ALERT

VOLUME 35, NUMBER 2 • JANUARY 16, 2009

CalChamber
CALIFORNIA CHAMBER OF COMMERCE

Economy Hurts Budget; Stalemate Hurts Economy

Not only is the recession hurting state budget revenues, but the lack of a state budget is starting to hurt the economy.

That interplay was clear as Governor Arnold Schwarzenegger delivered his sixth State of the State address on January 15.

The Governor noted that in December the state had to suspend funding affecting 2,000-plus infrastructure projects that already were underway.

"This disruption has . . . thrown thousands and thousands of people out of work at a time when our unemployment rate is rising," the Governor said.

The Governor encouraged legislators "to continue the hard work that you are doing behind closed doors" and resolve the budget crisis.

"I know that everyone in this room wants to hear again the sound of construction," the Governor said. "No one wants unemployment checks replacing paychecks."

Economy Is Key

Recognizing that the size of the budget shortfall is in part an unfortunate consequence of the economic recession,

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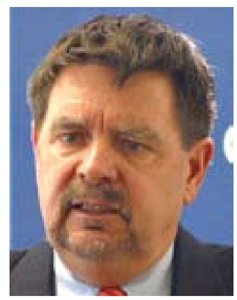
CalChamber President Links Employer Costs with Economic Recovery, Budget Revenues

CalChamber President Allan Zaremberg appears on KCRA-TV news in Sacramento on January 13 to reiterate that reduced employer costs and job creation should be part of any budget solution.

State Finance Director Says California at Brink of Financial Disaster



Michael Genest

If the Legislature does not act on the state's budget crisis by February 1, California will be unable to pay all its bills beginning in March, state Finance Director Michael Genest said at a California Chamber of Commerce luncheon on January 13.

Genest emphasized to the more than 120 luncheon forum attendees that California, like the rest of the nation, is in the midst of a severe economic downturn. The combined effect of the state's continuing structural budget deficit and the loss of revenues due to the economic downturn results in a budget gap of $41.6 billion—just less than half the revenues projected for 2009–10.

"This is the most challenging budget in the state's history," Genest said. "It demands quick actions and calls for every type of solution possible, including major spending cuts, revenue increases, borrowing and cash management strategies."

Origins of the Budget Gap

Genest cited two factors contributing to the budget gap:

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Inside

Cal/OSHA Corner

Injury/Illness Summary (Form 300A) Must Be Posted Starting February 1

Mel Davis
Cal/OSHA Consultant

Is my company required to post the Form 300 beginning February 1?

A free Log 300 wizard is available at ***www.calbizcentral.com*** to help a business determine whether it is subject to recordkeeping requirements.

If your company had 10 or fewer employees at all times during the last calendar year, your company does not need to keep Cal/OSHA injury and illness records.

This exemption also applies if your company's Standard Industrial Classification (SIC) code is included in Table 1 of Article 2 of the regulations adopted by California's Division of Labor Statistics and Research.

Employers are responsible for providing a safe and healthful workplace for their employees. The role of the federal Occupational Safety and Health Administration (OSHA) is to assure the safety and health of U.S. workers by setting and enforcing standards; providing training, outreach and education; establishing partnerships; and encouraging continual improvement in workplace safety and health.

OSHA or the U.S. Bureau of Labor Statistics may ask you to participate in a random survey to provide records as detailed in the provisions of Section 14300.41 or Section 14300.42.

Form 300, 300A

The Form 300 is used to record, or log, all injuries and illnesses, except those that have been determined to be first aid only. Typically, the Form 300 is not posted because there may be employee privacy issues involved.

As an employer, you are not to include the employee's name for specific injuries or illnesses listed in Section 14300.29(b)(7), such as needle sticks, HIV infection, hepatitis, sexual assault and others. In addition, an employee suffering from an injury or illness not listed as a privacy issue may request that his/her name not be entered on the log.

Another form, the 300A, must be completed and posted beginning February 1. This form contains a summary of the total number of job-related injuries and illnesses that occurred during the previous year. Employers are required to post only the summary (Form 300A) — not the Form 300 (Log) — from February 1 to April 30.

The summary must list the total number of job-related injuries and illnesses that occurred in the previous year and were logged on the Form 300 (Log). Employment information about the annual average number of employees and total hours worked during the calendar year also is required to assist in calculating incidence rates. Companies with no recordable injuries or illnesses in the previous year must post the summary with zeros on the "total" line. A company executive must certify all establishment summaries.

The form is to be displayed in a common area where notices to employees usually are posted. Employers must make a copy of the summary available to employees who move from worksite to worksite, such as construction workers, and employees who do not report to any fixed establishment on a regular basis.

All employers covered by California's safety and health regulations need to comply with safety and health standards and must report verbally within eight hours to the nearest OSHA office all fatal accidents or the hospitalization of three or more employees. Those employers exempt from the recordkeeping requirements must continue to file reports of occupational injuries and illnesses with the state Division of Labor Statistics and Research.

More Information/Forms

For more information on Form 300 filing and posting requirements, visit ***www.hrcalifornia.com***.

Copies of the OSHA Forms 300, 300A and 301 are available.

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.

Copies of OSHA forms available at ***hrcalifornia.com***

Next Alert: January 30

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 $50 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 Zaremberg. Executive Editor: Ann Amioka. Associate Editor: Blake Ellington. Art Director: Marcy Wacker. Capitol Correspondent: Christine Haddon. Photographer: Aaron Lambert.

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Economy Hurts Budget; Stalemate Hurts Economy

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the California Chamber of Commerce is emphasizing that the budget solution should not hurt the economy further.

"Policymakers have to do everything they can to help the economy because a recovered economy is the only way we can continue to fund necessary and essential state programs," said California Chamber of Commerce President and Chief Executive Officer Allan Zaremberg.

"We recognize that additional revenues are necessary, but the state has to live within its means and prioritize programs, just like businesses are having to cut costs to deal with less income," he said.

"If there are going to be tax increases, revenue sources need to be spread as much as possible to minimize the economic harm.

"The state can't unfairly target one industry—as in the Democrats' proposal to tax only oil produced in California. That new tax will just increase prices here and result in the loss of high-quality jobs in the industry.

"Extending the sales tax just to certain services, such as veterinarian visits, auto repair and California's tourism industry—as the Governor proposed—amounts to a surcharge of more than 8 percent on the targeted services and would result in a loss of jobs.

"Anything the state can do to reduce costs on employers is going to result in jobs saved or jobs created. The Governor and CalChamber are in strong agreement on three proposals that would reduce business costs and help stimulate our economy:

"Reforming state overtime laws to match the rest of the country will help non-union employers offer individual employees greater flexibility at no additional cost to the business and at a saving to workers who can save on commute costs.

"Clarifying California's meal and rest period requirements will remove a source of costly litigation that is hurting employers' ability to provide jobs.

"California Environmental Quality Act (CEQA) reforms that streamline the process will get infrastructure projects moving and put more people to work."

Plan to Stimulate Economy

The CalChamber has proposed a three-point plan as part of the budget solution, emphasizing economic stimulus to get the economy moving (see November 21, 2008 ***Alert***):

- create economic development opportunities;
- reduce the cost and risk of keeping and growing jobs; and
- jump-start public and private infrastructure and commercial projects.

Budget Discussions

Ever since the Governor vetoed the majority-vote tax increase budget plan that the CalChamber believes was unconstitutional, the dialogue between Republican leaders, Democratic leaders and the Governor appears to have been renewed with greater vigor.

The CalChamber supports a budget solution which funds and prioritizes essential and necessary services with revenues that aren't harmful to the economy. That will be beneficial to the jobs outlook for both the public and private sectors.

CalChamber-Sponsored Seminars/Trade Shows

For more information, visit *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 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*.

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

17th Convergence India 2009. Exhibitions India Pvt. Ltd. March 18–20, Pragati Maidan, New Delhi, India. (650) 740-6064.

63rd World Affairs Council Annual Conference. World Affairs Council of Northern California. April 2–3, San Francisco. (415) 293-4626.

Renewal Energy Conference. Center for International Trade Development. April 27–29, San Francisco. (858) 208-9227.

Labor Law

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

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

CalChamber Calendar

Fundraising Committee:
March 5, San Diego

Water Committee:
March 5, SanDiego

Board of Directors:
March 5-6, San Diego

Council for International Trade:
March 6, San Diego

AB 32 Climate Change Policy Committee: March 6, San Diego

State Finance Director Says California at Brink of Financial Disaster

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● The gap is partly due to the continued structural budget deficit that began 10 years ago and that never been completely eliminated.

● A major part of the state's budget gap is due to the dramatic decline in revenues during the current recession.

In 1998-99, the state's budget was balanced and projected to remain in balance. One year later, however, revenues increased by 23 percent due to a stock market and dot-com boom that drove unprecedented increases in stock option and capital gains income. These were magnified from a state revenue perspective, because the state's income tax system relies disproportionately on the high-end earners most likely to receive such gains.

The surge in revenues resulted in massive, and unsustainable, new spending commitments. When revenues declined, the state relied on mostly one-time measures, such as borrowing, to temporarily reduce spending without cutting back underlying program commitments. Thus, the structural deficit was born.

This state Department of Finance chart compares state revenues to expenditures. The "workload" amount refers to what state law/formulas require to be spent absent legislative action adjusting the spending.

Addressing the Budget Gap

The Governor's budget proposal projects a deficit in the current year of $14.8 billion. If this continues unaddressed, the deficit will grow to $41.6 billion by the end of the next fiscal year.

Genest said that most budget solutions, spending cuts or revenue increases require significant time to achieve their full value. Therefore, it is imperative that solutions be enacted immediately, as opposed to waiting until the enactment of the 2009–10 budget, Genest said.

Genest reminded luncheon attendees that the Governor declared a fiscal emergency, called special sessions of the Legislature and asked for immediate action on November 6, 2008, December 1, 2008, and again on December 19, 2008.

Managing the Cash Shortfall

The proposed budget projects that even if the Legislature enacts all the special session solutions by February 1, 2009, the state will be unable to pay all of its bills beginning in March.

Absent legislative action or if the solutions adopted by the Legislature fall short of the level proposed by the Governor, Genest said, it may be necessary for the state to make some payments with registered warrants, or IOUs. Genest did, however, assure listeners that despite these challenges, there is no reason to expect any delay in paying debt service or in repaying the $5 billion in short-term Revenue Anticipation Notes (RANs) sold in October 2008.

"It will not be possible for the state to continue managing its cash flow into the budget year in the absence of a substantial infusion of cash," Genest said.

The budget proposes selling Revenue Anticipation Warrants (RAWs) in July 2009. While RANs must be repaid within the fiscal year in which they are sold, RAWs can be repaid in the subsequent fiscal year.

Genest explained that this sort of cash flow management has always been a last resort in times when a sudden drop in revenues produces a deficit too large to be addressed with spending cuts and revenue increases alone. He predicted that it will be very difficult for the state to sell RAWs in the current credit environment.

Federal Economic Stimulus

When asked about the widely held belief that the incoming Congress will enact a major relief bill for the states, Genest explained that relying on funds from a relief bill to balance California's budget would not be prudent for three reasons:

● First, Genest said, the state must balance its budget on its own to have any chance of re-entering the credit market for general obligation bonds or cash flow borrowing.

● Second, any bailout would be temporary and the state needs to make permanent changes to restore balance to its budget for the long-term.

● Third, most of the proposals for sending federal funds to states focus on infrastructure construction as fiscal stimulus—not on giving states unencumbered money to balance their budgets.

Summarizing the difficulty of any budget solution, Genest commented, "Everyone's got to bite a bullet."

Legislation Seeks to Increase Costs for Near-Insolvent Unemployment Fund

The California Legislature is considering a fast-tracked bill that would put an additional financial strain on the state's dwindling Unemployment Insurance (UI) Trust Fund by allowing part-time workers to receive unemployment insurance benefits while looking for permanent full-time work.

SBX3 9 (Ducheny; D-San Diego)—to be amended per Legislative Counsel RN 09 02163—further loosens eligibility standards in California's struggling UI system and will lead to increased costs for California employers.

Employers alone pay the taxes supporting the UI fund, which is already stretched to capacity by the increases in unemployment during the current severe recession. While SBX3 9 loosens eligibility standards and leads to an increased demand on limited funds, it does nothing to increase the financial health of California's UI fund.

The state Employment Development Department (EDD) currently projects that California's UI fund will be insolvent in the first quarter of this year. When the fund becomes insolvent, California will have to borrow money from the federal government and pay interest on the principal. Because the interest cannot be paid out of the UI fund, it must come from another source. This will put increased pressure on California's struggling General Fund and could deprive Californians of vital resources for programs such as job retraining, which ultimately help people stay employed and get back to work.

Compliance with Federal Law

The stated purpose of SBX3 9 is to bring federal funds to California's unemployed population by adjusting state UI laws to be consistent with requirements under HR 290 (McDermott; D-Wash.)—the Unemployment Insurance Modernization Act.

HR 290 provides for special transfers of federal funds to states as an incentive to loosen UI benefit eligibility standards and make other changes to "modernize" a state's UI system. HR 290 has only recently been introduced in Congress, however, and it is unclear at this time whether the bill is in its final form.

Make Only Needed Changes

If the goal of SBX3 9 is to attract federal funds to stimulate California's economy, the Legislature should focus on making only the most effective changes necessary to qualify for those funds. All other issues should be tabled for a more thorough comprehensive discussion aimed at rehabilitating California's near-insolvent UI fund. HR 290 does not require California to increase the income disregard for part-time workers.

More Income Permitted

SBX3 9 increases costs to California's UI fund by increasing the amount of income disregarded for unemployment benefits. Under current law, a person who is unemployed and receiving UI benefits can earn up to $25 per week while still qualifying for benefits, as long as that person's weekly benefits amount is more than $25.

SBX3 9 increases that amount to $200, thereby leading to an increase in the number of people who qualify for UI benefits. California already has some of the most progressive eligibility standards in the nation.

The California Chamber of Commerce is pointing out that with the UI fund in significant financial trouble, this is not the time to loosen eligibility standards and create an even greater demand on the fund.

Base Period Calculation

SBX3 9 also adjusts the base period calculation used in determining eligibility for UI benefits by creating an alternative base period calculation that can be used to qualify for benefits. If a person seeking UI benefits does not qualify under current California law, that person would be allowed to use an alternative method for reaching eligibility.

This change in law would lead to additional demand on the UI fund and is not required to conform with federal law and attract stimulus funds.

CalChamber Position

The CalChamber believes that the California Legislature should wait until the contents of the federal legislation have been finalized before the state takes action to comply. By waiting for the final version of the federal legislation, the state can take more time to analyze the options and determine which compliance path provides the greatest benefit to California employees while creating the least amount of financial pressure on California's near-insolvent UI fund.

The CalChamber appreciates and commends state legislative efforts to bring federal funds to California's unemployed population and stimulate the economy with $900 million that would not otherwise have been spent in California. However, the estimated $900 million in federal funds would not be spent immediately. Early estimates from Insurance Committee staff indicate that the changes proposed under SBX3 9 would cause only $150 million of the total federal stimulus funds to be spent each year. In short, the $900 million in federal funds would be spent over the course of five to six years.

The CalChamber supports stimulating California's economy in order to help the state recover from the recession, but is very concerned about making permanent changes to UI laws that will create new financial burdens on the business community once the federal funds dry up. The CalChamber believes the Legislature should act timely to attract these funds, but should also act deliberately enough to determine if the short-term benefits of this minor stimulus outweigh the long-term cost of adding a burden to the state's UI fund and the businesses that fund it.

Although the CalChamber supports making reasonable adjustments to attract $900 million in federal stimulus money, it cannot support changes that would unnecessarily increase the financial burden on California's struggling UI fund.

To summarize, the CalChamber believes that the Legislature should wait until the federal law is finalized before seeking conformity; deliberately select a compliance option that puts the least amount of pressure on the struggling UI fund; and seek conformity with federal law only if the short-term benefits outweigh the long-term costs.

Staff Contact: Jason Schmelzer

Delta Vision Final Report Submitted to Governor, Legislature

After two years of work and countless meetings by stakeholders, the Delta Vision Blue Ribbon Task Force and the Delta Vision Committee, the final report outlining strategies to safeguard the fragile Delta and provide a reliable source of water for millions of Californians was sent to the Governor on December 31, 2008.

The report lays out an ambitious timeline over the next two years to jumpstart strategies.

Most controversial in the report are the recommendation for dual conveyance of water through and around the Delta and a proposal for a governance council.

The Delta is the crux of the state's water delivery system.

The Delta Vision process was created by executive order in 2006 tasked with finding common ground on the two coequal goals of improving water supply and protecting the fragile resources of the Delta. The disastrous flooding in Louisiana underscored the precariousness of the Delta levees protecting thousands of residents, thousands of acres of farmland and the drinking water source for 25 million Californians.

Conveyance and Storage

The report concludes that a dual conveyance system would seem to be the best option to improve water quality in the Delta and provide a reliable source of drinking water to those served by the State Water Project.

Levees would need to be strengthened to withstand natural disasters like floods or earthquakes. More flexibility to control water flows at certain times of the year would be necessary to balance environmental needs with water supply needs. A peripheral canal would provide that flexibility.

The proposed canal is not a new idea. It originally was proposed in the 1980s, but was the subject of a referendum. More recently, academics have released reports that the peripheral canal must be considered if the Delta is to be preserved. Continuing drought conditions add a sense of urgency to the need to fix the Delta and yet provide sufficient water for people of the state.

Other key elements of the final report include proposals to build two new reservoirs (the locations are not specified). Additional water storage provides the State Water Project operational flexibility to manage flow requirements for environmental purposes, to improve water quality in the Delta and assure a reliable water supply.

The plan also calls for fast-tracking the construction of the peripheral canal by the executive branch through the state Department of Water Resources. A 1984 legal opinion from the state Attorney General suggests that the Governor could direct the Department of Water Resources to break ground on the peripheral canal without approval from the Legislature.

Delta Governance Proposal

As many as 200 agencies have shared jurisdiction over various activities in the Delta in past years. The California Bay-Delta Authority, a mix of state and federal agencies and public members, was largely ineffective in its efforts to coordinate Delta policy. The Delta Vision Committee opted to modify the task force's recommendation and proposes a new framework for governance.

The Interim Delta Policy Group would begin developing a long-term governance plan (Delta Plan) that negotiates the coequal goals of Delta governance in coordination with local governments around the Delta region.

Specifically, the group would consist of the agency secretaries of Natural Resources; Environmental Protection; Business, Transportation and Housing; Food and Agriculture; the directors of the Department of Water Resources and the Department of Fish and Game; the executive director of the State Water Resources Control Board; the president of the Public Utilities Commission; and one elected official from the five Delta counties. The Secretary of the Interior would be invited to participate.

The Policy Group would oversee implementation of all Delta activity until long-term governance is in place. Meanwhile, the group would begin developing memoranda of agreement with Delta region counties.

Once the Policy Group completes work implementing a new governance structure, the existing Delta Protection Commission will focus on land use and economic development. It also will ensure that all projects in the Delta are consistent with the plan.

A new Delta Conservancy also would be established to develop a strategic plan to perform restoration activities in the Delta region, including purchasing and managing lands. The Conservancy would be empowered to enter into contracts, buy and sell land and other property, and receive and expend grants as it sees fit, among other powers.

Ecosystem Restoration

Finally, the report emphasizes ecosystem restoration. The report recommends completion of the Bay Delta Conservation Plan and associated environmental assessments by 2010.

The conservation plan is intended to provide the long-term strategies for ecosystem restoration, including habitat restoration, implementation of the Total Maximum Daily Load program, increasing fish populations, protecting water supplies against earthquakes and floods, installing Delta gates and barriers, and continued funding of the CALFED Ecosystem Restoration Program, among other strategies.

Staff Contact: Valerie Nera

CalChamber, CalTrade Coalition Unveil Port Competitiveness Web Portal

The California Chamber of Commerce and the California Trade Coalition this week announced the launch of a new website to highlight the importance of policies that will keep California's ports competitive.

The website, ***www.calchamber.com/caltrade***, provides information and background from the California Trade Coalition, comprised of trade- and freight-related industries operating throughout California.

Included on the site is correspondence to Governor Arnold Schwarzenegger underscoring the urgency of action to preserve the state's competitiveness as a gateway for international trade.

"Our current decline in trade volumes is not a function of the downturn in the economy alone; rather, it is the unfortunate result of myriad anti-trade policies, attitudes and politics," the California Trade Coalition wrote. "If we are not able to protect California's leading role as a trade gateway, the impacts to our state and local economies will be sustained and extensive."

Make Ports Competitive

The California Trade Coalition calls on the Governor and California policymakers to work with them to make California's ports and trade infrastructure more competitive by:

● Balancing California's regulatory environment so it is reasonable, fair and workable in light of port competitive issues.

● Allowing the private sector to pursue investment in trade infrastructure immediately, encouraging partnerships that accelerate real development of infrastructure and ending the policy of elevating the goal of leveraging resources out of the trade community over the development of trade itself.

● Stopping the damaging debate over state-imposed container fees by proactively working to prevent any such impositions, taxes or "fees" on trade.

Information

The website provides information to support these points and outlines how declining cargo volumes, reduced port activity and job reductions signal the declining competitiveness of California's ports.

In addition, the site details how other states and countries are positioning themselves to take advantage of California's diminished economic competitiveness during the current economic crisis.

The site also offers information about how increased container taxes, new regulatory mandates and broader economic uncertainty further undermine the immediate and long-term prospects of California ports.

Staff Contact: Jason Schmelzer

Mandatory Changes for 2009 Workplace Posters

Mandatory changes have been made to three of the notices California employers are required to display to explain workers' rights to employees.

● New federal Family and Medical Leave Act (FMLA) rules published on November 17, 2008 include new poster and notice requirements.

● The Equal Employment Opportunity (EEO) workplace poster includes required changes, according to the Office of Federal Contract Compliance Programs.

● The state Employment Development Department (EDD) notice to employees has changed for 2009.

Family Leave

The FMLA rules that went into effect on January 16, 2009 cover:

● the new poster and notice requirements;

● eligibility for leave if the employee has a break in service with the employer;

● when bonus payments may be denied to an employee on FMLA;

● increase in penalties for failure to post the FMLA notice;

● requirement that employers indicate how much time will be used as FMLA (if known);

● retroactive application of leave.

Required Pamphlet Changes

In addition, there are new requirements in 2009 to the following required pamphlets:

● ***Workers' Compensation Rights & Benefits*** pamphlets (required for new hires);

● ***State Disability Insurance*** pamphlets (required for new hires and employees taking non-work-related disability leave);

● ***Paid Family Leave*** (required for new hires and any employee taking a leave of absence);

● ***Unemployment Insurance*** pamphlets (required for any employee who becomes unemployed).

To order the required posters and pamphlets from CalBizCentral, presented by the California Chamber of Commerce, visit ***www.calbizcentral.com***.

More information on the new requirements is available in the *HR Watchdog Blog* at ***www.hrcalifornia.com***.

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