alternative Fuels Act. SB 757 (Kehoe; D-San Diego) could significantly increase the price of gasoline by mandating that all state agencies use their broad rulemaking authority to mandate reduced gas consumption. The report on which the bill is based, if fully implemented, was recently projected to cost Californians nearly \$8 billion annually, the equivalent of \$5 per gallon gasoline. Oppose.</p>	<p>Assembly Appropriations Hearing 8/9/06</p>
<h2 style="color: red;">Corporate Governance</h2>	
<p>Distributions: Unpaid Pension Obligations. AB 2122 (Klehs; D-Castro Valley) creates a burdensome and confusing new prohibition on shareholder distributions and makes board members strictly liable for improper corporate distributions. Oppose.</p>	<p>Failed passage in Senate Banking, Finance & Insurance 6/22/06; Reconsideration granted</p>
<p>Corporations: Reporting Requirements. AB 2426 (Hancock; D-Berkeley) violates taxpayer privacy rights and expands opportunities for misappropriation and misuse of confidential taxpayer information by requiring numerous companies to publicly disclose virtually every element of their tax return. Oppose.</p>	<p>Assembly Banking & Finance 4/17/06</p>
<p>Corporations: Uncontested Election of a Listed Corporation. SB 1207 (Alarcón; D-San Fernando Valley) establishes a new voting rule for uncontested director elections that could disrupt and disable corporate boards and operations. Oppose.</p>	<p>Assembly Third Reading 6/29/06</p>

Subject and Bill — Chamber Position	Status
Education	
Public Schools: State and Federal Accountability. AB 2975 (Hancock; D-Berkeley) undermines the effectiveness of the high school exit exam by lowering California student proficiency standards. Oppose.	Senate Appropriations 6/28/06
School District Governance: Los Angeles Unified School District. AB 1381 (Núñez; D-Los Angeles) gives the Los Angeles mayor and a council of mayors additional means by which to measure pupil achievement in the Los Angeles Unified School District. Support if amended.	Senate Appropriations 6/28/06
Career Technical Education: School District Reporting. SB 560 (Migden; D-San Francisco) appropriately places an emphasis on career technical education (CTE) programs by requiring school districts to provide the Department of Education information regarding the state of CTE at the district's high schools. Support.	Assembly Appropriations 6/28/06
Vocational Education: Requirements. SB 794 (Scott; D-Pasadena) promotes workplace readiness by improving coordination between career technical programs at the K-12 level. Support.	Assembly Appropriations Suspense File 8/17/05
Postsecondary Education: College Opportunity Act. SB 845 (Scott; D-Pasadena) improves workplace preparation by expanding the number of eligible instructors for career technical education programs and adult education programs. Support.	Assembly Rules 6/26/06
Employee Relations	
4-Day Workweek. SB 1254 (Ackerman; R-Tustin) helps employees achieve greater flexibility in work schedules by allowing individual workers to request and their employers to mutually agree to a four-day workweek. Sponsor/Co-Sponsor.	Failed Passage in Senate Labor & Industrial Relations 4/26/06
4-Day Workweek. AB 2217 (Villines; R-Clovis) helps employees achieve greater flexibility in work schedules by allowing individual workers to request and their employers to mutually agree to a four-day workweek. Sponsor/Co-Sponsor.	Failed passage in Assembly Labor & Employment 4/19/06; Reconsideration granted
Automatic Minimum Wage Increases. AB 1835 (Lieber; D-Mountain View) increases the cost of doing business without regard to the state's economy by increasing the minimum wage with annual automatic increases. Oppose/ Job Killer.	Senate Appropriations 6/21/06
Automatic Minimum Wage Increases. SB 1162 (Cedillo; D-Los Angeles) increases the cost of doing business without regard to the state's economy by increasing the minimum wage with annual automatic increases. Oppose/ Job Killer.	Assembly Appropriations Suspense File 6/28/06
Leave Law Abuse. SB 300 (Kuehl; D-Santa Monica) opens California's leave law to potential abuse by removing controls that require that the employee actually provide the care, among other provisions. Oppose/ Job Killer.	Assembly Appropriations Suspense File 8/17/05
New Reason to Sue. AB 581 (Klehs; D-Castro Valley) makes California less desirable as a place to establish or expand a business by opening new avenues to sue employers by establishing a broad new private right of action that permits joint labor management committees to sue any employer for certain Labor Code violations that may have occurred up to four years previously, among other provisions. Oppose/ Job Killer.	Held in Assembly Appropriations 8/25/05
Excessive Litigation. AB 2555 (Oropeza; D-Long Beach) negatively distinguishes California from the rest of the country by exposing every business to excessive litigation and increases the cost of doing business by mandating excessive damage awards and new civil penalties for gender pay equity violations. Oppose.	Senate Appropriations 6/21/06

Subject and Bill — Chamber Position	Status
Plain Language Workplace Posters. AB 2277 (Villines; R-Clovis) reduces confusion and increases understanding of workplace rights and responsibilities by requiring all workplace posters to be written simply and in plain language. Sponsor/Co-Sponsor.	Failed Passage in Assembly Labor & Employment 4/19/06; Reconsideration granted
Employment Practices. AB 2095 (Niello; R-Fair Oaks) makes common-sense, clarifying changes to recently enacted supervisor anti-sexual harassment training requirements that will simplify compliance with the new law. Support.	Senate Appropriations 6/29/06
New Overtime Lawsuits. AB 2536 (Montañez; D-San Fernando) establishes stringent new overtime requirements on employers of personal attendants, along with creating a new right of these workers to sue for liquidated damages for overtime violations. Oppose.	Senate Appropriations 6/29/06
Payroll Check Cashing: Fees. SB 778 (Florez; D-Shafter) attempts to usurp federal law by prohibiting financial institutions from charging fees for services. Oppose.	Failed Passage in Assembly Banking & Finance 6/26/06
Employment: Compensation. SB 1188 (Florez; D-Shafter) effectively eliminates current “safe harbor” and creates uncertainty for employers who already arrange fee-free payroll check cashing for their employees. Oppose.	Failed Passage in Assembly Banking & Finance 6/26/06
Port Owner-Operators: Anti-Trust Immunity. SB 1213 (Dunn; D-Garden Grove) unreasonably attempts to give anti-trust immunity protections to port owner-operator truck drivers so that they may collectively set prices for services. Oppose.	Assembly Third Reading 6/26/06
Employment-Based Lawsuits: New Ability to File. SB 1745 (Kuehl; D-Santa Monica) establishes new ability to file employment-related lawsuits under a variety of different laws. Oppose.	Assembly Appropriations 6/29/06
Energy	
Increases Electricity Costs. SB 1368 (Perata; D-Oakland) limits the available power sources to meet California’s energy demands while substantially increasing the price of electricity to consumers and businesses by establishing an unattainable greenhouse gas emission performance standard. Oppose/ Job Killer.	Assembly Appropriations 6/29/06
Public Utilities: Refineries. SB 1794 (Dunn; D-Garden Grove) creates duplicative regulation on industry by giving the Public Utilities Commission authority over refinery corporations. Oppose.	Held in Assembly Utilities & Commerce 6/26/06
Energy Resources: California Vampire Slayer Act of 2006. AB 1970 (Levine; D-Van Nuys) disadvantages California manufacturers by creating a state-level mandatory labeling requirement for consumer products using electricity. Oppose.	Senate Appropriations 6/29/06
State Energy Resources Conservation and Development Commission: Liquefied Natural Gas Terminals. SB 426 (Simitian; D-Palo Alto) possibly exacerbates potential energy shortages by establishing a new permitting process that adds delay to the approval of pending LNG facility permit applications. Oppose.	Held at Assembly Desk 1/12/06
Energy Resources: Liquefied Natural Gas Terminals. SB 1003 (Escutia; D-Norwalk) delays critically needed liquid natural gas facilities to meet our energy needs by establishing a permitting process at the California Energy Commission to the exclusion of all other city, state or local authorities. Oppose.	Assembly Appropriations Suspense File 8/17/05
Electric Transmission Corridors. SB 1059 (Escutia; D-Norwalk) enables the California Energy Commission to identify the most appropriate locations for new transmission lines. Support.	Assembly Appropriations 6/28/06
Public Utilities: Energy Efficiency. AB 2021 (Levine; D-Van Nuys) helps California achieve its energy-saving targets by requiring municipal utilities to invest in cost-effective, energy-efficient technologies. Support.	Senate Appropriations 6/29/06

Subject and Bill — Chamber Position	Status
<p>Energy: Electricity: Carbon Dioxide. AB 1925 (Blakeslee; R-San Luis Obispo) requires the Energy Resources Conservation and Development Commission to submit a report to the Legislature with recommendations on strategies and incentives to reduce carbon dioxide emissions during the generation of electricity. Support.</p>	<p>Senate Environmental Quality Hearing 8/7/06</p>
<p>Health</p>	
<p>Government-Run Health Care. SB 840 (Kuehl; D-Santa Monica) imposes a government-run health care system on all Californians. Oppose/Job Killer.</p>	<p>Assembly Rules 7/12/05</p>
<p>Health Care Tax. 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. Oppose/Job Killer.</p>	<p>Assembly Appropriations 6/29/06</p>
<p>Health Care Coverage Review Process. AB 977 (Nava; D-Santa Barbara) reduces employer choice and options to purchase affordable health care coverage for their employees by requiring a health plan or health insurer to seek prior approval from its regulator before adjusting co-pays, deductibles and other out-of-pocket costs or limiting benefits or coverage on any of its products. Seeks to eliminate high-deductible health plans as an option. Oppose.</p>	<p>Failed Passage in Senate Banking, Finance & Insurance 6/22/06; Reconsideration granted</p>
<p>Employer “Pay or Play.” AB 1952 (Nation; D-San Rafael) moves California to a government-sponsored health care system by forcing employers to either purchase a minimum benefit package or pay a payroll tax. Oppose.</p>	<p>Held in Assembly Appropriations Suspend File 5/25/06</p>
<p>Income Tax: Health Savings Account. AB 2010 (Plescia; R-La Jolla) facilitates flexibility for employers and employees to take advantage of high-deductible health plans by aligning California’s tax deduction for health savings accounts with the federal tax deductions allowed. Support.</p>	<p>Held in Assembly Revenue & Taxation 5/15/06</p>
<p>Income and Corporation Taxes: Credit: Health Savings Account. SB 1639 (Dutton; R-Rancho Cucamonga) provides tax credit to employers for contributing to employee health savings accounts when used with high-deductible health plans. Support.</p>	<p>Dead in Senate</p>
<p>Income Tax: Health Savings Account. SB 1584 (Runner; R-Lancaster) facilitates flexibility for employers and employees to take advantage of high-deductible health plans by aligning California’s tax deduction for health savings accounts with the federal tax deductions allowed. Support.</p>	<p>Dead in Senate</p>
<p>Health Care Coverage with Deductibles. AB 2281 (Chan; D-Oakland) creates unreasonable requirements for high-deductible health plans that would raise health care premiums and limit options for employers and employees. Oppose.</p>	<p>Failed passage in Assembly 5/31/06</p>
<p>Health Care: Employer Coverage: Disclosure. AB 1840 (J. Horton; D-Inglewood) creates public access website to list employers with employees participating in public assistance health care programs on a “list of shame.” <i>Note:</i> SB 558 and SB 1622 would require specified employers to provide notice to their employees that they may be eligible for Medi-Cal/Healthy Families programs. Oppose.</p>	<p>Senate Appropriations 6/29/06</p>
<p>Healthy Families Program and Medi-Cal. SB 558 (Migden; D-San Francisco) requires specified employers to provide notice to their employees they may be eligible for Medi-Cal/Healthy Families programs. <i>Note:</i> AB 1840 would then publish a “list of shame” on a publicly accessible website of employers with employees enrolled in these programs. Oppose.</p>	<p>Assembly Health 2/16/06</p>
<p>Healthy Families Program and Medi-Cal: Employee Eligibility. SB 1622 (Escutia; D-Norwalk) requires specified employers to provide notice to their employees they may be eligible for Medi-Cal/Healthy Families programs. <i>Note:</i> AB 1840 would then publish a “list of shame” on a publicly accessible website of employers with employees enrolled in these programs. Oppose.</p>	<p>Assembly Appropriations 6/27/06</p>

Subject and Bill — Chamber Position	Status
Group Disability Insurance: Economic Benefit. SB 1591 (Kuehl; D-Santa Monica) allows Department of Insurance to interfere with employer’s selection of group disability plans provided to employees by empowering the Insurance Commissioner to disapprove a policy of no real economic value. Oppose.	Failed Passage in Assembly Health 6/27/06; Reconsideration granted
Public Health: Health Care Technology Systems: Loans. SB 1672 (Maldonado; R-Santa Maria) establishes a low-interest loan program for non-profit health provider organizations purchasing a health care information technology system. Support.	Senate Appropriations 6/28/06
Health Care Mandate. AB 2012 (Emmerson; R-Redlands) increases health care premiums by mandating that health care plans cover orthotic or prosthetic devices. Oppose.	Senate Appropriations 6/29/06
Health Care Mandate. SB 1223 (Scott; D-Pasadena) increases health care premiums by mandating that health care plans cover up to \$1,000 for hearing aids for children. Oppose.	Assembly Appropriations 6/27/06
Health Care Mandate. SB 1508 (Bowen; D-Redondo Beach) increases health care premiums by mandating that health care plans cover certain anesthesia and its administration for colonoscopies. Oppose.	Failed Passage in Assembly Health 6/27/06; Reconsideration granted
Hospital Seismic Retrofit. AB 1978 (Walters; R-Laguna Niguel) helps postpone a huge cost to hospitals statewide that will likely be borne by private payers by providing California hospitals an extended timeline to meet costly seismic safety retrofit requirements. Support.	Failed Passage in Assembly Health 4/18/06; Reconsideration granted.
Seismic and Patient Safety. SB 167 (Speier; D-San Francisco/San Mateo) provides California hospitals an extended timeline to meet costly seismic safety retrofit requirements, helping postpone another huge cost increase that will likely be borne by private payers. Support.	Failed Passage in Assembly Health 7/5/05; Reconsideration granted
Medi-Cal: Direct Marketing of Contract Drugs: Rebates. AB 2730 (Nation; D-San Rafael) chills commercial free speech through advertising and denies low-income individuals in the Medi-Cal program from receiving the medicines they need by prohibiting the state from contracting for prescription drugs that have been promoted through direct-to-consumer advertising, which is designed to inform and educate consumers. Oppose.	Failed Passage in Assembly Health 4/25/06
Prescription Drugs: Importation: Procurement. AB 2877 (Frommer; D-Glendale) could compromise consumer safety, expose the state to liability and limit economic incentive for product development in the United States, leading to higher drug costs in California, by establishing a website to assist consumers in accessing prescription medication from foreign countries. Oppose.	Senate Appropriations 6/22/06
Health Care: Product Database. SB 1804 (Florez; D-Shafter) establishes a redundant administrative burden on health plans to report to a state-run website information on their publicly accessible websites regarding medical providers in their network, which could contribute to higher premiums in an already-costly health care system. Oppose.	Failed Passage in Assembly Health 6/27/06; Reconsideration Granted
Housing and Land Use	
Halts Economic Growth. AB 2641 (Coto; D-San Jose) halts development indefinitely by requiring open-ended consultation and ultimate land use decision by an advocacy commission for Native Americans. Oppose/ Job Killer.	Senate Appropriations 6/22/06
Regulatory Hurdles. SB 1523 (Alarcón; D-San Fernando Valley) stifles economic development by adding an economic impact report prior to the superstore retailer approval process. Oppose/ Job Killer.	Assembly Appropriations 6/28/06
Affordable Housing Development Impediment. SB 44 (Kehoe; D-San Diego) slows the development process by adding yet another element to be included within general plans and increases opportunities for “anti-growth” litigation. Oppose/ Job Killer.	Assembly Inactive File 1/17/06

Subject and Bill — Chamber Position	Status
<p>Native American Artifacts. SB 1395 (Ducheny; D-San Diego) potentially delays California Environmental Quality Act (CEQA) exempt projects by requiring a special CEQA notice and new consultation with tribes if project may affect cultural or spiritual site. Oppose.</p>	<p>Assembly Appropriations Hearing 8/9/06</p>
<p>Hazardous Substance Release: Vapor Intrusion. AB 2092 (Hancock; D-Berkeley) potentially stigmatizes entire neighborhoods and makes it increasingly difficult to attract crucial investment dollars to revitalize underserved communities by creating a statewide, publicly accessible list of properties with known or potential vapor intrusion before the risks of those intrusions are understood. Oppose.</p>	<p>Senate Appropriations 6/20/06</p>
<p>Mello-Roos Districts. SB 1432 (Lowenthal; D-Long Beach) reduces available funding for necessities such as basic infrastructure needs by inappropriately expanding the use of Mello-Roos taxes. Oppose.</p>	<p>Passed Assembly Local Government 6/29/06</p>
<h2 style="color: red;">Industrial Safety and Health</h2>	
<p>Cal/OSHA Standards Board: Dilution of Board Abilities. AB 815 (Lieber; D-Mountain View) is an unwarranted attempt to take away the ability of the California Occupational Safety and Health Standards Board to craft and adopt consensus workplace safety and health standards and adds unreasonable new customer reporting mandate that orders all businesses turn over names and addresses of customers who purchase certain chemicals or commercial products containing the chemicals. Oppose.</p>	<p>Held in Senate Appropriations 8/25/05</p>
<p>Employment Rights. AB 1912 (Maze; R-Visalia) reduces the ability of California employers to ensure safe workplaces for their employees. Oppose.</p>	<p>Assembly Labor & Employment 4/27/06</p>
<h2 style="color: red;">Insurance</h2>	
<p>Flood Insurance. AB 1898 (Jones; D-Sacramento) forces homeowners, business and local government to purchase flood insurance through a federal program that is not actuarially sound. Oppose.</p>	<p>Held in Assembly Banking & Finance 4/21/06</p>
<p>Insurance: Community Investments. AB 925 (Ridley-Thomas; D-Los Angeles) potentially undermines sound investment practices and leads to higher insurance premiums by requiring insurers to report community investments that would then be published to a public access website with the intent of leading to a mandate for a specified level of community investment. Oppose.</p>	<p>Senate Appropriations 6/21/06</p>
<h2 style="color: red;">International Relations/Trade</h2>	
<p>Comprehensive Trade Policy Planning. AB 2601 (Arambula; D-Fresno) directs the Business, Transportation and Housing Agency to study and develop a comprehensive plan on California's international trade policy by January 1, 2007. Support.</p>	<p>Senate Appropriations 6/29/06</p>
<p>International Trade Agreements. SB 1762 (Figueroa; D-Fremont) seeks to strip the power to give consent for trade agreements from state officials, including the Governor. Oppose.</p>	<p>Assembly Jobs, Economic Development & the Economy 6/27/06</p>
<p>*U.S.-Oman Free Trade Agreement. A bilateral free trade agreement that will foster increased trade and investment between both countries. This agreement is an important step in President Bush's plan to create a Middle East Free Trade Area by 2013. Support.</p>	<p>Passed U.S. Senate 6/29/06; Passed U.S. House 7/20/06</p>
<p>*U.S.-Peru Free Trade Agreement. A bilateral free trade agreement that will foster trade and investment between both countries. This agreement is an important step in President Bush's plan to create a U.S.-Andean Free Trade Agreement. Support.</p>	<p>Pending Congressional Action</p>
<p>*Permanent Normal Trade Relations for Vietnam. An agreement to grant permanent normal trade relations to Vietnam with the following step being entry into the World Trade Organization. Would allow U.S. entry into this emerging market of 83 million people. Support.</p>	<p>Pending Congressional Action</p>

Subject and Bill — Chamber Position	Status
Legal Protection and Reform	
Government Agency Potential Harassment of Employers. SB 1489 (Ducheny; D-San Diego) invites unlimited “fishing expeditions” by the Attorney General under numerous statutes, including the Unruh Civil Rights Act and environmental laws, by permitting judges to make defendant companies pay all the investigation and lawsuit costs, including attorneys’ fees if the Attorney General “prevails.” The term “prevail” could include settlements, changes in operation by the defendant or even a miniscule monetary award. Oppose/ Job Killer.	Passed Assembly Judiciary 6/27/06
Increases Litigation Costs. AB 2371 (Levine; D-Van Nuys) eliminates an employer’s ability to mandate the use of the far less expensive and faster process of arbitration rather than court to resolve discrimination claims under the California Fair Employment and Housing Act. Oppose.	Failed passage in Assembly 5/31/06
Cartwright Act: Monopolies. SB 1274 (Dunn; D-Garden Grove) significantly increases the ability of plaintiffs to bring frivolous anti-competition suits against companies and virtually removes the ability of defendants to achieve dismissal of these meritless suits, forcing businesses into drawn-out and costly jury trials or unreasonable settlements. Oppose.	Failed passage in Senate 6/1/06
Disasters: Price Controls. AB 457 (Núñez; D-Los Angeles) creates burdensome and arbitrary new standards for price controls on numerous industries and opens the door to unfair competition prosecutions brought at the subjective whim of the Attorney General. Oppose.	Senate Public Safety 6/28/06
Reduces Court Costs. SB 1386 (Morrow; R-Oceanside) helps reduce court costs by allowing businesses to contract that future lawsuits be tried by a judge only rather than undergo a full-blown jury trial, which is lengthier and more expensive. These contracts were previously used by numerous businesses in this state until they were prohibited last year by the <i>Grafton</i> Supreme Court decision. Sponsor/Co-Sponsor.	Failed passage in Senate Judiciary 5/2/06; Reconsideration granted
Reduces Court Costs. AB 2258 (Villines; R-Clovis) helps reduce court costs by allowing businesses to contract that future lawsuits be tried by a judge only rather than undergo a full-blown jury trial, which is lengthier and more expensive. These contracts were previously used by numerous businesses in this state until they were prohibited last year by the <i>Grafton</i> Supreme Court decision. Sponsor/Co-Sponsor.	Failed passage in Assembly Judiciary 5/2/06
Punitive Damages: Reform. SB 1429 (Morrow; R-Oceanside) helps bring balance to the court system by prohibiting punitive damages awards in product liability cases against companies that have complied with government standards as to that product. Support.	Senate Judiciary 5/10/06
Attorneys’ Fees/Penalty. SB 1818 (Alarcón; D-San Fernando Valley) unfairly chills the ability of large retailers to challenge local government actions, such as ordinances or regulations, in the courts. Oppose.	Passed Assembly Judiciary 6/27/06
Punitive Damages Reform. AB 1863 (Harman; R-Huntington Beach) gives judges rather than juries the responsibility of determining the amount of punitive damage awards. Sponsor/Co-Sponsor.	Failed passage in Assembly Judiciary 4/4/06
Other	
State Property: Vending Machines. SB 254 (Torlakson; D-Antioch) infringes on the discretionary rights of property managers by requiring vending machines located on state property to contain at least 50 percent food and beverages that meet certain accepted nutritional guidelines by December 31, 2007. Oppose.	Assembly Business & Professions 6/27/06

Subject and Bill — Chamber Position	Status
Political Affairs	
Political Contributions: Reporting/Refund Mandates. SB 1354 (Dunn; D-Garden Grove) chills business participation in the political process and interferes with shareholder dividends by placing significant administrative burdens on corporations to return to a shareholder that shareholder's pro rata share of a political contribution to which the shareholder objects. Oppose.	Failed Passage in Assembly Banking & Finance 6/26/06
Initiative Petitions. AB 2946 (Leno; D-San Francisco) denies the check and balance on the legislative branch by the public by limiting the use of paid signature gatherers critical for successfully sponsoring a referendum. Oppose.	Senate Appropriations 6/28/06
Privacy and Confidentiality	
Privacy. SB 550 (Speier; D-San Francisco/San Mateo) requires traditional brick-and-mortar businesses that operate a commercial website to have different privacy policies for their customers. Oppose.	Assembly Rules 6/27/06
Information Privacy: Consumer Credit Reports. SB 1744 (Bowen; D-Redondo Beach) exposes consumers to potential identity theft by requiring credit bureaus to lift credit freezes within 15 minutes. Oppose.	Failed passage in Assembly Banking & Finance 6/19/06; Reconsideration granted
Identity Information. SB 682 (Simitian; D-Palo Alto)/SB 768 (Simitian; D-Palo Alto) jeopardize the use of technologies that ensure the safety and security of identity information by limiting use of developing radio frequency identification devices (RFID) in government identity documents. Oppose.	SB 682 Assembly Appropriations Suspense File 11/17/05; SB 768 Assembly Inactive File 9/8/05
Personal Identifying Information. SB 1387 (Poochigian; R-Fresno) increases penalties for the theft and trafficking of personal identifying information. Support.	Assembly Appropriations 6/29/06
Privacy Protection: Personal Identification Documents. AB 2561 (Torrico; D-Newark) establishes a commission in Office of Privacy Protection to develop best practices regarding RFID in government identity documents. Support.	Senate Appropriations 6/27/06
Phishing. SB 1388 (Poochigian; R-Fresno) creates new criminal penalties for phishing — a person or website pretending to represent a legitimate business for the purpose of extracting personal information for fraudulent purposes. Support.	Assembly Appropriations Suspense File 6/28/06
Crime. AB 2886 (Frommer; D-Glendale) increases fines and penalties for identity theft, classifies mail theft as a wobbler and expands venue to counties where the victim resides. Support.	Senate Appropriations 6/27/06
State Government: Office of Faith-Based and Community Initiatives. AB 1958 (Leslie; R-Tahoe City) Before being amended to a different subject, this bill required disclosure of number of products that must be purchased and approximate cost associated with free gift offers over the Internet. Neutral.	Senate Rules 6/22/06
Small Business	
Small Business Advocate: Study of Regulatory Impact on Small Business. AB 2330 (Arambula; D-Fresno) helps protect ability of small businesses to maintain and create jobs by requiring a study of the cost impact of state regulations on California small businesses. Support.	Senate Appropriations 6/27/06
Small Business: Improved Access to Government. SB 1436 (Figueroa; D-Fremont) seeks to re-establish Small Business Ombudsman program to improve small businesses' access to information on proposed regulations affecting their businesses. Support.	Assembly Appropriations Hearing 8/9/06

Subject and Bill — Chamber Position	Status
<p>Emergency Preparedness. AB 3058 (Committee on Jobs, Economic Development and the Economy) instructs Office of Small Business Advocate to help prepare “Small Business Emergency/Disaster Preparedness” handbook. Support.</p>	Senate Appropriations 6/27/06
<h2 style="color: red;">Taxation</h2>	
<p>Tax Increase. AB 1177 (Chan; D-Oakland) increases the tax burden on small business by increasing the personal income tax rate to 10 and 11 percent and the alternative tax rate to 8.5 percent. Oppose/Job Killer.</p>	Senate Revenue & Taxation 6/26/06
<p>Tax Increase. AB 2829 (Ridley-Thomas; D-Los Angeles) increases taxes on multinational companies that do business in California but whose parent company is incorporated overseas. Oppose/Job Killer.</p>	Assembly Third Reading 5/30/06
<p>Tax Increase. AB 2892 (Ruskin; D-Palo Alto) penalizes multinational corporations that do business in California with higher taxes if they are incorporated, headquartered or located in a “tax haven,” regardless of legitimate business reasons for being there. Oppose.</p>	Assembly 2/27/06
<p>Tax Increase. SB 663 (Migden; D-San Francisco) increases taxes on multinational companies that do business in California by taxing investment income earned outside the United States. Oppose.</p>	Chapter 22
<p>Gas Tax Increase. AB 2442 (Klehs; D-Castro Valley) drives up fuel prices for businesses and consumers by imposing a 2 percent tax on oil companies’ net income in excess of \$10 million to fund a reduction in the gasoline sales tax. Oppose/Job Killer.</p>	Assembly Third Reading 5/30/06
<p>Gas Tax Increase. AB 3075 (Klehs; D-Castro Valley) drives up fuel prices for businesses and consumers by imposing a 5 percent tax on oil companies’ net income in excess of \$10 million to fund a reduction in the gasoline sales tax. Oppose/Job Killer.</p>	Senate Revenue & Taxation 6/20/06
<p>Gas Tax Increase. ACA 36 (Nation; D-San Rafael) makes California gasoline, already the most expensive in the nation, even more expensive by imposing a 25-cent increase over five years, none of which will be used for transportation. Oppose/Job Killer.</p>	Assembly 4/17/06
<p>Gas Tax Increase. AB 2325 (Nation; D-San Rafael) makes California gasoline, already the most expensive in the nation, even more expensive by imposing a 25-cent increase over five years, none of which will be used for transportation. Oppose.</p>	Assembly Revenue & Taxation 4/24/06
<p>Tax Increase. SB 1784 (Kuehl; D-Santa Monica) targets the self-employed and small businesses for a tax increase on taxable income that exceeds \$200,000 in order to fund a government-sponsored health care program. Oppose.</p>	Senate Health 4/20/06
<p>Business Tax Trap. AB 2344 (Chu; D-Monterey Park) makes California tax system unpredictable and burdensome by creating a tax “amnesty” program that could trap law-abiding, taxpaying companies into lost confidentiality protections, lost appeal rights, harsh penalties and criminal liability. Oppose.</p>	Senate Revenue & Taxation 6/28/06
<p>Tax Increase. SB 1118 (Figueroa; D-Fremont) targets and blames narrow segments of the food and drink industry for health care problems resulting from personal dietary choices and genetics by imposing a 2 percent sales tax on fast food and soda to fund a government-sponsored children’s health care program. Oppose.</p>	Senate Revenue & Taxation 5/10/06
<p>Tax Increase. SB 1008 (Ducheny; D-San Diego) reduces the state’s only remaining economic development tax credit by making it harder for businesses to qualify for the credit and making it harder for banks to lend to these businesses. Oppose/Job Killer.</p>	Assembly Revenue & Taxation 6/19/06
<p>Tax Increase. AB 1766 (Dymally; D-Compton) reduces the state’s only remaining economic development tax credit by making it harder for businesses to qualify for the credit and making it harder for banks to lend to these businesses. Oppose/Job Killer.</p>	Senate Third Reading 9/7/05

Subject and Bill — Chamber Position	Status
Tax Increase. AB 2830 (Ridley-Thomas; D-Los Angeles) increases taxes by changing how stock purchases in corporate acquisitions are taxed. Oppose.	Assembly Third Reading 5/30/06
Property Tax Increase. SB 17 (Escutia; D-Norwalk) deprives business of constitutional property tax rights and imposes extremely burdensome reporting requirements and harsh new penalties on business property owners. Oppose.	Assembly Inactive File 2/1/06
Business Investment Incentive and Tax Relief. AB 2218 (Torricon; D-Newark) helps revitalize the manufacturing industry and encourages business investment and expansion by providing various sales and use tax exemptions for manufacturers. Support.	Held in Assembly Appropriations Suspense File 5/25/06
Business Investment Incentive and Tax Relief. SB 1643 (Runner; R-Lancaster) encourages business investment and expansion by providing various sales and use tax exemptions for manufacturers. Support.	Senate Revenue & Taxation 4/26/06
Business Investment Incentive and Tax Relief. SB 1291 (Alquist; D-Santa Clara) encourages business investment and expansion by providing various sales and use tax exemptions for manufacturers. Support.	Senate Revenue & Taxation 4/26/06
Business Investment Incentive and Tax Relief. SB 1619 (Dutton; R-Rancho Cucamonga) helps stimulate and revive the airline industry by capping the amount of tax on the sale and use of fuel and petroleum. Support.	Senate Revenue & Taxation 4/26/06
Business Investment Incentive and Tax Relief. AB 2395 (Villines; R-Clovis) encourages business investment and expansion of start-up companies by providing them an income tax exemption for sale or use of manufacturing equipment. Support.	Held in Assembly Revenue & Taxation Suspense File 5/15/06
Streamlined Taxes. AB 970 (Torricon; D-Newark) eliminates unnecessary tax reporting burden and waste by streamlining the tax-filing process for out-of-state board of director members who must pay California taxes merely because they attend a board meeting in California. Sponsor/Co-Sponsor.	Senate Appropriations 6/29/06
Research and Development Tax Incentive. AB 2032 (Lieu; D-Torrance) stimulates investment and encourages growth in research and development by increasing the state's research and development tax credit. Support.	Held in Assembly Revenue & Taxation 5/15/06
Economic Development Tax Incentive. AB 2502 (Arambula; D-Fresno) encourages small business to locate, stay and expand within enterprise zones by providing the ability to transfer extra enterprise zone research and development incentives to satisfy other tax obligations. Support.	Assembly Revenue & Taxation 4/27/06
Economic Development Tax Incentive. AB 2589 (S. Runner; R-Lancaster) stimulates California's economy by allowing enterprise zone credits to be used to reduce the tax attributable to the income of all a business's enterprise zone activities. Support.	Held in Assembly Revenue & Taxation Suspense File 5/15/06
Job Creation Incentive. AB 2640 (Torricon; D-Newark) stimulates California's economy by establishing a tax credit for employers who create new jobs in California. Support.	Held in Assembly Revenue & Taxation Suspense File 5/15/06
Job Creation Incentive. AB 37 (Torricon; D-Newark) rewards businesses that invest in California by establishing a job creation tax credit. Support.	Held in Assembly Revenue & Taxation Suspense File 5/15/06
New High-Tech Jobs. AB 2033 (Lieu; D-Torrance) helps bring new jobs to California by helping defense contracting companies to secure cutting-edge federal defense aircraft projects. Support.	Held in Assembly Revenue & Taxation 5/15/06
Economic Development Incentive. AB 2547 (Ridley-Thomas; D-Los Angeles) encourages revitalization and reuse of blighted areas, which will help generate housing needed to accommodate California's growing population, additional jobs and economic growth. Support.	Held in Assembly Appropriations Suspense File 5/25/06

Subject and Bill — Chamber Position	Status
Small Business Tax Fix. AB 2668 (Canciamilla; D-Pittsburg) corrects unintended and adverse tax consequences of legislation enacted in 2002 that forced about 11,000 California companies to change their incorporation status from “C” to “S.” Support.	Assembly Revenue & Taxation 3/14/06
Tax Burden Increase and Penalties. AB 675 (Klehs; D-Castro Valley) creates burdensome new tax reporting requirements and harsh and unnecessary new penalties for large corporations. Oppose.	Senate Appropriations 6/29/06
Government Harassment of Taxpayers. AB 1026 (J. Horton; D-Inglewood) burdens business by creating an automatic and unnecessary audit of certain corporate tax returns. Oppose.	Assembly Revenue & Taxation 1/31/06
Government-Prepared Tax Returns. AB 1046 (Frommer; D-Glendale) undermines taxpayer independence and violates conflict of interest principles by allowing the state tax collector and enforcer to establish a government-run tax return preparation program. Oppose.	Senate Revenue & Taxation 6/26/06
Government-Prepared Tax Returns. AB 2905 (Frommer; D-Glendale) undermines taxpayer independence and violates conflict of interest principles by allowing the state tax collector and enforcer to establish a government-run tax return preparation program. Oppose.	Assembly Inactive File 5/31/06
Small Business Tax Relief. AB 1847 (Leslie; R-Tahoe City) helps small businesses to comply with disability laws by offsetting some of the monetary costs of disabled access changes, such as reconfiguring a building or workspace. Support.	Held in Assembly Appropriations Suspense File 5/25/06
Small Business Tax Fix. AB 2982 (Lieber; D-Mountain View) corrects unintended and adverse tax consequences of legislation enacted in 2002 that forced about 11,000 California companies to change their incorporation status from “C” to “S.” Support.	Held in Assembly Appropriations Suspense File 5/25/06
Tax Increase. SB 308 (Simitian; D-Palo Alto) increases taxes by creating a new fee to be imposed by counties on every real estate recording in order to fund the Elder and Dependent Adult Financial Abuse Prevention Trust Fund. Oppose.	Assembly Rules 6/26/06
<h2 style="color: red;">Telecommunications</h2>	
Telecommunications Competition. AB 2987 (Núñez; D-Los Angeles) encourages competition in the video services market, leading to lower prices, enhances private investment in our telecommunications infrastructure and creates jobs by removing city-by-city franchising requirements that have prevented new competitors from entering the television entertainment services market. Support.	Passed Senate Energy, Utilities and Communications 6/29/06
Antiquated Regulations. SB 1068 (Escutia; D-Norwalk) stifles innovation and limits consumer choices by imposing antiquated regulations developed for monopolistic landline telephone services on rapidly growing and competitive telecommunications industry. Oppose/ Job Killer.	Passed Assembly Utilities & Commerce 6/19/06
<h2 style="color: red;">Tourism</h2>	
Touch-Screen Devices. AB 768 (Nation; D-San Rafael) originally imposed costly new mandates on the travel industry that did not take into account a lack of technology for retrofitting travel kiosks, but has been amended to conform with more reasonable federal accessibility requirements. Neutral.	Senate Third Reading 6/22/06
Tourism Promotion. AB 2592 (Leno; D-San Francisco) enhances the industry-funded program to promote tourism in California by adjusting the makeup of the California Travel and Tourism Commission, which oversees use of the program funds, to assure geographical diversity and by permitting the gaming industry to participate in the voluntary assessment to fund the program. Support.	Senate Third Reading 6/28/06

Subject and Bill — Chamber Position	Status
<h2 style="color: red;">Transportation</h2>	
<p>Ports: Regulatory Complexity. AB 1101 (Oropeza; D-Long Beach) hampers operations at ports, rail yards and airports by shifting regulatory authority over emissions from state to local entities, creating a patchwork of potentially inconsistent regulations statewide, creating conflicts with federal law. Oppose/Job Killer.</p>	Senate Appropriations 6/26/06
<p>Ports: Goods Movement Cost Increase. SB 760 (Lowenthal; D-Long Beach) increases the cost of goods movement in California by assessing a \$30 fee per twenty-foot equivalent unit on containers processed through the Los Angeles and Long Beach ports. Oppose/Job Killer.</p>	Assembly Appropriations 8/17/05
<p>Ports: Goods Movement Cost Increase. SB 764 (Lowenthal; D-Long Beach) increases the costs of goods movement and drives business and jobs from California ports by requiring the City of Los Angeles and the City of Long Beach to prohibit any growth at their respective ports unless that growth can be accomplished with no net negative impact on air quality. Oppose/Job Killer.</p>	Assembly Appropriations Suspend File 6/28/06
<p>Ports: Cost Increase. SB 762 (Lowenthal; D-Long Beach) 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 state's major ports. Oppose.</p>	Failed Passage in Assembly Transportation 6/26/06
<p>Public Contracts: Design-Build Contracting: Transportation Entities. SB 371 (Torlakson; D-Antioch) improves project delivery by developing alternative and optional procedures for bidding on public construction projects. Support.</p>	Held at Assembly Desk 1/31/06
<p>Goods Movement Cost Increase. SB 459 (Romero; D-Los Angeles) increases the cost of goods movement and discourages job creation by imposing an air quality mitigation fee on railroad companies that operate in the counties of Los Angeles, Riverside and San Bernardino. Oppose.</p>	Assembly Appropriations Hearing 8/9/06
<p>Air Pollution: Marine Ports: Emissions. SB 1601 (Lowenthal; D-Long Beach) hinders port operations by requiring a lessee to use the best available control technology to reduce emissions when signing new or renegotiated existing leases. Oppose.</p>	Senate Third Reading 5/30/06
<h2 style="color: red;">Unemployment Insurance/State Disability Insurance</h2>	
<p>Unemployment Insurance Compensation Benefits: Strikers. AB 1884 (Chu; D-Oakland) increases the cost of doing business in California by forcing California employers to subsidize a strike against their own company by providing unemployment insurance benefits to workers unemployed due to a strike. Oppose/Job Killer.</p>	Senate Appropriations 6/29/06
<p>Unemployment Insurance Benefit Expansion: Strikers. AB 2209 (Pavley; D-Agoura Hills) increases the cost of business by forcing California employers to subsidize a strike against their own company by requiring an employer to pay locked out workers a monetary penalty equal to level of unemployment insurance benefits workers might have received during a trade dispute if any business misconduct is alleged. Oppose/Job Killer.</p>	Senate Appropriations 6/29/06
<h2 style="color: red;">Water Supply and Quality</h2>	
<p>Halts Economic Growth. AB 1528 (Jones; D-Sacramento) halts much-needed housing in undeveloped areas by shifting flood liability from state government to local government, resulting in local governments refusing to issue development permits. Oppose/Job Killer.</p>	Senate Judiciary 6/26/06
<p>Halts Economic Growth. AB 1899 (Wolk; D-Davis) prohibits development in the Central Valley by requiring the creation of a 200-year flood standard that is currently impossible to achieve. Oppose/Job Killer.</p>	Senate Appropriations 6/28/06

Subject and Bill — Chamber Position	Status
Flood Control Liability. AB 3050 (Committee on Judiciary) provides that liability for flood damage or personal injury is jointly shared by the state and local public entities. Oppose.	Assembly Inactive File 6/12/06
Water Discharge Fee. SB 646 (Kuehl; D-Santa Monica) jeopardizes jobs and agriculture and timber industry revenues by imposing mandatory annual fees for water discharge waivers with no accountability requirements. Oppose/ Job Killer.	Assembly Inactive File 5/11/06
Water. SB 1640 (Kuehl; D-Santa Monica) imposes a new groundwater monitoring and reporting requirement that is locally funded. Oppose.	Assembly Appropriations Hearing 8/9/06
Flood Management. AB 1665 (Laird; D-Santa Cruz) Before being amended, this bill imposed a two tier system of flood assessments on property owners and businesses in certain parts of the state in addition to any current assessments being levied. Imposes new duties on the Department of Water Resources to provide flood maps, but does not augment funding. Neutral.	Senate Appropriations 6/28/06
Flood Preparedness. AB 3022 (Umberg; D-Santa Ana) enhances flood protection preparedness for new home buyers through notification that the property for sale is protected by levees and guarantees access to flood insurance and preparedness information. Support.	Senate Appropriations 7/7/06
General Plans Cost Increase. AB 802 (Wolk; D-Davis) Before being amended, this bill would have slowed development of affordable housing and increased opportunity for unnecessary litigation by forcing local government to integrate two incompatible planning processes. Neutral.	Senate Appropriations 6/27/06
Workers' Compensation	
Medical Treatment Utilization Schedule. AB 1209 (Yee; D-San Francisco) undermines recent workers' compensation reforms and increases costs by removing treatment limits on physical and occupational therapy and chiropractic care. Oppose.	Senate Labor & Industrial Relations 6/28/06
Designation of Physician. AB 2068 (Nava; D-Santa Barbara) undermines recent workers' compensation reforms by allowing employees to be treated by their personal physician outside established occupational medical treatment guidelines, utilization review and medical provider networks that were created to contain costs and provide efficient and appropriate medical care. Oppose.	Passed Senate Labor & Industrial Relations 6/29/06
Health Care Services. AB 2590 (Keene; R-Chico) unwinds workers' compensation reforms by compromising an employer's ability to manage its claims and puts injured workers at risk of unnecessary treatment by allowing employees to choose and pay for medical treatment outside the workers' compensation system. Oppose.	Failed Passage in Assembly Insurance 4/26/06; Reconsideration granted
Proof of Insurance Coverage. AB 1883 (De La Torre; D-South Gate) potentially exposes employers to enforcement action if the published information regarding their workers' compensation coverage is inaccurate and used for a coverage enforcement program. Mandates a private non-profit association to administer the program without the technical capability. Oppose.	Senate Appropriations 6/28/06
Medical Service Visits. AB 3026 (Lieber; D-Mountain View) undermines recent workers' compensation reforms and increases costs by allowing chiropractic treatment and physical and occupational therapy to be extended beyond the statutory limit of 24 without the establishment of medical necessity through utilization review. Oppose.	Passed Senate Labor & Industrial Relations 6/29/06
Acupuncture. AB 2287 (Chu; D-Monterey Park) creates an unfounded legislative edict that could lead to escalating, unchecked cost for acupuncture in workers' compensation treatment outside of evidence-based medical guidelines and in potential conflict of statutory medical guidelines. Oppose.	Senate Third Reading 6/29/06
Apportionment: Presumptions. AB 1368 (Umberg; D-Santa Ana) mandates substantial new costs for local governments, allowing peace officers injured on the job to receive permanent disability payments for injuries incurred off the job. This bill proposes to roll back and undermine important cost containment components of the workers' compensation system that are in place for all employers, both public and private. Oppose.	Senate Appropriations 6/29/06

Subject and Bill — Chamber Position	Status
<p>Workers' Compensation: Medical Provider Networks. AB 1612 (Pavley; D-Agoura Hills) undermines recent workers' compensation reforms establishing medical provider networks by allowing doctors to opt out at will of their legally binding contract to treat injured workers, potentially leading to increased costs. Oppose.</p>	<p>Passed Senate Labor & Industrial Relations 6/29/06</p>
<p>Workers' Compensation: Access to Health Care. AB 2524 (DeVore; R-Irvine) seeks to roll back reasonable pharmaceutical fee schedules established in recent workers' compensation reforms and could lead to out-of-control costs for pharmaceuticals in workers' compensation by de-linking the reimbursement rates from the Medi-Cal fee schedule and creating an independent, subjective and higher fee schedule through a mandated study. Oppose.</p>	<p>Held in Assembly Appropriations Suspense File 5/25/06</p>
<p>California Insurance Guarantee Association. AB 3072 (Committee on Insurance) will prevent excess unnecessary expenses in workers' compensation by allowing the employer-funded California Insurance Guarantee Association (CIGA) to issue currently authorized bonds at a later date, instead of incurring bond liability and expense before it is needed. Employers fund CIGA to guarantee workers' compensation claims in the event of insolvency. Support.</p>	<p>To Governor 7/10/06</p>
<p>First Aid: Report. AB 1862 (Vargas; D-San Diego) could identify opportunities to strengthen the ability of employers to control costs as well as ensure that those opportunities are appropriate for efficient delivery of medical treatment through this mandated study of first aid injury reporting in workers' compensation. Support.</p>	<p>Senate Appropriations 6/29/06</p>
<p>Inpatient Burn Diagnoses: Reimbursement Review. AB 2942 (Koretz; D-West Hollywood) mandates a study intended to lead to higher reimbursement rates for treatment of burn patients, bypassing the Inpatient Hospital Fee Schedule established through recent bipartisan reforms, establishing a new reimbursement scheme that would upset the current actuarial assessment by insurance companies, leading to higher insurance premiums for employers. Oppose.</p>	<p>Senate Appropriations 6/29/06</p>

Key to Status Descriptions

Note: In general, Senate bills that remain in a Senate committee and Assembly bills that remain in an Assembly committee are unlikely to see further action in this legislative session, which concludes when legislators adjourn on August 31. Fiscal (tax) bills, however, may be considered at any time.

- Assembly or Senate Inactive file: In house of origin; no further action on bill expected this session.
- Assembly or Senate Appropriations Suspense file: Bills with fiscal impact are placed on the suspense file pending the Legislature's review of their overall financial impact.
- Assembly Second Reading or Assembly Third Reading: Bill awaits action by full Assembly.
- Chapter: A bill listing a chapter number has been signed by the Governor and will become law on January 1, 2007 (urgency measures become law as soon as they are signed).
- Held in a committee: No further action on bill expected this session, except tax bills.
- Held at Assembly or Senate desk: Awaiting assignment to an Assembly or Senate policy committee.
- Reconsideration granted: No further action expected this session.
- Senate Third Reading: Bill awaits action by full Senate.

Action Needed to Stop 'Job Killer' Health Care Mandate



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 has passed through two Assembly policy committees and has moved to the Assembly Appropriations Committee.

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.

A study released earlier this year by the Employment Policies Institute showed that, if passed nationwide, mandates for employer-paid health

care would trigger job losses for 315,000 Americans.

SB 1414 is similar to a law adopted this year in Maryland that recently was overturned by a federal judge.

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

California Chamber Opposes SF Employer Health Care Mandate

The San Francisco City and County Board of Supervisors early this week passed a California Chamber-**opposed** ordinance mandating that businesses pay into a plan to provide health care coverage to uninsured residents. The goal is to provide health care coverage to the more than 82,000 uninsured residents in the city and county of San Francisco.

The ordinance passed on a vote of 11-0 and was signed by San Francisco Mayor Gavin Newsom. It mandates that employers with 20-99 employees pay \$1.06 per worker per hour worked and employers with 100 or more employees pay \$1.60 per worker per hour worked for health care expenditures.

Program Specifics

The San Francisco Health Care Access

Program (HAP) is not an insurance plan, but rather, establishes a network of medical providers with all covered residents being assigned a primary care provider. The program is expected to be up and running by July 1, 2007, and is estimated to cost \$200 million annually — \$2,400 per person.

Firms with 20-49 workers must start paying into the HAP in April 2008. Businesses that already contribute to employees' health care expenses also will be required to pay if their contribution is less per employee than the mandated levels.

Hurts Small Businesses

The city's economic analysis anticipates the mandate likely will have a disproportionate impact on San Francisco's small business community. Unfortunately,

these small businesses are the ones that can least afford to provide health care coverage, as evidenced by the fact that less than half of small employers provide health care coverage.

The ordinance also will have a negative impact on many large businesses that currently provide coverage for employees, but not necessarily dependents.

Mandating coverage means large employers will incur significant new costs that could severely limit expansion of California operations and the hiring of new employees, and likely will lead to layoffs and relocations due to the significant new costs associated with the ordinance.

Staff Contact: Marti Fisher

Wal-Mart Health Care Mandate Overturned by Federal Court

Earlier this month a federal judge overturned a Maryland law that would have required "non-governmental employers of 10,000 or more people in the state" to spend a certain portion of their payrolls on health care benefits.

Only four employers in Maryland employ 10,000 or more employees, and the Maryland General Assembly anticipated that only Wal-Mart Stores Inc. would be affected by the legislation.

Judge J. Frederick Motz of the U.S. District Court in Baltimore ruled in *Retail*

Industry Leaders Association v. Fielder that the Maryland statute was pre-empted by the federal Employment Retirement Income Security Act of 1974 (ERISA) and that his decision was "in accordance with long-established Supreme Court law that state laws which impose employee health or welfare mandates on employers are invalid under ERISA."

Implications for California

The ruling has implications in California, where a California Chamber of Com-

merce-**opposed** "job killer" bill similar to the Maryland statute is awaiting consideration by the Assembly Appropriations Committee when the Legislature reconvenes in August.

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.

Staff Contact: Marti Fisher

California Chamber Members Honored for Energy Conservation Efforts

The California Chamber of Commerce applauds the energy conservation efforts of members honored recently by Flex Your PowerSM with the 4th Annual Flex Your Power Awards.

Established in 2001 as a response to California's 2001-02 energy crisis, Flex Your Power is California's statewide energy efficiency marketing and outreach campaign, and is credited with launching a promising long-term energy efficiency strategy for California businesses, utilities, governments and private citizens.

Award Categories

Flex Your Power Awards are given in five categories:

- **Energy Efficiency** — Installation of energy-efficient equipment, lighting and appliances;
- **Demand Response/Conservation** — Activities or equipment used to reduce energy use during certain times of the day (for example, at peak) by shedding or shifting demand.
- **Education and Leadership** — Educational efforts or outstanding leadership having significant impact on energy efficiency or demand response/conservation.
- **Innovations for Products or Services** — Innovations that improve energy efficiency or demand response in technological research and development, manufacturing, retailer promotions, or vendor, contractor and consultant programs.
- **Best Overall.**

This year, 12 Chamber members won the award, while 13 received honorable mentions. This issue of *Alert* will profile the award winners; a future edition will highlight the honorable mentions.

Flex Your Power Winners

Chamber members winning the 4th Annual Flex Your Power Awards are:

● **California Portland Cement Company (CPCC).** Winner — Innovative Products and Services. CPCC's nearly \$3 million in annual electricity savings (a 10 percent cut of about 31 million kilowatt hours (kWh)) resulted from process

improvements and equipment upgrades, including a new grinding mill that reduces energy consumption by 40 percent compared to older mills.



● **Children's Hospital of Central California.** Winner — Energy Efficiency. A 2002 facility-wide energy audit led to a number of equipment upgrades that have saved 3 million kWh of energy. Investments made in 2004 alone will save the hospital \$270,000.

Full payback for all upgrades is expected in 18 months.

● **Del Monte Foods.** Winner — Education and Leadership. Del Monte Foods' fruit-canning facility in Modesto was selected by the U.S. Department of Energy and National Association of State Energy Officials as a food industry pilot for assessing comprehensive energy efficiency management technologies.

● **El Dorado Irrigation District (EID).** Winner — Demand Response. In 2005, EID shifted some water-pumping electric use to off-peak hours, saving 15 percent on its electric bills. EID has been invited to share its model with other water agencies and has plans to build a new water transmission line to increase off-peak pumping abilities further.

● **Grimmway Farms.** Winner — Energy Efficiency. By installing new refrigeration systems — the main energy consumer at its four Bakersfield facilities — Grimmway Farms reduced annual energy consumption 15 percent, a savings of more than \$300,000 and 3.4 million kWh annually.

● **Hewlett-Packard Company (HP).** Winner — Demand Response. The company used enhanced automation, employee education and software, such as sleep programs, to save as much as 7.8 million kWh in 2005. HP produces more than 1,000 Energy Star®-qualified products for home and office use.

● **Johnson & Johnson Pharmaceutical Research & Development.** Winner — Energy Efficiency. The company's new La Jolla lab beats state energy efficiency standards by 18 percent. A cogeneration system supplied 95 percent

of electricity, as well as cooling and heating. Water efficiency measures save 11 million gallons annually.

● **Lockheed Martin Space Systems Co.** Winner — Demand Response. Lockheed Martin reduced electricity usage by 4.5 percent overall and by 7.3 percent in one yard by investing in efficient equipment and controls, running employee awareness programs and running audits of employees who leave equipment on after hours.

● **Otay Water District (OWD).** Winner — Demand Response. OWD cut peak electricity demand by 56 percent through time-of-use metering (measuring electricity use in time increments rather than real time) and off-peak pumping. OWD also has upgraded its equipment since 2003, saving \$93,000 and 1.7 million kWh annually.

● **Qualcomm Incorporated.** Winner — Education and Leadership. Qualcomm maintains a web page that provides its employees with suggestions for reducing energy use at work and at home, hosts events to educate industry peers on energy conservation measures, and chairs and engages in a variety of energy policy groups.

● **Swinerton Incorporated.** Winner — Energy Efficiency. Renovated company headquarters save more than \$150,000 annually and the building's electricity use has dropped 50 percent. The renovations earned Swinerton Inc. a Gold Leadership in Energy and Environmental Design (LEED) rating.

● **University of California, Berkeley.** Winner — Best Overall. The campus has implemented energy efficiency at all levels. It has upgraded 6,000 lights, created a Green Building Research Center and educated students about energy efficiency through classes and contests. All new buildings are designed to LEED Silver standards.

To learn more about Flex Your Power, visit www.fypower.org.

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Court Ruling Clarifies Federal-State Endangered Species Relationship



A recent court decision helps to clarify the relationship between the federal Endangered Species Act and “fully protected species” under the California Fish and Game Code.

In June, the 9th Circuit Court of Appeals upheld an earlier ruling by the U.S. District Court that the U.S. Fish and Wildlife Service may authorize incidental takings of an endangered species under federal law, even if that species is “fully protected” under California law.

The appeals court decision puts to rest a long-standing question about whether the Service can legally authorize incidental takings of “fully protected species” despite regulations that require such takes to be “an otherwise lawful activity.”

Threespine Stickleback

The species in question in *Center for Biological Diversity v. U.S. Fish and Wildlife Service* is the freshwater unarmored threespine stickleback, which resides largely in Southern California waters.

Although the fish is “fully protected” under California law, the U.S. Bureau of Land Management awarded a contract to a mining company for a project that required pumping water from the Santa Clara River, a stickleback habitat.

The Service had concluded that the project was “not likely to jeopardize the continued existence of the stickleback.” The Center for Biological Diversity (CBD), however, filed suit against the Service, arguing that the Service was in violation of its own regulations because any taking of a California “fully protected” species is illegal under California law.

‘Otherwise Lawful Activity’

Specifically, CBD pointed out that an “otherwise lawful activity” according to the regulations was one that met “all state and federal legal requirements.”

Because California law independently protects the stickleback from *any* taking, incidental or not, CBD argued that the Service could not legally issue an incidental take statement for the mining project.

According to the California Fish and Game Code, “Fully protected fish...may not be taken or possessed at any time” and no provision of the code or “any other law shall be construed to authorize

the issuance of permits or licenses to take any fully protected fish.”

Unreasonable Requirement

The 9th Circuit disagreed with the portion of CBD’s argument that claimed the Service must ensure compliance with all federal and state laws before issuing an incidental take statement.

The court explained that this requirement would be unreasonable because it would impose upon the Service a “sweeping duty to require compliance with all other laws before issuing” an incidental take statement, including a host of “zoning laws and permitting requirements that are completely unrelated to preservation and conservation efforts.”

Thus, the court concluded that the Service, notwithstanding the absolute protections provided under California law, can issue incidental take statements on “fully protected species,” such as the unarmored threespine stickleback.

Chamber Position

The California Chamber of Commerce agrees with the court’s ruling and supports reforms to state and federal endangered species laws that achieve a balanced approach between environmental protection and socio-economic progress.

Staff Contact: Valerie Nera

Focus on Promotion Authority Renewal as Trade Talks Collapse



Following this week’s collapse of the latest round of World Trade Organization (WTO) discussions, advocates of freer global trade are shifting their focus to renewing presidential authority to quickly negotiate future trade agreements.

State of World Trade

The United States has been attempting to promote development through the current “Doha” round of trade negotiations, including improved market access for trade between the more developed countries and requiring countries to lower their import tariffs on both industrial and

agricultural products. U.S. trade representatives state that negotiations had reached an impasse, and criticism followed from the European Union directed at the U.S. position in Doha.

The WTO has had a tremendous impact on how California producers of goods and services compete in overseas markets, as well as domestically, and is creating jobs and economic growth through expanded international trade and investment. It gives businesses improved access to foreign markets and better rules to ensure that competition with foreign businesses is conducted fairly.

Trade Promotion Authority

Trade Promotion Authority (TPA, formerly called fast track trade negotiat-

ing authority) is the process by which Congress gives authority to the President and/or U.S. Trade Representative to enter into trade negotiations in order to lower U.S. export barriers. TPA expires in June 2007 and will be needed for the United States to continue participation in future WTO negotiations.

Chamber Position

The California Chamber of Commerce has continually supported renewed TPA as a vital component for the President to negotiate trade agreements that will improve California companies’ access to foreign markets, eliminating disincentives that impede the competitiveness of California business.

Staff Contact: Susanne Stirling

U.S.-Oman Free Trade Agreement Gains Approval from U.S. House



The California Chamber of Commerce-supported U.S.-Oman Free Trade Agreement (FTA) has been approved by the U.S. House of Representatives.

The 221-205 vote on July 20 followed a U.S. Senate vote on June 29 passing

the FTA by a vote of 60-34, but because of some new language the U.S. House added to the FTA, it must return to the U.S. Senate for another vote.

California is currently the seventh largest state exporter to Oman with slightly more than \$14 million exported in 2004. Bilateral trade between the United States and Oman rose to nearly \$750 million in 2004, with U.S. exports to Oman totaling \$329 million in 2004 and reaching \$593 million in 2005.

Increased Market Share

The U.S.-Oman FTA will provide increased market share for U.S. manufacturers and service providers. For California manufacturers, the FTA eliminates immediately 100 percent of tariffs on current bilateral trade in consumer and industrial goods, including tariffs on California's key products, such as machinery, transportation equipment, chemicals and metal products. Remaining tariffs will be eliminated within 10 years.

The U.S.-Oman FTA will broaden and strengthen the bilateral commercial relationship between the United States and Oman beyond the \$1.2 billion generated in two-way trade in 2005. Under the FTA, 100 percent of bilateral trade in consumer and industrial products will be duty-free.

For California's agricultural producers, the FTA provides immediate duty-free treatment for current U.S. agricultural exports in 87 percent of the tariff lines, benefiting California's meat, processed food and other agricultural

California Congressional Delegation Vote on U.S.-Oman Free Trade Agreement

<p>U.S. Senate</p> <p>No (1 of 34) Dianne Feinstein (D-San Francisco)</p> <p>Not Voting (1 of 6) Barbara Boxer (D-Greenbrae)</p> <p>House of Representatives</p> <p>Ayes (22 of 221)</p> <p>Brian P. Bilbray (R-Carlsbad) Mary Bono (R-Palm Springs) Ken Calvert (R-Corona) John Campbell (R-Irvine) Susan A. Davis (D-San Diego) John T. Doolittle (R-Roseville) David Dreier (R-San Dimas) Elton Gallegly (R-Simi Valley) Jane Harman (D-Venice) Wally Herger (R-Marysville) Duncan Hunter (R-Alpine) Darrell E. Issa (R-Vista) Jerry Lewis (R-Redlands) Daniel E. Lungren (R-Folsom) Howard P. "Buck" McKeon (R-Santa Clarita) Gary G. Miller (R-Diamond Bar) Devin Nunes (R-Tulare) Richard W. Pombo (R-Tracy) Dana Rohrabacher (R-Huntington Beach) Edward R. Royce (R-Fullerton) Ellen O. Tauscher (D-Alamo) William M. Thomas (R-Bakersfield)</p>	<p>Noes (31 of 205)</p> <p>Joe Baca (D-Rialto) Xavier Becerra (D-Los Angeles) Howard L. Berman (D-North Hollywood) Lois Capps (D-Santa Barbara) Dennis A. Cardoza (D-Atwater) Jim Costa (D-Fresno) Anna G. Eshoo (D-Atherton) Sam Farr (D-Carmel) Bob Filner (D-San Diego) Michael M. Honda (D-San Jose) Tom Lantos (D-San Mateo) Barbara Lee (D-Oakland) Zoe Lofgren (D-San Jose) Doris O. Matsui (D-Sacramento) Juanita Millender-McDonald (D-Carson) George Miller (D-Martinez) Grace F. Napolitano (D-Norwalk) Nancy Pelosi (D-San Francisco) George Radanovich (R-Mariposa) Lucille Roybal-Allard (D-Los Angeles) Linda T. Sánchez (D-Lakewood) Loretta Sanchez (D-Anaheim) Adam B. Schiff (D-Burbank) Brad Sherman (D-Sherman Oaks) Hilda L. Solis (D-El Monte) Fortney "Pete" Stark (D-Fremont) Mike Thompson (D-St. Helena) Maxine Waters (D-Los Angeles) Diane E. Watson (D-Los Angeles) Henry A. Waxman (D-Los Angeles) Lynn C. Woolsey (D-Petaluma)</p>
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industries. Remaining tariffs will be phased out over 10 years.

For California's service providers, the FTA will provide non-discriminatory access and open key service markets, benefiting California's financial, telecommunication, entertainment and audio-visual, and other key service providers.

Chamber Position

The Chamber, in keeping with

long-standing policy, enthusiastically supports free trade worldwide, expansion of international trade and investment, fair and equitable market access for California products aboard and elimination of disincentives that impede the international competitiveness of California business.

The FTA is expected to be signed by President George W. Bush sometime this year.

Staff Contact: Susanne Stirling

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