

ALERT

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Action Needed to Keep Bad Ideas on Suspense File

CalChamber: Budget Solution Lies in Economic Recovery, Not Services Tax



OPPOSE

In recent weeks, the Assembly and Senate Appropriations committees have referred a number of California Chamber of Commerce-opposed bills to the suspense file, pending a review of the proposals'

fiscal impacts.

The CalChamber will be urging legislators not to move these bad ideas forward and asks CalChamber members to do the same.

The committees are likely to consider these bills the week of May 19.

In Assembly Appropriations

● **AB 1839 (Charles Calderon; D-Montebello) – Threat to Consumer Credit:** Could reduce consumer credit and therefore sales of large-ticket items such as autos, appliances and furniture by making it more costly and difficult for small and large retailers to offer in-store credit by eliminating refunds of sales taxes for credit accounts that become bad

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A recovering economy, not a new tax on services, is the solution to the state's budget woes, the California Chamber of Commerce pointed out this week.

CalChamber President Allan Zaremberg highlighted problems with a services tax in a letter to the editor that appeared in the *Los Angeles Times*. Following is the letter prepared for the *Times*.

"The only proven solution to the severe budget deficit in California is a sustained economic recovery. Any interim solution to our budget woes must not lose sight of that goal.

"A sales tax on services, as discussed in your recent article, would impede California's ability to recover from our current crisis and close the gap once and for all.

"Increasing the price of services in California by 8 percent would cause consumers — already challenged by rising energy and food prices — to use less of those services. Many California businesses would face an immediate 8 percent competitive disadvantage to companies in other states.

"A services tax discriminates against small businesses. National companies

See Economic: Page 4

Senate Leader Perata Drops Recall Campaign



Photo by Aaron Lambert

Assemblyman Greg Aghazarian (R-Stockton) (left) congratulates Senator Jeff Denham (R-Merced) during a May 7 reception at the California Chamber of Commerce shortly after the chief backer of the recall campaign against Denham announced dropping the effort. See story on Page 6.

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Labor Law Corner

Employee's Online Venting Not Necessarily Protected Speech



Ellen S. Savage
Helpline Consultant

I just found out that one of my employees has posted negative comments about our company on his MySpace web page. When I asked him to remove the offensive information, he told me I was violating his constitutional right to freedom of speech. Do I have any right to discipline him?

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The enormous popularity of MySpace, Facebook and other social networking websites has created an online world where individuals often feel free to vent their workplace frustrations. Through on-line blogs (web logs) or posting on social networking websites, employees may write, and others may read and respond to, whatever is on their minds. Unhappy employees may post negative comments about your company which can damage the reputation of your business.

While your employee is correct that the First Amendment does guarantee freedom of speech, that protection generally extends only to government restriction on one's freedom of speech.

Private businesses have the right to prohibit employees from publicly expressing negative comments about the company in most cases.

Protected Workplace Speech

Some exceptions in California:

- California's Labor Code protects employees who express themselves regarding their political beliefs. Even if a company's CEO has endorsed one candidate, employees may speak out in favor of the opponent.

- State and federal laws protect "whistleblowers," meaning employees who speak out about activities of their employers they believe to be unlawful. If an employee believes his/her employer

is disposing of toxic waste in an illegal manner and has reported that allegation to the proper authorities, he/she may speak up about it.

- Employers in California may not prohibit employees from discussing their wages or working conditions with each other.

Duty of Loyalty

The employee in this situation may also have breached his duty of loyalty. Every employee owes to his employer a duty of loyalty, which requires obedience, confidentiality and loyalty both in and out of the workplace.

Negative comments posted on a MySpace page about an employer's products, services or methods of operation could justify discipline or termination, unless they were protected by law (such as those listed above).

An employer would be wise to consult with legal counsel before taking any action against the employee to ensure the comments posted on the MySpace page are not among those legally protected.

The Labor Law Helpline is a service to California Chamber of Commerce 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.

CalChamber-Sponsored Seminars/Trade Shows

For more information, visit
www.calchamber.com/events.

Business Resources

Career Networking. Wilcox Miller & Nelson. May 13, Sacramento. (916) 977-3700.

International Trade

U.S.-Colombia Free Trade Agreement: Forum with Ambassador Charles Shapiro, U.S. State Department. CalChamber Council for International Trade. May 20, Sacramento. (916) 444-6670.
Germany California Solar Day. German American Chamber of Commerce Inc., California Branch. May 27, San Francisco. (415) 248-1245.

Shunde: Gateway to Success in the New China. Bay Area World Trade Center. May 29, San Francisco. (510) 251-5940.

Labor Law

HR 201: Labor Law Update On-Demand Web Seminar. CalChamber. 90 minutes. (800) 331-8877.

Paying Non-Exempt Employees Web Seminar. CalChamber. May 15. (800) 331-8877.

Pregnancy Disability Leave 201 Web Seminar. CalChamber. May 29. (800) 331-8877.

Trade Remains Economic Bright Spot



As we approach the end of May, the nationally observed World Trade Week, it is clear that international trade is a continuing bright spot in the economic landscape, with export markets providing

advantages for both California and the United States.

Export growth contributed directly to a 6.2 percent decrease in the U.S. trade deficit between 2006 and 2007, despite a 10.8 percent increase in the price of petroleum imports last year, according to the U.S. Trade Representative Susan Schwab.

In addition, strong export expansion is supporting the U.S. economy in a period of economic adjustment, accounting for more than 40 percent of the growth in the economy last year.

In 2007, foreign sales of U.S. products were more than \$1.6 trillion. U.S. goods and services exports were 12.6 percent greater than in 2006.

In 2007, California exports totaled \$134 billion, according to the U.S. Department of Commerce. This was an increase from the \$127 billion in 2006.

Exports from California accounted for nearly 12 percent of total U.S. exports, with Mexico, Canada, Japan, China and South Korea being the state's top trading partners. California maintained its perennial position as a top exporting state, exporting to 223 foreign markets.

Trade Agreements Help

Because roughly 95 percent of the potential customers for U.S. goods and

services live outside our borders, increasing exports will generate critical economic growth.

Agreements like the proposed U.S.-Colombia Free Trade Agreement (FTA), U.S.-Panama FTA and U.S.-Korea FTA ensure that the United States may continue to gain access to world markets, which will result in an improved economy and additional employment of Americans.

All these agreements are critical elements of the U.S. strategy to liberalize trade through multilateral, regional

Commentary

By Susan Corrales-Diaz

and bilateral initiatives. Passage of these FTAs will mean the elimination of billions of dollars in tariffs for U.S. exports, as well as increased market visibility, and will benefit California and the United States as a whole.

Significant increases can be seen in the bilateral trade between the United States and the countries with which FTAs were enacted in 2006 and 2007, based on U.S. Department of Commerce data:

- The **U.S.-Morocco FTA** went into effect at the beginning of 2006. U.S. exports to Morocco rose from \$875.5 million in 2006 to \$1.34 billion in 2007, an increase of more than 53 percent. In 2007, California exported more than \$47 million to Morocco, almost double the amount exported in 2005. California's main exports to Morocco are computers and electronic products.

- The **U.S.-Oman FTA** took effect on September 26, 2006. In 2007, bilateral trade between the United States and Oman totaled more than \$2.1 billion. U.S. goods exports to Oman rose to \$1.1 billion in 2007, a 24 percent increase from 2006. California exports to Oman were more than \$140 million, triple the amount of exports in 2006.

- The **U.S.-Bahrain FTA** was signed by U.S. President George W. Bush on August 1, 2006. Two-way trade between the United States and Bahrain topped \$1.2 billion in 2007. U.S. goods exports were \$591 million, a 21 percent increase from 2006, including vehicles, machinery,

World Trade Week is a national observance, traditionally held the third week of May. It began in California more than 80 years ago.

aircraft, toys and other manufactured products. California exports to Bahrain in 2007 were more than \$39 million.

- In addition, although the **U.S.-Peru FTA** was signed only in December 2007, just the anticipation of the FTA caused a spike in bilateral trade with Peru. Total trade in 2007 between Peru and the United States was more than \$9 billion. The United States exported \$4.1 billion worth of goods to Peru, a 41 percent increase from 2006. According to the U.S. Department of Commerce, in 2007, California exported \$181 million to Peru, making it the state's 49th largest trading partner.

International Commerce

The numbers underscore the continuing importance of maintaining the health of international commerce for California and the nation.

While the U.S. House of Representatives considers the FTAs with Colombia, Panama and South Korea, the California Chamber of Commerce and other supporters of the agreements will continue to fight for their approval and upholding the nation's international obligations.

As President Bush said in March, "During this time of economic uncertainty, when consumer spending and investment is slowing down, it's important to understand the role trade has made for our economy... This January, exports were up more than 16 percent over last January. If you're worried about the economy, it seems like you ought to be sending a clear signal that the United States of America will continue to trade, not shut down trade."

Susan Corrales-Diaz, chair of the California Chamber of Commerce Council for International Trade, is president of Systems Integrated in Orange.

www.calchamber.com/international

- FAQs
- Trade issue updates
- Statistics on leading markets
- Links to research markets, buyers, suppliers

Action Needed to Keep Bad Ideas on Suspense File



From Page 1

due to non-payment by the consumer.

● **AB 1840 (Charles Calderon; D-Montebello) – Internet Tax:** Harms highly coveted California technology sector companies, such

as web host companies and online marketplaces, by removing a current safe harbor in the tax law that helps to ensure they can compete for customers from around the globe.

● **AB 1848 (Ma; D-San Francisco) – Private Sector Tax Collection Mandate:** Greatly increases cost of doing business in California and increases business tax administrative burden by requiring companies to track state tax liability and collect taxes from outside companies and independent contractors.

● **AB 1879 (Feuer; D-Los Angeles) - Regulating Chemicals:** Undermines the Green Chemistry Initiative currently being undertaken by Cal/EPA and instead supplies the Department of Toxic Substances Control with authority to regulate various “chemicals of concern” that have been arbitrarily selected.

● **AB 1887 (Beall; D-San Jose) – Health Care Mandate:** Increases health care premiums by mandating that health plans and insurers provide parity coverage for all of the more than 400 mental disorders identified in the latest *Diagnostic and Statistical Manual of Mental Disorders*.

● **AB 1894 (Krekorian; D-Burbank) – Health Care Mandate:** Requires health plans to offer testing for AIDS and HIV regardless of whether the testing is related to a primary diagnosis.

● **AB 1962 (De La Torre; D-South Gate) – Health Care Mandate:** Proposes to increase health care premiums by mandating that all health plans provide maternity coverage.

● **AB 2030 (Lieu; D-Torrance) – Commercial Building Standards:** Substantially increases the cost of development in California by mandating unrealistic energy efficiency standards for all new commercial buildings without taking into account the additional costs that must be absorbed by developers, significantly increasing leasing rates for small businesses.

● **AB 2112 (Saldaña; D-San Diego) – Residential Building Standards:** Sub-

stantially increases the cost of housing and development in California by mandating unrealistic energy efficiency standards for all new residential buildings without taking into account the additional costs that must be absorbed by developers and consumers.

● **AB 2174 (Laird; D-Santa Cruz) – Health Care Mandate:** Increases health care premiums by mandating that health plans cover amino-based elemental formulas, regardless of delivery method.

● **AB 2716 (Ma; D-San Francisco) – Paid Sick Leave Mandate:** Unreasonably expands employer’s costs and liability for a new protected and paid sick leave for employees.

● **AB 2546 (De La Torre; D-South Gate) – Local Emissions Regulations:** Increases costs for California businesses by requiring facilities such as ports, airports and rail yards to conduct an emissions inventory and risk assessment and develop mitigation measures to reduce emissions related to mobile sources that visit their facilities.

In Senate Appropriations

● **SB 1121 (Migden; D-San Francisco) - Labeling:** Conflicts with federal law. Requires state-only labeling identifying food products containing cloned animals or their progeny.

● **SB 1176 (Perata; D-Oakland) - Omnibus Water Board Bill:** Allows the state water board to remove regional water board’s authority; changes the number, composition and compensation of regional board members; and requires regional boards to submit workplans, etc.

● **SB 1440 (Kuehl; D-Santa Monica) – Limits Health Coverage:** Reduces services and limits ability of health plans to provide cost effective, efficient coverage by imposing arbitrary medical cost ratio.

● **SB 1490 (Padilla; D-Pacoima) – Independent Contractors:** Imposes a new requirement on businesses that exposes them to private rights of action and

does not address the underlying problem of clarifying who is and is not an independent contractor.

● **SB 1688 (Ridley-Thomas; D-Los Angeles) – Hospital Mandate:** Prohibits some hospitals from making sensible decisions regarding allocation of funds for patient care and capital investment, virtually eliminating the hospital’s ability to implement cost containment measures.

● **SB 1734 (Kuehl; D-Santa Monica) – Hospital Real Estate:** Interferes with free market business decisions by prohibiting a real estate investment trust that owns property on which is situated a hospital from modifying the lease or selling the land if it would result in a reduction of services or closure of the hospital, unless approved by the state.

Action Needed

Contact your legislators and members of Assembly and Senate Appropriations. Urge them to **oppose** these bills and keep them on the suspense file.

For sample letters, visit www.calchambervotes.com.
Staff Contact: Marc Burgat

Economic Recovery

From Page 1

would use their in-house legal and accounting services or those in other states. Small businesses would be stuck with higher prices they cannot afford.

“Businesses and individuals who share in the ever-rising cost of health care would be further priced out of the market. Entertainment and tourism would suffer dramatically under a government-imposed 8 percent price hike.

“There is a reason that other large states that have tried to impose taxes on services repealed them quickly. These taxes simply do not work and our economy cannot afford them.”

They won't know unless you tell them. Write your legislator.

calchambervotes.com

Dry Weather Underscores Need for State to Improve Water Storage Infrastructure

Results of the state's final snow pack survey last week confirmed that a tough water year lies ahead for businesses and residents of California.

Following a mild winter and the driest spring in at least 150 years, water supply levels in the state are well below average for the season. Record low rainfall totals in March and April eliminated any chance of replenishing the state's water reserves.

The last snow pack measurement of the year was only 67 percent of normal. There were hopes earlier in the year that rainy weather would continue through the spring, contributing to a healthy snow pack. Instead, a cooling trend developed in the Pacific Ocean, causing a dry spring, according to meteorologists.

CalChamber Comments

In response to the snow pack measure, California Chamber of Commerce President Allan Zaremberg concurred with Governor Arnold Schwarzenegger that an immediate solution is needed for California's water infrastructure needs.

The low snow pack measurement "highlights the need for a solution to California's long-neglected water crisis," Zaremberg said. "The water system that contributed to California's emergence as one of the world's major economic powers is faltering and water deliveries are in jeopardy.

"The Legislature owes Californians a comprehensive water package that invests in its future and finances infrastructure projects for surface and groundwater storage, water use efficiency, environmental restoration and water quality projects in the state. As the Governor says, we need action now."

Water Shortage Signs

No widespread water rationing has been announced, but some believe the state is moving steadily toward a sustained drought similar to that of the early 1990s. Signs of the water shortfall appear across the state:

- Water districts across the state are asking residents for voluntary water rationing.



Photo by Steve Snyder

Snow levels in the Sierras were just 67 percent of normal last week, confirming California water supplies will be low this year.

- The East Bay Municipal Utility District, which serves 1.3 million customers in Alameda and Contra Costa counties, is considering mandatory rationing and/or price hikes that could adversely affect production output for technology firms, manufacturers and other water-dependent businesses.

- The city of Roseville sustained a 25 percent cut in its water allocation from the U.S. Bureau of Reclamation, forcing officials to issue a drought alert for the area.

- Farmers in the San Joaquin Valley already fallowed thousands of acres of farmland in anticipation of water supply curtailments.

- Several major development projects in Riverside County are delayed pending local water districts' ability to show that there is a secure supply of water to support the new projects.

- The city of Long Beach has imposed mandatory water rationing, mainly for outdoor purposes.

Previous Drought

The drought of the early 1990s resulted mainly in prohibition of outdoor activities like landscape watering and spray-washing of cars in communities like San Diego,

Santa Barbara and Los Angeles.

Other conservation measures included grants for installation of low-flow toilets, water reclamation projects and the widespread use of graywater to fill the need for non-potable water.

Aggravating Shortage

Further exacerbating the state's critical water situation is last year's ruling by U.S. District Judge Oliver Wanger to cut water allocations from the State Water Project up to 30 percent to protect the Delta smelt, which is at record low levels.

The judge is now considering additional restrictions to protect threatened salmon and steelhead whose numbers also are diminishing.

Adding to the water woes in Southern California is the continuing drought on the Colorado River. In normal years, the south draws roughly a third of its water supply from the Colorado River and as much as two-thirds of its supply from the northern Sierra snow pack. In wet years on the river, California has been allowed to draw as much as 800,000 acre-feet more than its 4.4 million acre-foot allocation.

Given existing pressures on state

Senate Leader Perata Drops Recall Campaign Against Senator Denham



Senator Jeff Denham

A reception fundraiser honoring recall target Senator Jeff Denham (R-Merced) took on a celebratory air May 7 following the announcement, minutes earlier, that the chief supporter of

the recall was dropping the campaign.

Denham and Senate Republican Leader Dave Cogdill (R-Modesto) reiterated the news during the reception at the California Chamber of Commerce.

Shortly before the reception, Senate President Pro Tem Don Perata (D-Oakland) called a press conference on the steps of the State Capitol to announce he was discontinuing the recall campaign against Denham to prevent a budget standoff this year.

Perata and Democrats launched the campaign against Denham after the senator refused to vote for the 2007-08 state budget, citing concerns over its fiscal soundness.

This year, estimates of the state budget deficit have climbed to \$16 billion.

In recent weeks, recall supporters have begun airing commercials and the campaign has been criticized for originating outside the 12th Senate District that Denham represents. He was first elected to the Senate in 2002 and was re-elected in 2006 with 58 percent of the vote.

The recall vote is still scheduled for June 3, but observers predict the recall effort will lose momentum following Perata's announcement.

Voter registration in the district is 45 percent Democrat, 36 percent Republican. If voters decide to recall Denham, the party balance in the state Senate will



Senate Republican Leader Dave Cogdill

shift from 25 Democrats, 15 Republicans to 26 Democrats, 14 Republicans, one vote short of giving the Democrats a two-thirds majority.

Denham's CalChamber vote record is close to 100 percent.

Staff Contact: Rob Lapsley

Dry Weather Underscores Need for State to Improve Water Storage

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water supply and infrastructure, a third year of low rainfall could put the state into a serious drought that is less manageable than in years past. The National Integrated Drought Information System already classifies much of the state as likely to develop "persistent" or "intensifying" drought conditions.

Governor's Action Call

In February, the Governor outlined his desired plan to reduce water consumption by 20 percent across the state by 2020. This comes as population has jumped to 37 million from 30 million in 1990. Population projections vary widely, with estimates that the state's population will grow to 50 million to 60 million by 2050.

The Governor also has proposed a comprehensive approach to address the water crisis that includes water conservation, more surface and groundwater storage and new investments in the state's aging water infrastructure.

Water Bond Not Used for Supply

In recent decades, state government has spent a great deal of time addressing "wa-

ter issues" like quality, safety, natural resource protection, flood control, recreation and habitat/ecosystem protection and restoration.

Yet, as pressures on the water system have grown, the state has done little to address the growing needs of water supply.

Over the last 19 years, Californians have approved \$19.7 billion in water-related bond measures, funding programs ranging from ground water contamination prevention to improving public parks.

Of that spending, only \$1.727 billion has been devoted to actually improving California's water supply network by making infrastructure improvements to conserve, divert, collect and store water from natural sources and convey it to where it is needed most.

Cause for Concern

Outdated and overstressed state water infrastructure, overallocated water resources and continuing waves of environmental water demands make it harder for California's economy to prosper.

Proposition 84 and other recent bond proposals tacitly acknowledge the need for improved water supply, but limit progress by requiring legislative approval for any bond expenditures.

Additional criteria for spending that prioritize projects which benefit "environmental justice" issues, tie projects to greenhouse gas reductions or benefit the environment significantly reduce the chances that urgently needed improvements to the state's water infrastructure will be funded and weaken the state's ability to manage a drought or serious water shortage.

Conservation, recycling and water use efficiencies are all needed for the state to continue to operate.

It is becoming increasingly apparent that new water storage and conveyance must be built to maintain current lifestyles, to combat global climate change that reduces snow pack and hence water supply, and meet the water needs generated by the population increases expected over the next few decades.

Staff Contact: Valerie Nera

CalChamber Sponsors Workers' Comp Bill to Streamline Eligibility Review Process



SUPPORT

The California Chamber of Commerce is **sponsoring** and **supporting** legislation to streamline the eligibility determination for injured workers who need the supplemental job displacement voucher (SJDV) as a result of their industrial injury.

Current law contains two requirements for an injured worker to be eligible for an SJDV benefit. The bill, **AB 2987 (Benoit; R-Bermuda Dunes)**, seeks to change one aspect of this law as it relates to an injured worker's eligibility for the benefit.

Current Law

The first requirement under current law is that the injury must cause permanent partial disability. Second, the employee must not return to work within 60 days of the termination of temporary disability benefits.

Current Law

Sponsors of the bill, including the CalChamber, believe the 60-day requirement can be improved to streamline the

eligibility process — the objective goal of AB 2987.

Improving Process

AB 2987 changes the requirements for eligibility in a way that does not reduce the number of employees who are entitled to the benefit. Two requirements for eligibility would still be in place, but the second requirement would trigger eligibility if the worker does not return to work within 60 days of the date of the permanent and stationary report.

The bill attempts to trigger eligibility based on the permanent and stationary report because an employee's permanent restrictions, and permanent disability, are not known until a permanent and stationary report is received.

"The result of the changes in AB 2987 would be to harmonize the two requirements for eligibility and remove some of the confusion over eligibility for this employee retraining benefit," said CalChamber Policy Advocate Jason Schmelzer.

Bipartisan Effort

In a parallel effort, the Return to Work

Advisory Committee of the Division of Workers' Compensation (DWC) has been bringing stakeholders together to improve the return-to-work process and the delivery of the SJDV.

The meetings are attended by employers, injured workers, organized labor, applicants' attorneys, DWC staff and staff from the Commission on Health and Safety and Workers' Compensation.

Although AB 2987 is not a product of the DWC process, the sponsors of the bill consider it a first step and are committed to a consensus-driven process that can gain bipartisan support.

The sponsors of AB 2987 believe a bipartisan and collaborative process will result in a better, more manageable return-to-work process in the California workers' compensation system.

Action Needed

AB 2987 is due to be considered by the full Assembly as a consent calendar item. Contact your Assembly representative to voice your **support** for **AB 2987**.

Staff Contact: Jason Schmelzer

More Legislation Seeks to Roll Back Workers' Comp Reforms



OPPOSE

The California Chamber of Commerce is **opposing** three workers' compensation bills that seek to roll back cost-saving workers' compensation reforms, with costly implications for the state's employers.

● **SB 1338 (Migden; D-San Francisco):** Increases medical costs in workers' compensation insurance by undermining medical provider networks, which were established to ensure that injured employees received appropriate medical care.

● **SB 1717 (Perata; D-Oakland):** Rolls back the workers' compensation reforms from 2004 by arbitrarily dou-

bling permanent disability benefits and altering the 15 percent bump up/down provision law. This would cause a substantial increase in employment-related costs and lead to job loss.

● **SB 1115 (Migden; D-San Francisco):** Rolls back the workers' compensation reforms from 2004 by making apportionment very difficult to prove, resulting in an increase in workers' compensation costs for California employers. This change would result in a loss of jobs because of the extra costs associated with employment.

The CalChamber has pointed out that with budget pressures weighing heavily on local governments, and economic concerns weighing on

private businesses, this is not the time to arbitrarily increase costs on California's public and private sectors.

Action Needed

SB 1338 is set for hearing on May 12 in the Senate Appropriations Committee.

SB 1717 is awaiting hearing in the Senate Labor and Industrial Relations Committee.

SB 1115 is awaiting hearing in the Assembly Insurance Committee.

Contact your representatives in the Senate and Assembly to voice your **opposition** to **SB 1338**, **SB 1717** and **SB 1115**.

For sample letters, visit www.calchambervotes.com.

Staff Contact: Jason Schmelzer

Announcing the NEW California Harassment Prevention Training

If you have 50 or more employees, you're probably aware of your legal obligation to provide two hours of sexual harassment training for every supervisory employee every two years. If you hire or promote new supervisors, you'll also need to administer this training within six months of each hire or promotion. The new course has new scenarios to address issues, such as:

- Gender Issues
- Sexual Favoritism
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- Personal Inquiries
- Religious Diversity



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