

ALERT

CALIFORNIA CHAMBER OF COMMERCE

VOLUME 32, NUMBER 25 • AUGUST 11, 2006



State-Only Emissions Cap on Committee Suspense File

Chamber, Coalition Suggest Better Way to Lead



California Chamber of Commerce-**opposed** legislation that will arbitrarily cap California's carbon emissions was placed on the Senate Appropriations Committee suspense file

on August 7.

AB 32 (Núñez; D-Los Angeles) is a "job killer" bill that increases costs for California businesses, makes them less

competitive, and discourages economic growth with little or no proven environmental benefit by adopting an arbitrary California-only cap on carbon emissions. Further, AB 32 makes California unattractive to business by setting up a costly, state-only mandatory reporting system.

"This week's action by the Senate Appropriations Committee to place AB 32 in the suspense file is a clear admission that the bill will be extremely costly to the state and that it warrants further study,"

See State-Only: Page 4



Two California Chamber of Commerce-**opposed** "job killer" bills expanding unemployment insurance (UI) benefits have made their way to the Senate floor.

AB 1884 (Chu; D-Monterey Park) increases the cost of doing business in California by forcing California employers to subsidize a strike against their own company by providing UI benefits to workers unemployed due to a strike.

The bill adds more than \$16 million in new costs to the UI fund, which already is funded completely by employer UI taxes set at the highest levels permitted under law, and would eliminate incentives for employers and employees to settle in a timely fashion.

AB 2209 (Pavley; D-Agoura Hills) increases the cost of doing business in California by forcing employers, in essence, to subsidize a strike against their company by creating a new monetary penalty payment — equivalent to all lost wages and benefits — that employers must pay directly to all workers unemployed due to the strike.

The penalty award would apply if any legal body makes a finding of any em-

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Chamber Backs Renewable Energy Line



California Chamber President Allan Zaremborg speaks to the Board of Governors of the California Independent System Operator (ISO) in support of the Sunrise Powerlink project to bring 1,000 megawatts of renewable energy to the state's power grid, eliminating up to 7 million tons of greenhouse gas in the process. See story on Page 7.

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Labor Law Corner

Changing Non-Exempt Employee to Salaried Not Worth Disadvantages



Dale Louton
Labor Law Consultant

What would be the advantage of changing a non-exempt employee from an hourly rate to a monthly salary?

The only possible benefit to paying a salary to a non-exempt employee is ego enhancement, but the disadvantage is obvious.

There is a real possibility of inadvertently being in violation of certain sections of the applicable Industrial Welfare Commission Wage Orders and the Labor Code.

Where Are Time Records?

Employers must keep time records of hours worked by non-exempt employees in accordance with Section 7 of the applicable Wage Order regardless of whether those employees are salaried or hourly.

Employers who have non-exempt employees on salary often fail to keep these time records simply because they believe these records are not required. This practice can lead to complaints that an employee was not paid for all hours worked.

Overcoming such a charge is not insurmountable; the burden shifts to the employer, however, and proving one's case can be difficult and costly. In any case involving pay issues, expect to hear the question, "Where are the time records?"

Crucial Code Compliance

Because Section 7 of the Wage Order requires meal periods to be recorded, and Section 11 provides for penalties for the failure to provide required meal breaks, the importance of time records cannot be overstated.

There is a tendency, however, to be slack with non-exempt salaried employees, which can result in difficulties. Simply writing down eight hours is not sufficient.

Labor Code Section 226 requires several items be on the wage stub or statement. One such requirement is that total hours be recorded; another is that the hourly rate or rates also must be recorded. These are not required of exempt employees, but must be on the documents for non-exempt salaried employees.

Chamber Tools Available

This might be a good time to review the exempt status of your employees. Chapter 16 of the *Labor Law Digest* will guide you in your review. This *Digest* also is online at www.HRCalifornia.com.

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

The Labor Law Helpline is a service to California Chamber preferred and executive members. For expert explanations of labor laws and Cal/OSHA regulations, not legal counsel for specific situations, call (800) 348-2262 or submit your question at www.hrcalifornia.com.

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Alert (ISSN 0882-0929) is published weekly during legislative session with exceptions by California Chamber of Commerce, 1215 K Street, Suite 1400, Sacramento, CA 95814-3918. Subscription price is \$199 paid through membership dues. Periodicals Postage Paid at Sacramento, CA.

POSTMASTER: Send address changes to Alert, 1215 K Street, Suite 1400, Sacramento, CA 95814-3918. Publisher: Allan Zaremborg. Executive Editor: Ann Amioka. Associate: Trina Filan. Art Director: Andrew Larsen. Graphics Assistant: Jason Untalan. Capitol Correspondent: Christine Haddon.

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

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Home page: www.calchamber.com.*

Chamber Calendar

Water Committee:

September 7, Santa Monica

Fundraising Committee:

September 7, Santa Monica

Board of Directors:

September 7-8, Santa Monica

Tourism Committee:

September 8, Santa Monica

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 www.calchamber.com for the latest business legislative news plus products and services to help you do business in California.



Ad Campaign Against Prop. 87 Highlights High Cost, Lack of Accountability for Funds

The campaign against California Chamber-**opposed** Proposition 87 on the November ballot this week began airing radio and television ads highlighting problems with the proposal.

More than 140 organizations are part of the coalition opposing Proposition 87 because it would increase California oil taxes by \$4 billion and create a new state bureaucracy of 50 political appointees to spend it — with no accountability to taxpayers and no requirement that the appointees produce any results.

Higher Prices

“Higher taxes on in-state oil production would discourage in-state oil production,

thereby increasing our dependence on foreign oil. That’s the last thing we need,” said Chamber President Allan Zarembeg.

Greater dependence on more expensive foreign oil also will lead to higher prices for gasoline and other fuels.

The independent Legislative Analyst reports that Proposition 87 would reduce revenues available for schools, public safety, health care, local government and transportation needs.

Although the state Constitution (Proposition 98) requires a portion of new state tax revenues go toward education, Proposition 87 exempts its tax revenues from the law. The author of Proposition 98 and former secretary of education estimate

Proposition 87 would deny schools \$1.9 billion in the coming years.

The tax revenue collected due to Proposition 87 would not be part of the state’s General Fund. As a result, the program to spend those funds would operate outside the checks and balances of the usual budget process.

Growing Coalition

The growing coalition opposing Proposition 87 includes taxpayers, educators, public safety officials, businesses and energy producers.

More information about Proposition 87 and the campaign against the initiative is available at www.NoOilTax.com.

Staff Contact: Jeanne Cain

Help Fight Ballot Initiatives Designed to Impede Business Voice in State

CALBUSPAC, the issues political action committee of the California Chamber of Commerce, is urging all of its members to get involved in defeating several onerous ballot initiatives, including the tax on corporations to publicly finance political campaigns, Proposition 89.

CALBUSPAC accepts contributions in any amount, but it cannot accept contributions from foreign nationals.

Additionally, it cannot accept any funds earmarked for any specific issue. The board of CALBUSPAC decides its funding priorities based on its analysis of the importance of the issues to the business community and the needs and viability of the ballot measure committees formed to support the interests of business.

To contribute to CALBUSPAC online, visit www.calchamber.com/calbuspac.

You may also contribute by sending a check to CALBUSPAC, ID #761010, c/o California Chamber of Commerce, 1215 K Street, Suite 1400, Sacramento, CA 95814.

Contributions to CALBUSPAC are not deductible as charitable contributions for federal income tax purposes.

Staff Contact: Michele Zschau

Chamber Positions to Date on November Ballot Measures

Ballot Number	Subject	Chamber Position
Proposition 1A	Transportation funding protection	Support
Proposition 1B	Transportation bond	Support
Proposition 1C	Housing bond	Support
Proposition 1D	K-12 education facilities bond	Support
Proposition 1E	Disaster preparedness and flood prevention bond	Support
Proposition 86	Cigarette tax hike to fund health care	Oppose
Proposition 87	Tax on California oil production	Oppose
Proposition 89	Corporate income tax hike to pay for publicly financed political campaigns	Oppose

The California Chamber of Commerce Board of Directors will be considering other November ballot measures in September.

State-Only Emissions Cap on Committee Suspense File

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said Chamber President Allan Zaremberg.

Better Ways to Lead

The Chamber and the broad coalition Sustainable Environment and Economy for California (SEE California) are pointing out that AB 32's implementation and management have been acknowledged as ambiguous and its implications huge:

- higher energy prices for consumers, business and government;
- job loss throughout the state; and
- fewer revenues available for other state programs as government pays more for energy but receives less tax revenue from a damaged economy.

"We encourage those who have advocated this costly measure to re-examine the mechanisms which it would implement," said Zaremberg. "There is a better way for California to lead in our fight against global warming."

Zaremberg called for promoting the protection of intellectual property worldwide, thereby fostering and encouraging the transfer of cleaner, environmentally friendly technologies to countries such as China and India — where such action could have a significant impact on this global problem.

He also urged the exploration of tax credits to spur earlier adoption of more efficient generators and manufacturing, among other things.

"California will continue to be an environmental leader — but there is a better way to lead," Zaremberg said.

Climate Change Is Global Issue

AB 32 strives to combat global warming through a California-only ap-

proach, disregarding the carbon dioxide emissions contributed by the developing world. Greenhouse gas emissions released by developing countries, such as China and India, will continue to increase with those nations' economic growth.

Both countries also have admitted they are reluctant to reduce their emissions through any binding contract or cap that could jeopardize their economies. The impacts of these two countries' emissions have a global effect. To focus on California, which already is engaged in maximizing energy efficiency, sets the state up for failure and economic devastation.

Capping Economic Growth

California is already one of the most heavily regulated states in the nation. AB 32 would make it virtually impossible for California industries to remain competitive in the marketplace.

AB 32 will interfere with California's much-needed infrastructure projects by adding higher costs to vital operations, such as cement production, and will discourage much-needed investment to improve or expand existing cement production facilities in the state.

Ultimately, this added expense for in-state production would lead to the closure of existing cement facilities in exchange for future growth and investment in facilities not subject to a cap program outside of California.

The increase in price of production in-state or the expense to transport the

cement in from out-of-state will be felt across the board, providing a disincentive for further infrastructure growth and investment in California.

Action Needed

Legislation on the suspense file generally is taken up again before the end of the legislative session. If Senate Appropriations approves SB 32, it will be considered next by the full Senate.

The Chamber strongly urges members to express their **opposition to AB 32** by

either writing their senators or calling the senators' offices.

The Chamber urges members to tell their senators that AB 32 will:

- starve California's economy;
- put California on the road to another energy crisis;
- discourage investment in California's infrastructure projects; and
- hurt the environment because companies may move to other states or even other countries where clean air policies aren't as stringent as California's standards.

Let legislators know that all interested parties need to work together on a solution that helps our environment and keeps California's economy strong.

More information on AB 32 and a sample letter are available at www.calchamber.com. To join the coalition, visit www.seeca.org.

Staff Contact: Amisha Patel



Senate to Consider Bills Expanding Unemployment Insurance Benefits

From Page 1
ployer misconduct during a trade dispute. AB 2209 does not require the finding to be final before the new penalty payment is imposed.

AB 1884 and AB 2209 are similar in tone to last year's vetoed "job killer," AB 391 (Koretz; D-West Hollywood).

In vetoing AB 391, Governor Arnold Schwarzenegger noted that UI benefits

"are predicated on the principle that workers should receive assistance when they have lost their job through no fault of their own."

That principle, the Governor's veto message continued, "is key to maintaining the balance that prevents both employers and workers from taking precipitous actions to affect unemployment insurance payouts."

Action Needed

The Chamber is strongly urging employers to ask their senators to **oppose AB 1884 and AB 2209**.

For sample letters, visit the Government Relations section at www.calchamber.com.

Staff Contact: Julianne Broyles

Chamber Members Receive Honorable Mention for Energy Conservation

A number of California Chamber of Commerce members were among businesses honored recently by Flex Your PowerSM with the 4th Annual Flex Your Power Awards for their energy conservation efforts.

Flex Your Power, established in 2001 as a response to California's 2001-02 energy crisis, 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.

This year 12 Chamber members won the award (see July 28 *Alert*). Thirteen Chamber members also received honorable mentions; those companies are profiled below.

Award Categories

Flex Your Power Awards are given in four 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 and/or Services** — Innovations that improve energy efficiency or demand response in technological research and development, manufacturing, retailer promotions, or vendor, contractor and consultant programs.

Flex Your Power Honorable Mentions

Chamber members receiving honorable mentions in the 4th Annual Flex Your Power Awards are:

- **Bayer, Inc.** Education and Leadership. The company's Healthcare Bio-

logical Products Division cut electricity demand by 25 percent at one Berkeley facility. Bayer hosted an energy fair for employees, distributing materials and enrolling in the ENERGY STAR[®] Million Monitor Drive.

- **Calpine Corporation.** Innovative Products and/or Services. Calpine Corporation and the City of Santa Rosa partnered to create a water pipeline that carries 11 million gallons of reclaimed wastewater a day to recharge The Geysers geothermal operation, thereby contributing 85,000 kilowatts to the state's renewable energy supplies, enough to power 85,000 homes.

- **General Electric Company (GE).** Energy Efficiency. GE launched its company-wide "Ecomagination" program in 2005, a pledge to double investment in clean technology research and development, to double production of energy-smart products and to improve the company's own energy use and reduce its pollution production.

- **Johnson Controls Inc.** Energy Efficiency. The company has incorporated upgrades at its plants, including efficient lighting, occupancy sensors, and energy management controls on process equipment, that have resulted in energy savings of 11 percent annually from 2003 levels.

- **Kaiser Permanente.** Education and Leadership. Since 2002, Kaiser Permanente has reduced energy use by roughly 10 percent in its California facilities and has contributed its expertise to the development of the "Green Guide for Health Care," a handbook for best green practices for the health care industry.

- **Oracle Corporate.** Demand Response. Oracle has reduced electricity use at its corporate headquarters by 12.4 percent (despite expansion of its facilities) and stands ready to restrict as much as 18 percent of peak energy demand in the 1.8 million square-foot space in a power emergency.

- **San Francisco Hilton & Towers.** Demand Response. Through peak energy

conservation actions, the hotel reduced nearly 2,000 kilowatt hours (kWh) of peak power in the first five months of 2005 — far exceeding its original goal of trimming 275 kWh in peak demand for the year.

- **Santa Clara Valley Water District (SCVWD).** Energy Efficiency. SCVWD has implemented recycling and conservation programs that lower customer demand for water, thereby reducing electricity required to pump, distribute and heat water. These programs helped SCVWD customers reduce electricity use by 196 million kWh.

- **Thomas Properties Group, Inc.** Energy Efficiency. The company recently took on an energy efficiency retrofit of a 2.6 million square-foot office complex in Los Angeles; the renovations have saved almost 1.8 million kWh and \$1.5 million compared to 2004 energy levels.

- **Union Bank of California, San Diego Branch.** Energy Efficiency. Three bank branches have earned ENERGY STAR[®] labels, and the bank reduced electricity use by 14 percent across its 312 branches and 5 million square feet of office space from 2004 levels.

- **University of California, Los Angeles (UCLA).** Demand Response. UCLA saved \$500,000 through using a thermal energy storage system that makes and stores cold water overnight to provide 35,000 tons of air conditioning during the day. Lighting retrofits saved another \$2.4 million annually.

- **UCLA Department of Architecture and Urban Design.** Innovative Products and/or Services. The department introduced a free computer program, Home Energy Efficient Design (HEED), which allows homeowners to create a 3-D model of their homes to learn about energy performance and explore design improvements.

- **Wild Oats Markets.** Energy Efficiency. The company's new refrigeration distribution center in Riverside uses 50 percent less energy — 2 million kWh — than standard facilities. The building has \$7 million in energy efficiency investments, from lighting to cooling and refrigeration equipment.

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



Legislative Outlook

An update on the status of key legislation affecting businesses. Visit www.calchamber.com/position_letters for more information, sample letters and updates on other legislation. Staff contacts listed below can be reached at (916) 444-6670. Address correspondence to legislators at the State Capitol, Sacramento, CA 95814. Be sure to include your company name and location on all correspondence.

Chamber-Opposed Bill to Limit Land Use Heads to Senate Floor



California Chamber of Commerce-**opposed** legislation that limits land use and could bring building projects to a halt for an undisclosed period passed the Senate Appropriations Committee this week and will be considered next by the full Senate.

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.

The Chamber and a coalition of business, agriculture, taxpayer and other industry groups opposes AB 2641 because it will hurt the state's economy and will:

- substantially increase taxpayer costs for future infrastructure projects;
- delay and undermine the delivery of critical infrastructure projects;
- create greater uncertainty in the land use approval process; and
- threaten future job-generating proj-

ects and housing developments throughout California.

Key Vote

The August 7 Senate Appropriations vote was 10-2:

Ayes: Murray (D-Los Angeles); Alarcón (D-San Fernando Valley); Alquist (D-Santa Clara); Battin (R-La Quinta); Dutton (R-Rancho Cucamonga); Escutia (D-Norwalk); Florez (D-Shafter); Ortiz (D-Sacramento); Romero (D-Los Angeles); Torlakson (D-Antioch).

Noes: Aanestad (R-Grass Valley); Ashburn (R-Bakersfield).

Absent/abstaining/not voting: Poochigian (R-Fresno).

Action Needed

Write or call your senator to voice your **opposition to AB 2641**.

Staff Contact: Valerie Nera

Bill Providing New Reasons to Sue Employers Awaits Action



OPPOSE

A California Chamber of Commerce-**opposed** bill that could subject employers to lawsuits for issues that they neither know about nor control is awaiting action in the Assembly.

SB 1745 (Kuehl; D-Santa Monica) establishes a new ability to file employment-related lawsuits, possibly under a variety of laws. As just amended, SB 1745 establishes a statutory statement of public policy prohibiting any person from discharging or harassing any individual, or otherwise discriminating or retaliating against any individual in compensation, or in other terms, conditions or privileges of employment, because the individual is a victim of domestic violence, sexual assault or stalking.

If SB 1745 is enacted, it will allow plaintiffs and their attorneys to use the bill's provisions to try out new legal theories of liability against employers in employment discrimination lawsuits. Even when employers are found not guilty of violating a law or public policy, employer legal defense costs easily may reach

\$50,000 to \$60,000.

Existing law already prohibits employers with 25 or more employees from discharging or discriminating against an employee who takes time off to seek medical attention, obtain services from a domestic violence shelter or rape crisis center, obtain psychological counseling or participate in safety planning.

Remedies for violations include reinstatement, reimbursement for lost wages, interest and reasonable attorney fees, plus court costs, as well as the ability to seek large civil penalties through "sue your boss" lawsuits.

In addition, positive tools — many created with Chamber assistance and input — already exist to help employers protect employees from outside harassment by former spouses and partners.

Action Needed

Ask your Assembly representative to **oppose SB 1745**.

Staff Contact: Julianne Broyles

Chamber President Speaks in Support of Transmission Line for Renewable Energy

Sunrise Powerlink Project Can Eliminate Up to 7 Million Tons of Greenhouse Gas

California Chamber of Commerce President Allan Zaremborg spoke last week in **support** of the Sunrise Powerlink project before the California Independent System Operator (ISO) Board of Governors, which approved the project on a 5-0 vote.

The Sunrise Powerlink is a new electric transmission line proposed by San Diego Gas and Electric (SDG&E) to be constructed between the Imperial Valley and San Diego.

This 120-mile line will produce 500,000 volts of electricity — capable of serving the needs of more than 650,000 customers — and will ensure a safe and reliable energy supply for the state's second largest city.

Business, Labor Support

The Sunrise Powerlink is strongly supported by the Associated Business and Labor for Energy (ABLE) coalition, a Chamber-supported statewide coalition of business and labor organizations dedicated to ensuring California has a reliable energy supply for decades to come.

"California needs affordable and reliable energy to meet its future economic goals and to keep pace with population growth," said Zaremborg. "Providing such energy not only requires generating the power we need, but also building the infrastructure to deliver this electricity to where it is needed most."

Currently, San Diego has only two connections to the state's energy grid. The Sunrise Powerlink would add a much-needed third link and expand SDG&E's capability to import more power to meet the region's growing demand for electricity, while helping relieve current transmission bottlenecks on California's energy grid, which can result in higher energy costs.

A major new transmission line is needed in the service area by 2010 to ensure reliable energy for SDG&E customers.

A report released this week by the U.S. Department of Energy declared

Southern California one of two regions in the United States that are critically congested and facing serious electricity transmission shortfalls.

"Increasing supply and capacity is not just a regional reliability issue, but one that benefits the entire state, as we are all connected by the same power grid," Zaremborg said.

Environmental Benefits

"Not only will this project help California achieve its affordable and reliable energy goals, it will help our environment, as well," Zaremborg said. "Because power carried on this proposed line will be generated by clean, renewable sources, it doesn't create any toxic or greenhouse gas emissions."

Zaremborg noted, "This project can be part of a global solution to climate change. The 1,000 megawatts of renewable energy Sunrise Powerlink will bring to our grid eliminates up to 7 million tons of greenhouse gas that would be emitted if this needed energy were generated by fossil fuel."

In addition to providing greater reliability, the Sunrise Powerlink also will create greater access to clean energy from renewable sources such as solar, wind and geothermal. The Sunrise Powerlink will reduce energy costs by providing access to lower-cost electricity generated outside of the region and will lessen the reliance on local, aging power plants that are less efficient and more expensive to operate.

"This project truly is a win-win for California — and the world," Zaremborg said.



Next Steps

Following approval of the project by the ISO Board of Governors, SDG&E filed its formal application for a Certificate of Public Convenience and Necessity with the California Public Utilities Commission (CPUC) for approval, a process that is expected to take until 2007.

The Sunrise Powerlink is scheduled to be in operation in 2010, if approved by the CPUC. Despite the long process of licensing and building the new

transmission line, the line must be energized by this time to avoid energy shortfalls.

Support Project

For more information on supporting the Sunrise Powerlink and the ABLE coalition, visit

www.able-energy.com.

Staff Contact: **Dominic DiMare**



Correction: Vote on U.S.-Oman Trade Agreement

The July 28 *Alert* incorrectly reported the vote of Congressman George Radanovich (R-Mariposa) on the U.S.-Oman Free Trade Agreement. Radanovich voted **in favor** of the agreement. We apologize for the error and any inconvenience it may have caused.

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