

# ALERT

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## CalChamber Emphasizes Economic Stimulus Need

While agreement on a budget package continues to elude state policymakers, the California Chamber of Commerce is emphasizing the importance of action to stimulate economic recovery and spur employment in the state.

This week, Governor Arnold Schwarzenegger vetoed the budget proposal passed by the Legislature's Democratic majority before Christmas, although it in effect increased taxes, an action requiring approval by two-thirds of legislators.

"We agree with the Governor that a budget solution cannot be solved solely with program cuts or revenue increases and needs an economic stimulus component," said Allan Zarembeg, CalChamber president and chief executive officer.

"We strongly applaud the Governor's veto of the Democrats' proposal that would have raised taxes with a majority vote and targeted only oil extracted in California for a huge tax increase," Zarembeg said. "The Constitution

### Three-Point Plan to Stimulate Economy

- 1 Create and seize economic development opportunities.**
- 2 Reduce the cost and risk of keeping and growing jobs.**
- 3 Jump-start public and private infrastructure and commercial projects.**

requires a two-thirds vote for taxes and any budget solution cannot violate that constitutional requirement and cannot single out a specific industry for tax increases.

"Every component of a budget solution needs to consider its impact on California's fragile economy. We cannot sacrifice private sector jobs to protect

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## CalChamber Urges Congress to Protect Workers' Right to Private Ballot

**OPPOSE  
CARD CHECK**

The California Chamber of Commerce is urging businesses

to send letters to the California congressional delegation **opposing** any legislation that would abolish employees' right to private ballot elections during union organizing drives and replace it with a "card check" scheme.

The card check procedure requires an employer to recognize a union once that union produces evidence that a majority of the employees have signed authorization cards.

A secondary, and less well-known aspect of card check proposals is to amend collective bargaining law so that when a union is recognized for the first time, government arbitrators will set all the terms and conditions of the union contract unless the union and the employer can meet unrealistic timelines.

### Affects All Types of Workplaces

A card check campaign could happen in any workplace, large or small. Union organizers themselves oversee the card check process, and the workers' votes are made public to the employer, the union organizers and co-workers, taking away

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## Urge State Leaders to Adopt Flex Scheduling, Clearer Meal/Rest Period Rules



Contact the Governor and state legislative leaders and ask them to adopt legislation that would allow greater flexibility in individual employee work schedules and simplify meal/rest period requirements.

Sample letter at [www.calchambervotes.com](http://www.calchambervotes.com).

### Inside

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## *Labor Law Corner*

# Allow Ex-Employees Access to Personnel Files, Performance Records



**Gary Hermann**  
Labor Law Consultant

*Do the requirements of Labor Code Section 1198.5 apply to former employees?*

Yes! This is the case, according to the interpretation of the Labor Commissioner.

Section 1198.5 of the California Labor

Code allows an employee to inspect the employer's personnel files for records relating to the employee's performance or grievance at reasonable times. The request shall not apply to records relating to possible criminal violations, letters of reference, records obtained before the employee's employment or any records related to a promotional exam.

The Labor Commissioner has concluded that the term "reasonable," as used in the statute, can be determined only on a case-by-case basis.

Pursuant to California Labor Code Section 432, an employee has a right to a copy of any document he or she has signed relating to the obtaining or holding of employment.

### Compliance

The employer must do one of the following in order to comply with the statute:

- Keep a copy of each employee's personnel records at the place where the employee reports to work;

- Make the employee's personnel records available at the place where the employee reports to work within a reasonable period of time following an employee's request; or

- Permit the employee to inspect his or her personnel records at the location where the employer stores the personnel records, with no loss of compensation to the employee.

The statute does not apply to records relating to the investigation of a possible criminal offense; letters of reference; or ratings, reports or records that were obtained before the employee's employment, obtained in connection with a promotional examination, or prepared by examination committee members who can be identified.

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## CalChamber-Sponsored Seminars/Trade Shows

For more information, visit [www.calchamber.com/events](http://www.calchamber.com/events).

### Business Resources

Lower Colorado River Tour. Water Education Foundation. March 4-6, Las Vegas. (916) 444-6240.

Water 2009: Building on Change. Water Education Foundation. March 12-13, Sacramento. (916) 444-6240.

Central Valley Tour. Water Education Foundation. April 15-17, Bakersfield. (916) 444-6240.

### International Trade

Doing Business with Mexicali, Mexico. The Consulate General of Mexico, East Bay Center for International Trade Development, Alameda County Small Business Development Center, Peralta Colleges. January 14, Oakland. (415) 354-1717.

Buy Korea 2009: Korean Product Showcase. Korea Business Center (KOTRA). January 15, Seoul, Korea. (650) 571-8483.

Doing Business in China. University of California, San Diego Rady School of Management. January 26-28, La Jolla.

(858) 822-7853.

Trade Mission to China. California Commission for Economic Development. February 18-28, Beijing, Xi'an and Shanghai. (916) 327-9104.

Water China 2009. China Foreign Trade Centre Group. March 3-6, Canton (Guangzhou). [contact@merebo.com](mailto:contact@merebo.com).

CeBIT 2009: Take Your Business to the Next Level. Hannover Fairs. March 3-8, Hannover, Germany.

### Labor Law

HR 201: Labor Law Update Seminars. CalBizCentral. January 12-February 12. Call for details. (800) 331-8877.

HR 102: Labor Law Admin Seminars. CalBizCentral. January 12-February 12. Call for details. (800) 331-8877.

## CalChamber Calendar

*Luncheon Forum Featuring Finance*  
*Director Michael C. Genest:*  
January 13, Sacramento



# Demand for College-Educated Workers Will Exceed Supply, Study Finds

California's supply of college-educated workers will not meet the projected demand, according to a study by the Public Policy Institute of California (PPIC).

The study, "California's Future Workforce: Will There Be Enough College Graduates?" shows that if past trends in worker education within and across industries and occupations were to continue, about 41 percent of workers in the California economy in 2025 would need a bachelor's degree.

This represents a 7 percent increase of the college-educated share in 2006 and continues the trend between 1990 and 2006, when the proportion of California workers with a college education increased from 28 percent to 34 percent.

The analysis, released last month, projects a change in supply trends for college-educated workers due to:

- Workers who are currently ages 50 to 64 have the highest levels of college education and these workers will reach retirement age by 2025.
- The share of Latinos in the working-age populations is increasing and this group has relatively low levels of education attainment.
- The migration of college-educated workers from other states and countries is unlikely to increase future supply to levels comparable with past growth.

## Workforce Skills Gap

The projected workforce skills gap results from continued growth in the demand for college-educated workers combined with a slowdown in the growth of the share of college-educated adults in the population.

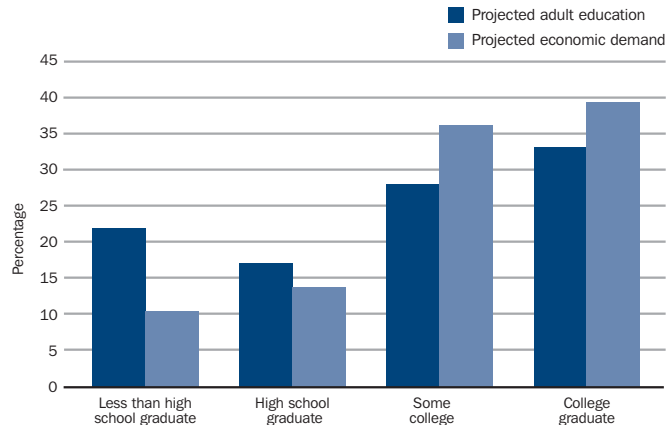
One reason for the slowdown is that 34 percent of California adults in the state have a bachelor's degree. The retirement of these workers will dampen growth in worker educational attainment.

In contrast, California adults who reached retirement age between 1990 and 2006 were among the least-educated adults in the state, and their retirement contributed to improvements in overall education attainment of workers.

## Latinos

The share of Latinos with a bachelor's

## California's Troubled Future: Too Many Workers Without a College Education, Too Few with a College Degree in 2020



Source: Public Policy Institute of California

degree increased from 7 percent in 1990 to 10 percent in 2006 and is projected to reach only 12 percent in 2020. Latinos will continue to have the lowest college-education levels of any of the major racial and ethnic groups in California, the study found.

Latinos grew from 22 percent of the working-age population in 1990 to 29 percent in 2006 and are projected to grow to 40 percent by 2020.

## Migration

To meet the demand for college-educated workers in 2025, migration would need to increase to almost 160,000 college-educated workers annually and to remain at that level for another 20 years.

Since 2000, international immigration has brought an annual average of 56,000 college graduates to California. During this period, however, more college graduates left California for other states than arrived from other states. This is likely the first time in its history that California has sustained net out-migration of college graduates, the study found.

Out-migration of college-educated workers since 2000 has been driven, in part, by high housing costs in the state and that may be temporary. The study found that even if California were to return to 1980 levels of net in-migration of college-educated adults, migration

would not come close to filling the projected gap between supply and demand.

## Implications

The economy of the future requires a skilled workforce. The study suggests that growth in supply will be even more constrained in the future. The study's author suggests that effective reforms and investments today will create a workforce that will help fuel future economic growth and bestow many additional economic and social benefits on the people and state of California.

## CalChamber Position

All students, whether they graduate from college, high school or technical training, should benefit if the state holds them to tough standards, especially in the lower grades, Allan Zaremborg, president and chief executive officer of the California Chamber of Commerce, recently said in the *Los Angeles Times*.

Studies show that children who perform poorly on a seventh-grade assessment test also fail an 11th-grade test, Zaremborg said.

"We have to have good high schools, good middle schools and good elementary schools," he said. "But we have to demand grade-level proficiency."

**Contact: Loren Kaye**



## CalChamber Emphasizes Economic Stimulus Need

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public sector jobs. We must find an appropriate balance that protects our private sector economy and provides necessary and essential government services.”

The budget deficit now is estimated to reach \$41.6 billion over the next 18 months. The recession and stock market decline have contributed to a drastic drop in state revenues. State officials have said the state will run out of cash by February or March if policymakers don't act in the coming month to better align spending with revenues.

On December 31, 10 days earlier than required by the state Constitution, the Governor released a proposed budget plan for 2009-10. The proposal includes more than \$17 billion in spending cuts affecting all areas of government and \$14 billion in new revenues.

The Governor also proposed measures to improve efficiency within state operations, including eliminating or consolidating dozens of boards and commissions.

The Governor, in a letter to Assembly Speaker Karen Bass (D-Los Angeles) and Senate President Pro Tem Darrell Steinberg (D-Sacramento), following the veto of the Democrats' budget, said the proposal would “punish people with increased taxes,” and that it did not “make the serious cuts in spending necessary to balance our budget.”

The Governor also has noted that the package did not include economic stimulus provisions that were needed, including relaxed state workplace and environmental laws to expedite public works projects.

### Three-Point Plan

The CalChamber outlined a three-point plan to stimulate the economy in November 2008 (see November 21, 2008 *Alert*):

**1) Create and seize economic development opportunities.** The Governor should establish a focused economic development effort, led by his office, including assembling “Strike Forces” of key state, local, utility and private officials to streamline permits, identify financial incentives and involve all decision makers on a project team; identifying and packaging statewide incentives, such as federal grants and special fee-supported revenues, which

can be used to entice new business development; and reinitiating, both domestically and internationally, his successful sales pitch on the California economy.

**2) Reduce the cost and risk of keeping and growing jobs.** Reducing costs on California employers will result in more employment and free up money for capital expansion, which will in turn create more jobs. To accomplish this, all government mandates should be examined with the aim of reducing employer costs without sacrificing important public policies.

For example, California should conform its out-of-date overtime laws to the rest of the country. This would allow employers to offer four-day workweeks without incurring additional wages. It is also good for workers because they can reduce commutes and the costs that go with them by 20 percent. Governor Schwarzenegger proposed changing overtime rules for high-wage employees, but this reform should be made available to all California workers.

California should clarify its rules regarding meal and rest periods to allow more flexibility for employers and employees. Again, the Governor took an initial, important step on this issue, but a comprehensive fix is necessary to reduce costs and save jobs.

**3) Jump-start public and private infrastructure and commercial projects.** Public projects can be a catalyst, but private construction projects can produce many more jobs and create the foundation for ongoing economic

### Your Ideas, Please!

What can be done to reduce the cost of doing business in California? E-mail your ideas to [economy@calchamber.com](mailto:economy@calchamber.com).

development. Investment in public *and* private infrastructure is imperative for California to take advantage of the eventual economic recovery.

In particular, the Legislature should provide a temporary safe harbor from California Environmental Quality Act private causes of action on climate change impacts until actual significance thresholds are adopted by lead agencies, such as the Air Resources Board. Until such standards are adopted, there should be even greater deference to a lead agency; otherwise, these cases will inevitably wind up in court.

The Governor should also direct his administration to quickly identify every short-term, appropriate public works project financed by general obligation bonds, lease-revenue bonds, federal funds or other dedicated funds and set aggressive goals for advancing those projects into construction phase within six months.

The CalChamber believes that ultimately, a common-sense approach that minimizes harm to the existing economy and aggressively promotes growth will spark and sustain recovery. A recovered economy is the only way to get the state budget back on track.

**Staff Contact: Marc BURGAT**

## Allow Ex-Employees Access to Personnel Files

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### Former Employees

The prior version of the statute used slightly different language, and from that language could be implied the fact that the protection was extended to ex-employees. The current language can no longer be read in that way.

The Division of Labor Standards Enforcement (DLSE), however, has concluded that it was not the intent of the Legislature to limit the protection only to current employees, so the DLSE

will enforce the statute in favor of ex-employees.

In light of the DLSE's stance, an employer should not deny an ex-employee access to his/her own personnel file, without consulting with legal counsel.

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*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](http://www.hrcalifornia.com).*

*Profiles in Trade*

# Taking Global View of Operations Key to Success of Blue Diamond Growers

While some have called it the “billion-dollar baby,” others refer to the growth of the California almond business as one of America’s most extraordinary agricultural phenomenons.

Blue Diamond Growers was founded by 230 enterprising almond growers in 1910. Today, just two years shy of celebrating its centennial anniversary, the cooperative is owned by more than half of California’s almond growers. They help to produce more than 80 percent of the world almond supply and 100 percent of the U.S. production.

## Almond Suppliers to World

In the early 1900s, Spain and Italy produced nearly all of the world’s supply of almonds. This gave those nations control over the market and the price paid to the California grower, and spurred the growers to want to control their own destiny.

The California growers formed a cooperative to be managed by a professional team of processors who received the crop from local receiving stations in Northern California and marketers who would eventually promote and sell the almonds under the now-renowned Blue Diamond brand.

After building a consumer and industrial ingredient business in the United States, Blue Diamond traveled to Europe and Asia in the early 1950s to learn about the competition in Spain and Italy.

After formulating a successful strategy for selling California almonds to Europeans, Blue Diamond expanded into Asia. The quality-conscious Japanese learned to include almonds in European-style pastries and were eager to learn more about Western-style snacking on Blue Diamond almonds. By the mid-1960s, Japan consumed nearly one-third of the California crop.

The virtues of trading had finally paid off—Blue Diamond was the first company to team with the newly formed Foreign Agricultural Service to open a sales office in Tokyo, Japan, and distribute almonds through the Coca-Cola bottlers. It is this model of partnership



Photo courtesy of Blue Diamond Growers

This is one example of advertising depicting young, active and health-conscious Thai consumers enjoying a Blue Diamond snack break.

that drives Blue Diamond’s trade relations today.

## Trade Agreement Impact

Blue Diamond works with myriad U.S. agencies to advocate for free trade agreements (FTAs) in all regions where trade barriers to California almonds exist. It’s Blue Diamond’s philosophy that if tariffs on almonds worldwide could be reduced to zero, the global consumer would enjoy a healthy food and both the U.S. economy and the country with open access will grow their respective economies.

A win on the pending FTA in South Korea, for example, could turn a \$25 million almond market into a \$50 million market over time.

Most of the Asian markets are health conscious and are reacting well to the nutritional aspects of almonds. In some cases, the industry has conducted health research in markets such as Japan, China and India.

Not only are almonds the largest food export in California, but more than

70 percent of the supply is exported to nearly 100 countries. With the foresight to expand markets worldwide set decades ago, today’s almond industry is thriving despite increased production.

For example, the record 2007 almond crop was 23 percent bigger than the record 2006 crop and the 2008 crop was 9 percent larger than the previous crop. The state will produce 1.5 billion pounds of almonds this year valued at nearly \$3 billion. That’s about one-third larger than the crop five years ago.

Yet, 2007 almond consumption soared to unprecedented levels and drove Blue Diamond sales to a record \$700 million-plus company. U.S. consumption jumped 7 percent, while export consumption increased even more: 50 percent in the Middle East; 32 percent in Eastern Europe; 24 percent in Western Europe; and 20 percent in Asia.

The potential to sell more almonds to the growing middle class populations in India and China is enormous. California almonds are now India’s largest U.S. import, but imagine the boom if high tariffs could be reduced to zero in a successful multilateral Doha Round trade agreement.

## Investment in Research

Part of this export success comes from an industry investment of \$15 million since the late 1990s in nutritional research and a recent qualified U.S. health claim. The health attributes of almonds are making this whole food attractive in many ways and creating consumption opportunities worldwide.

For example, studies show that almonds:

- contribute to a healthier heart as an unsaturated fat source;
- help to maintain or lose weight as the monounsaturated fat is only partially absorbed and causes satiation, which reduces hunger;
- lower the risk of diabetes;
- inhibit tumor growth; and
- lower the risk of Alzheimer’s disease.

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## CalChamber Urges Congress to Protect Workers' Right to Private Ballot

*From Page 1*

the worker's right to choose, freely and anonymously, whether to approve union representation.

Once a majority of workers have signed authorization cards, the union is certified — no election is required. The employees are then union members and the employer must negotiate with the union on behalf of its employees.

The CalChamber believes that the rights of workers and employers are best protected by the current private ballot system overseen by the National Labor Relations Board.

Employees are better protected from interference and intimidation by casting their vote privately. The right to a private ballot is at the very foundation of democracy, and all employees should have that right. Subjecting workers to a public card check procedure takes away their privacy, power and choice.

Court cases, testimony before Congress and National Labor Relations Act precedent have documented that the card check process has been accompanied by harassment, intimidation and coercion, including employees being threatened at home and away from the workplace.

### Federal Legislation

Efforts to enact federal card check legislation have been underway. In 2007, the U.S. House of Representatives passed the card check bill, **H.R. 800**, known as the "Employee Free Choice Act." Contrary to the implications of its title, the so-called "Employee Free Choice Act" strips workers of their right to privacy in union organization elections and increases penalties on employers significantly without any corresponding increase in penalties on unions.

The House bill included provisions requiring federally appointed arbitrators to write labor contracts that are binding for two years. If there is no agreement for a first contract after 120 days of negotiations, the matter could be submitted to binding interest arbitration where a federally appointed arbitrator would decide all the terms and conditions of the union contract — from pay and benefits to work rules and outsourcing. As a result, employers would be forced to change their business models radically or eliminate important competitive advantages.

In the U.S. Senate, **S. 1041** fell just nine votes short of passage in 2008. The

failed legislation would have created a system where unions hold all of the cards and imposed fines of up to \$20,000 on businesses offering any type of increase in salary or benefits during the open-ended election period. This would have allowed only the union to compete for votes and seems to penalize employees from reaping the benefits of employers offering them better wages and benefits.

### Action Needed

It is anticipated that early in the current congressional session, the "Employee Free Choice Act," or something similar, will be reintroduced for a vote.

The CalChamber urges members to contact U.S. Senators Dianne Feinstein (D-San Francisco) and Barbara Boxer (D-Greenbrae), as well as congressional representatives. Ask them to **oppose** any legislation that would abolish private ballot elections during union organizing drives, and to preserve private ballot elections to protect free enterprise and free speech.

For a sample letter, visit [www.calchambervotes.com](http://www.calchambervotes.com).

**Staff Contact: Marti Fisher**

## Taking Global View of Operations Key to Success of Blue Diamond

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### Growing Sales

Blue Diamond is the only "branded nut company" that has shown consistent sales growth over the last six years, averaging 25 percent annually. By 2010, the global snack market will be valued at \$300 billion. This is inspiring Blue Diamond to adapt its successful snack strategy worldwide by linking with partners that value the brand franchise, while also helping global food manufacturers develop new products using almonds as a healthy ingredient. Using its advertising slogan, "More Than A Snack," Blue Diamond hopes to build on consumers who want to "eat healthy."

The cooperative also is supporting its growing volume of sales and shipping by adapting cutting-edge information technology designed to track business in "real time." This also tightens production schedules to meet timely sales commitments.

Recent market research conducted by the Almond Board of California reveals that almond buyers are ready for innovative sales strategies worldwide. In 2007, for example, 60 percent of those surveyed incorporated almonds in a new product or menu item; 47 percent are using more almonds than they were five years ago; and 57 percent said consumer demand for almonds was an important factor in their decision to use them.

Between 2006 and 2007, new global almond introductions grew 26 percent and gained the highest percentage share of all new food and nut products.

To continue this successful business trend, Blue Diamond urges the approval of all existing FTAs and a future trade policy that is open to market access between countries and implementation of Trade Promotion Authority for the President to successfully conclude them on behalf of U.S. business.

For more information, visit [www.bluediamond.com](http://www.bluediamond.com).

*"Profiles in Trade" is a regular feature highlighting the international activities of CalChamber member companies.*

**They won't know unless you tell them. Write your legislator. [calchambervotes.com](http://calchambervotes.com)**



# advocacy return on investment



*"The CalChamber is actively engaged in issues that affect jobs and the California economy."*

**Edwin A. Guiles**  
Executive Vice President,  
Corporate Development  
Sempra Energy  
2008 CalChamber Chair

Working to limit  
regulation and  
reduce business  
costs

## CAPITOL WATCHDOG

Each year CalChamber tracks more than 3,000 legislative proposals on behalf of member businesses.

## MAJOR VICTORIES

CalChamber scores major victories for employers through targeted advocacy and political action. Check out: [www.calchamber.com/majorvictories](http://www.calchamber.com/majorvictories)

## ABOUT US

CalChamber is the largest, broad-based business advocate, working at the state and federal levels to influence government actions affecting all California business. As a not-for-profit, we leverage our front-line knowledge of laws and regulations to provide affordable and easy-to-use compliance products and services.

## Get a great return on your investment with a CalChamber membership

### 2008 Sample Return on Investment for Members

State-Run Health Care (SB 840)	<b>\$10 Billion</b> Saved
Paid Sick Leave (AB 2716)	<b>\$4.6 Billion</b> Saved
Workers' Compensation Rollback (SB 1717)	<b>\$2 Billion</b> Saved
Climate Change Taxes – Vehicles (SB 445)	<b>\$1.5 Billion</b> Saved
Health Care Mandates (AB 54, AB 368, AB 1774, AB 1887, AB 1962, AB 2174, AB 2234, SB 1198, SB 1634)	<b>\$1.3 Billion</b> Saved
Gas Price Increase (ABX3 9)	<b>\$1 Billion</b> Saved
Internet Taxes (AB 1956/1840)	<b>\$1 Billion</b> Saved
Freight Movement Tax (SB 974)	<b>\$500 Million</b> Saved
Climate Change Taxes – Vehicles (AB 2558)	<b>\$380 Million</b> Saved
Increased Penalties for Counterfeiting (AB 1394)	<b>\$340 Million</b> Saved
New Tax Administrative Burden (AB 1848)	<b>\$100 Million</b> Saved
Climate Change Institute (SB 1762)	<b>\$87 Million</b> Saved
Sales and Use Taxes (AB 1839)	<b>\$42 Million</b> Saved
<b>Total Definable Return</b>	<b>\$22.849 Billion</b>

**Return Per California Employee**  **\$1,757.00**

### Savings from reforms passed

ADA Reform (SB 1608)	<b>\$50,000</b> Per Lawsuit Prevented
Statute of Limitations (AB 437)	<b>\$50,000</b> Per Lawsuit Prevented

### Additional legislation that would have increased employers' costs even more

Suburban Development Limitation (AB 2447)	Unable to Define Total Impact
Plastic Packaging Ban (SB 899)	Unable to Define Total Impact

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