

ALERT

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Governor Seeks Reforms to Align Spending, Revenues

Saying California has no choice but to “face our budget demons,” Governor Arnold Schwarzenegger this week proposed amending the state Constitution “so that our spending has some relationship with our revenues.”

He also called for using public-private partnerships to speed the delivery of infrastructure, vowed to continue pushing for more water storage and new water delivery systems, announced the state will focus on helping schools whose students

are falling behind federal standards and urged action on his health care reform proposal.

Budget Reform

The Governor said the constitutional amendment he proposes is modeled after the process used in Arkansas and would set aside money in good years for use in bad years when the state’s revenue intake slows. In addition, the state would slow

See Governor: Page 7

CalChamber Board Votes to Oppose Proposition 93



FEBRUARY
ELECTION
2008

The California Chamber of Commerce Board of Directors has voted to **oppose** Proposition 93, The Term Limits and Legislative Reform Act.

“It is unfortunate that the February ballot does not offer voters the opportunity to consider redistricting reform that would provide for fair elections in conjunction with Proposition 93,” said CalChamber President and Chief Executive Officer Allan Zarembeg in announcing the vote.

The CalChamber Board voted on the measure on December 7, 2007 with instructions for the results to be released on December 20, 2007.

Not Comprehensive Reform

“The CalChamber Board of Directors believes that term limits reform without redistricting reform is not the comprehensive political reform California needs,” Zarembeg said.

Proposition 93 would change the total number of years that an individual can serve in the Legislature from 14 years to 12 years. However, the measure would allow the individual to serve all 12 years

See CalChamber: Page 7



Associated Press Photo

Joining California Governor Arnold Schwarzenegger (center) at the podium before his State of the State address on January 8 are (from left) Assembly Speaker Fabian Núñez, Senate President Pro Tem Don Perata and Lieutenant Governor John Garamendi.

Budget Update Next Week

As *Alert* went to press, Governor Arnold Schwarzenegger had just released his budget plan for 2008-09, including cutbacks to deal with a projected \$14 billion deficit. Details will be presented in the January 18 *Alert*.

Inside

Special Report on February Ballot Measures: Pages 5-6

Labor Law Corner

Overtime Calculations When Multiple Wage Rates Involved



Gary Hermann
Labor Law Consultant

How is overtime calculated for an employee paid two different hourly rates?

When two different rates of pay are paid during a workweek, the California method for determining the regular rate of pay for calculating overtime in that workweek mirrors the federal method,

based upon the weighted average of all hourly rates paid.

This weighted average rate is determined by adding all hours worked, including overtime hours, in the workweek and dividing that number into the total compensation for the week.

Overtime is then paid at one-half this weighted average rate and double-time is paid at straight time this weighted average rate.

For example, if an employee regularly paid \$15 per hour works 35 hours in a week and travels another 15 hours in that week, paid at a travel rate of \$8 per hour, assuming the overtime to be 10 hours, the calculations would be 35 hours at \$15 (\$525), 15 hours at \$8 (\$120). The 10 hours overtime is then calculated by adding the \$525 and \$120 and dividing the total by 50 hours worked. The 10 hours overtime is then due at 0.5 times \$12.90 or \$6.45, a total of \$64.50. For the week then, the employee receives \$645 straight time and \$64.50 overtime.

Impact of Mandated Pay Rate

In a situation where an employee is paid two rates during a day and one of those rates is mandated by law (such as prevailing wage), the regular rate for the purpose of calculating overtime is the higher of either the weighted average or the rate in effect at the time the work is performed.

If the employee works a workweek with some prevailing wage work and some not, any overtime performed on the public works site must be paid at the prevailing wage rate in effect at the time the work is performed. If the overtime is performed on a non-public works job, use the weighted average.

Because the prevailing wage regular rate and overtime rates are mandated by law, they cannot be reduced by using the weighted average if the employee is performing prevailing wage work at the time the overtime is worked.

Non-Public Works Rate

On the other hand, if the overtime (beyond 8 daily or 40 weekly hours) is worked in a non-public works setting, the weighted average calculation would be valid.

For example, if an employee is employed in a workweek for some hours on a private construction job at \$14 per hour and some on a public works project at \$28 per hour, any overtime on the public works project would be due at \$42 per hour.

If the overtime was worked other than on the public works site, however, wages would be calculated by multiplying the prevailing wage hours by \$28, the non-prevailing wage hours by \$14, dividing the total by the total weekly hours and paying overtime at half that weighted average.

Including Piece Rate

Obviously any overtime incurred while the employee is being paid an hourly rate is calculated at 1.5 times that hourly rate. If the employee is paid a piece rate in addition to his/her hourly rate, total the piece rate computation for the workweek and divide that total by the total hours worked in the workweek. This gives the regular rate for the piece rate and any overtime, in addition to what may be calculated for the hourly rate must be paid at half the piece rate regular rate and additional straight time the piece rate regular rate for any double-time hours.

For example, a production employee making \$10 per hour works 46 hours in a workweek, 6 of which are overtime hours. In addition, the employee receives a piece rate of \$10 for each piece produced. During the week in question, he produces 30 pieces. The employee is paid \$400 straight time (40 x \$10) and \$90 overtime (6 x \$15 for his regular rate. He has earned \$300 in piece rate pay. For overtime purposes, the \$300 is divided by 46 hours (the total worked in the workweek) to figure the hourly piece rate earnings. Half of the resulting \$6.52 then is multiplied by the 6 overtime hours to calculate the overtime piece rate earnings of \$19.56. Thus, for this workweek, the employee receives \$809.56 (\$400 + \$90 + \$300 + \$19.56).

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.

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CalChamber Survey Shows Employers Offering Employees More Types of Benefits

In the last decade, there has been a marked increase in the number and types of benefits offered to employees, with a corresponding rise in employee cost sharing for health care, according to a recent survey conducted for the California Chamber of Commerce.

To help California employers evaluate their benefits programs compared to other organizations for their size, in their industries and in the state, the CalChamber invited California employers to participate in a survey of employee benefits.

More than 1,000 CalChamber member companies large and small throughout the state participated, providing information on health care benefits and retirement packages, part-time employees, holidays, paid time off, wellness and elder care benefits.

This is the third Employer Benefits Survey published by the CalChamber. The first survey was published in 1997, the second in 2006 and the current study in 2007.

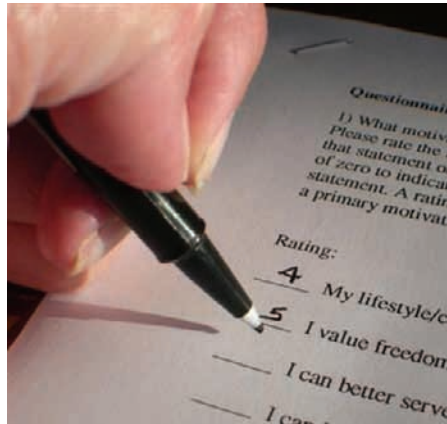
All comparisons to 1997 California employer activities are in reference to the 1997 CalChamber Employer Benefits Study as is generally cited in the report. All other references provide the source for the data against which these study findings are compared.

Expanded Benefits/ Employee-Focused Programs

Throughout the state, employers expanded benefits and employee-focused programs as a recognition of the importance of contributing to the well-being of employees throughout their tenure with the organization. With the goal of creating an appealing, flexible work environment to help employees manage the demands of balancing work and family, a number of employer practices have become more prevalent.

Specifically, since 1997, more California employers are:

- Providing employee handbooks (up 12 percentage points to 92 percent in 2007);
- Conducting employee orientations (up 15 percentage points to 86 percent in 2007);



- Conducting performance appraisals (up 8 percentage points to 89 percent in 2007);
- Offering child care assistance (up 25 percentage points to 53 percent in 2007);
- Offering elder care assistance (35 percent in 2007; not measured in 1997);
- Offering employee assistance (up 7 percentage points to 41 percent in 2007);
- Allowing telecommuting (up 14 percentage points to 29 percent in 2007);
- Offering alternative work schedules (up 28 percentage points to 41 percent in 2007);
- Offering an expanded list of holiday and floating holidays (for example, Martin Luther King Day up 10 percentage points to 29 percent in 2007); and
- Offering more team building activities and casual work environments (for example, employer-sponsored parties, outings, casual dress any time and job-related tuition reimbursement).

Health Care/Wellness Programs

Employer support of certain types of health care coverage and wellness programs also has expanded. Since 1997, more employers are:

- Paying at least some portion of employee dental coverage (up 11 percentage points to 81 percent in 2007);
- Paying at least some portion of employee vision coverage (up 24 percentage points to 54 percent in 2007);
- Offering employee wellness programs (29 percent in 2007; not measured in 1997); and

- Increasing contributions toward dependents' coverage for dental (up 8 percentage points to 53 percent in 2007) and vision insurance (up 17 percentage points to 39 percent in 2007).

The proportion of employers paying at least some portion of employees' or dependents' medical and life insurance has not changed, however, and are 97 percent and 69 percent, respectively for employees in 2007, and 60 percent and 12 percent, respectively for dependents in 2007.

Rising Health Care Costs/ Cost Management Activities

California employers reported an increase in the per-employee cost of health care compared to 2006. They further report a variety of changes or intended changes in their health care programs in an effort to manage escalating costs. The following is included in this year's survey:

- The percentage of employers paying more than \$5,000 per employee has risen from 27 percent in 2006 to 38 percent in 2007, a 40 percent increase. In 2007, 21 percent of employers pay more than \$7,000 per employee.
- Twenty-three percent of employers are considering raising their employees' portion of the premium payment. Thirty-seven percent of large (100+ employees) are considering such an increase.
- Twenty-six percent and 22 percent of employers offer health savings accounts or high deductible health benefits.
- Seventy-eight percent of employers offer a 401(k) plan, up from 56 percent in 1997. Today, only 5 percent of California employers offer a pension program, many fewer than in 1997 (23 percent).
- Overall, only 5 percent of employers offer retiree health care benefits. Seven percent of employers with 100 or more employees offer retiree health care benefits and among employers with 250 or more employees, 10 percent do. This is considerably lower than nationally reported penetration levels among employers with 200 or more employees (33 percent).

CalChamber Establishes New Intellectual Property Rights Working Group

The California Chamber of Commerce is urging its members and interested individuals to join a new working group created to follow legislative proposals and policy issues relating to intellectual property rights in California.

The new Intellectual Property Rights (IPR) Working Group will consist of CalChamber members who are interested in being involved with CalChamber policy development and advocacy efforts in the area of IPR or who want to keep apprised of pending state legislation or policy issues having an impact on IPR.

Crucial Issue

The problem of counterfeiting and piracy is a crucial issue for the state of California. Governor Arnold Schwarzenegger has indicated that intellectual property piracy is a leading issue “critical to the future growth of California’s global economy.”

Given California’s position in the world economy, the state has a lot to lose when it comes to intellectual property theft. In fact, the California economy loses \$34 bil-

lion per year to counterfeiting and piracy.

Not only is California among the 10 largest economies in the world, but the state is a global leader in producing intellectual property in many industries — including the film, recording, fashion, pharmaceutical and high-tech industries, among many others.

California has long been the top exporting state in the nation, with exports going to Europe, Asia and Africa. The U.S. Department of Commerce reported that California exports amounted to more than \$127 billion in 2006.

Anticipated Action

In 2008, the CalChamber will promote adoption of legislation that will strengthen enforcement efforts against counterfeiting. The legislation will provide greater protection to trademark owners by closing loopholes that have made enforcement difficult and bring California law up to par with recently adopted federal standards in the area.

California has the opportunity to be

among the first of what is hoped to be many states to strengthen anti-counterfeiting standards.

Combining federal, state and local efforts means more effective intellectual property protections for California companies and consumers, a stronger California economy and mutually beneficial relationships with the state’s global trading partners.

Join IPR Working Group

The IPR Working Group will track and provide input on IPR issues as they come up through e-mail exchanges and periodic telephone conferences. One of the group’s first projects will be to examine and provide feedback on the CalChamber-sponsored legislation to combat counterfeiting.

To join the CalChamber IPR Working Group, e-mail Kyla Christoffersen at kyla.christoffersen@calchamber.com.

Staff Contact: Kyla Christoffersen

Survey Shows Employers Offering Employees More Types of Benefits

From Page 3

Organization Size vs. Benefits

The survey found that the number of employees working in an organization influences the number and types of employee benefits and management activities the employer undertakes.

Smaller, and especially micro organizations (1-10 employees), perform fewer employee support activities, such as employee handbooks, orientations and harassment training, for example, than larger employers.

The very small, micro employers also are less likely to pay any portion of health care coverage for their employees or to offer any type of retirement program.

Employers with 11-49 employees in some cases operate similarly to micro organizations and in other cases appear to be more similar to larger employers.

More than larger organizations, smaller employers offer a more flexible and casual environment as evidenced by the more frequent allowance of alternative work

schedules and casual dress.

Once an organization reaches 50 employees, many of the activities related to managing employees (for example, hiring, training, appraisals, etc.) are in place and relatively few differences emerge as the employer adds employees.

Yet, as the size of an organization increases, the time and resources required to manage employee benefits and activities grows exponentially due to both the greater number of employees and the increased number of activities and programs performed, according to the survey.

Industry Differences

Although few differences emerge between employers from different industries in terms of health insurance coverage for employees, dependents or part-time employees, some differences do emerge in terms of health care costs and planned changes.

Manufacturing and scientific/technical employers report some of the highest levels of per-employee costs for health care

while retail/wholesale trade and agriculture/resources tend to have slightly lower costs.

Employers in the retail/wholesale sector report a greater intent than most other employers to raise their employees’ premium portion. Employers in scientific/technical are least likely to be considering this change.

Some other types of benefits vary by the industry in which the employer competes. For example, there is a tendency for more employers in finance/insurance/information services to offer child care and employee assistance programs than many other industry employers. And they, along with scientific/technical, are more likely to offer both alternative work schedules and telecommuting.

Executive Summary

A copy of the survey executive summary can be found at www.calbizcentral.com/benefitsurvey. CalBizCentral, the source for California business and human resource compliance products, is presented by the CalChamber.

February Ballot Measures: Overview

Following are brief summaries of the measures that will appear on the February 5 ballot and the reasons for the California Chamber of Commerce positions.

The California Chamber of Commerce encourages employers to share this information with their employees. Businesses are within their rights to do so — just remember: NO PAYCHECK

STUFFERS, no coercion, no rewarding or punishing employees (or threatening to do so) for their political activities or beliefs.

For more guidelines on political communications to employees, see the brochure at www.calchamber.com/guidelines. Note the distinction between *internal* communications (to employ-

ees, stockholders and their families) and communications to *external* audiences (such as non-stockholder retirees, outside vendors, customers, passersby).

For more information on the ballot measures, see the links listed below or visit the website of the secretary of state at www.ss.ca.gov.

Proposition 91

Transportation Funds. Initiative Constitutional Amendment.

Prohibits certain motor vehicle fuel taxes from being retained in the General Fund rather than going into the transportation account. Delays repayment of such taxes previously retained. Changes how and when the General Fund may borrow certain transportation funds.

Placed on Ballot by:
Petition signatures.

CalChamber Position: Oppose

Reasons for Position:

Proposition 91 is no longer needed. California Chamber of Commerce-supported and voter-approved Proposition 1A on the November 2006 ballot accomplished what Proposition 91 aimed to do, ensuring gas tax revenues are used for transportation purposes.

California Chamber Positions on February Ballot Measures

Ballot Number	Subject	Chamber Position
Proposition 91	Transportation funding (superceded by Proposition 1A)	Oppose
Proposition 92	Community colleges funding	Oppose
Proposition 93	Limits on legislators' terms	Oppose
Proposition 94	Pechanga Band gaming compact	Support
Proposition 95	Morongo Band gaming compact	Support
Proposition 96	Sycuan Band gaming compact	Support
Proposition 97	Agua Caliente Band gaming compact	Support

Proposition 92

Community Colleges. Funding. Governance. Fees. Initiative Constitutional Amendment and Statute.

Establishes independent community college districts and Board of Governors. Requires separate calculation of minimum funding for K-12 schools and community colleges. Sets community college fees at \$15 per unit per semester and limits future fee increases.

Placed on Ballot by:
Petition signatures.

CalChamber Position: Oppose

Reasons for Position:

- Proposition 92 amends the California Constitution to guarantee community college funding levels without adding any accountability structure.

- The proposal would inflict an enormous amount of pressure on California’s already-stressed General Fund and possibly require major cuts from other programs funded from the same pool of money.

For more information:
www.noprop92.org.

Proposition 93

Limits on Legislators’ Terms in Office. Initiative Constitutional Amendment.

Limits total time a person may serve in the state Legislature to 12 years (rather than the current 14), but permits time to be served in one house. Enables current legislators to serve 12 years in current house, regardless of time served in another house.

Placed on Ballot by:
Petition signatures.

CalChamber Position: Oppose

Reasons for Position:

- Term limits reform without redistricting reform is not the comprehensive political reform California needs.
- If California is going to allow legislators to serve longer periods, legislators must be accountable to the voters.

- Fair redistricting is critical to creating accountability. California must ensure that districts are competitive and that voters have the ability to hold elected officials accountable at the ballot box for their actions.

For more information:
www.stopthepoliticians.com.

Proposition 94, 95, 96, 97

Referendum on Amendment to Indian Gaming Compact.

A “Yes” vote approves and a “No” vote rejects a law ratifying an amendment to an existing gaming compact between the state and the Pechanga Band of Luiseño Mission Indians (Proposition 94); the Morongo Band of Mission Indians (Proposition 95); the Sycuan Band of the Kumeyaay Nation (Proposition 96); and the Agua Caliente Band of Cahuilla Indians (Proposition 97).

Placed on Ballot by:
Petition signatures.

CalChamber Position: Support

Reason for Position:

- Compact approval will protect a steady and significant revenue source to the state’s General Fund to help balance the budget and pay for schools, roads and bridges, public safety and health care.

For more information:
www.YESforCalifornia.com.

Governor Seeks Reforms to Align Spending, Revenues

From Page 1

spending if a deficit appears during the year.

He compared the state's previous use of higher revenues to operating on "sugar highs...Then the sugar is gone and we come down off our high. We spend it all one year and can't sustain it the next. We need to budget more evenly."

Infrastructure

The Governor pointed out that California has a water system "built decades ago for 18 million people" and now has a population of 37 million. "We must expand water storage. We must build new water delivery systems," the Governor said. "We must fix the Delta and restore its ecosystem."

Over the next two decades, the Governor said, the state has \$500 billion worth of infrastructure needs to be met as

well as digital infrastructure to keep the economy growing.

He called for expanding public-private partnerships to provide infrastructure and said he will be proposing legislation to make such partnerships more available to state and local governments.

Education

The Governor noted that 23 of the top 100 public schools in the nation identified in a recent survey are in California and that the number of high school students taking advanced math and science courses has increased 53 percent since 2003.

On the other hand, the Governor pointed out, the state has a dropout rate of between 15 percent and 30 percent (the exact number can't be determined due to the inability to track students efficiently). The state also has a lower ratio of teachers and counselors to students than other

schools in the nation, the Governor said.

Dramatic change in the schools requires reforms that will need funding, the Governor said. "In light of the current budget situation, of course, this is not the year to talk about money."

He said 98 school districts in the state are out of compliance with the federal No Child Left Behind Act. The state must act when a district has been out of compliance for five years in a row and has identified several districts that "have persistently failed to educate children," the Governor said.

He announced the state will be the first to use powers granted under the act to turn districts around, working with State Superintendent of Public Instruction Jack O'Connell, teachers, administrators, parents and elected officials "to make these districts models of reform."

Staff Contact: Jeanne Cain

CalChamber Board Votes to Oppose Proposition 93

From Page 1

in either legislative house or a combination of both.

More Time for Incumbents

Should Proposition 93 be passed into law, it would allow all 34 incumbents in both houses who are termed out in 2008 to run for their current seats for another four years or six years.

Proposition 93 does not apply to the Governor or constitutional officers. This proposition does not include term limits

for service by members of Congress.

Many had hopes that the Legislature would deliver term limits reform and a redistricting plan so that voters would have a chance to enact complete reform. However, no redistricting measure appears on the February ballot along with Proposition 93.

"If we are going to allow legislators to serve longer periods of time, they must be accountable to the voters. Fair redistricting is critical to creating accountability. We must ensure that districts are com-

petitive and that voters have the ability to hold elected officials accountable at the ballot box for their actions," said Zaremberg.

Staff Contact: Denise Davis

Seminars/Trade Shows

More information at
www.calchamber.com/events.

International Trade

Global Forecast 2008. Bay Area World Trade Center. January 16, San Francisco. (510) 251-5900.

Annual Meeting/Gala Dinner. Russian Federation Chamber of Commerce and Industry. January 29, San Francisco. (415) 278-0977.

Labor Law

HR 101: Intro to HR Admin.

CalChamber. January 23 – Sacramento; January 30 – San Jose; February 12 – Sacramento. (800) 331-8877.

HR 201: Labor Law Update.

CalChamber. January 24 – Sacramento (sold out); January 29 – Emeryville; January 31 – San Jose; February 13 – Sacramento. (800) 331-8877.

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