

ALERT

VOLUME 35, NUMBER 9 • MARCH 20, 2009



Leading the State, Nation Through Challenging Times

Business Summit Speakers to Spotlight Pressing Issues Facing California, U.S.

Governor Arnold Schwarzenegger, California Chamber of Commerce Chair Frederick R. Ruiz and NBC News Political Director Chuck Todd will be featured speakers at the CalChamber Business Summit on May 18-19 in Sacramento.

“Leading the State and Nation Through Challenging Times” is the theme for the day-long event in Sacramento, which is expected to attract business leaders from throughout the state. This is the 22nd anniversary for the Summit.

Todd will speak on the opening day of the Summit, which provides business and local chamber of commerce leaders a forum to meet with peers and focus on issues facing California businesses.

Governor Schwarzenegger and CalChamber Chair Ruiz will speak on May 19 at the Sacramento Host Breakfast, now in its 83rd year of offering decision-making leaders



Governor Schwarzenegger



Frederick R. Ruiz



Chuck Todd

in California finance, government, education, agriculture and industry the opportunity to exchange views, establish and renew friendships and create statewide atmospheres of good will and

understanding at a common table.

Given that the breakfast is the same day as the upcoming special election, the CalChamber is encouraging attendees to be sure to vote absentee if they will be unable to make it to the polls on time.

Chuck Todd

Todd presents a comprehensive picture of the political landscape, including the Obama presidency and what it will mean for the nation.

During the 2008 presidential race, Todd offered up-to-the-minute poll analysis

See Governor: Page 6



CalChamber™

2009 BUSINESS SUMMIT

09

Leading Our State and Nation Through Challenging Times

Register early and save! Lower early bird rate until April 17, 2009.

May 18-19, 2009 | Sacramento Convention Center

calchamber.com

Inside

- CalChamber Urges Changes to Energy Bill: Page 3

Labor Law Corner

No Obligation to Rehire Laid Off Employees—But Be Consistent



Dana Leisinger
Senior Helpline
Consultant

We had to lay off several employees in the last few months. However, now we have a shot at getting a contract which, if we get it, will mean that we need to hire on several employees. Do we have to rehire the same people we let go? Some of them were poor performers, and we would prefer not to rehire them.

California Chamber Officers

Frederick R. Ruiz
Chair

Larree M. Renda
First Vice Chair

S. Shariq Yosufzai
Second Vice Chair

Timothy S. Dubois
Third Vice Chair

Edwin A. Guiles
Immediate Past Chair

Allan Zarembeg
President and Chief Executive Officer

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

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

*E-mail: alert@calchamber.com.
Home page: www.calchamber.com.*

The *Labor Law Corner* addressed layoffs involving employees on protected leave a few months ago (see November 21, 2008 *Alert*), and when rehiring, the same issues arise in reverse.

Basic hiring issues apply. For example, employers must be careful not to use hiring preferences that result in a discriminatory impact.

Don't Use Layoff for Firing

Keep in mind that a layoff is not a good way to handle what should have been a termination. For example, many employers want to terminate an employee, but because of failure to properly document the issues, the employee's personnel file may be conspicuously missing disciplinary write-ups.

If the employer classifies the termination as a layoff, but then rehires into the position shortly after, there can be a claim of subterfuge and discrimination if the terminated employee is in a protected category and the rehire is not.

Follow Internal Policies

Unless the employer has specific policies outlining rehiring employees, the following points should be kept in mind.

- First, there is no obligation to rehire

employees who were subject to a layoff. If the employer has implemented special procedures regarding rehiring, however, it must comply with its own internal policies.

- If a collective bargaining unit is in place, the employer must take care to assure it complies with the terms of the collective bargaining agreement.

- If the employer has made any promises to the former employees, it must comply with said promises or potentially be liable to a claim of breach of contract.

An employer may want to hire back former employees who are reliable and experienced. Keep in mind that training a new employee can be a costly matter, and good employees who the employer lost purely to the economic downturn still may be available for work.

Major rehiring should involve careful examination of the skill sets the business needs. It is wise to consult with an employment law attorney for guidance in delicate matters.

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

Pandemic Threats and Natural Disaster Preparedness. San Diego North Chamber of Commerce. March 24, San Diego. (858) 487-1767.

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

Bay-Delta Tour. Water Education Foundation. June 10–12, Sacramento. (916) 444-6240.

International Trade

Global Technology Symposium. San Francisco Global Trade Council and U.S. Polish Trade Council. March 26–27, Stanford.

63rd World Affairs Council Annual Conference. World Affairs Council of

Northern California. April 2–3, San Francisco. (415) 293-4626.
6th Annual Global California Conference. Monterey Bay International Trade Association. April 3, Santa Clara. (831) 335-4780.

Asia Pacific Business Outlook Conference. University of Southern California. April 6–7, Los Angeles. (213) 740-7130.

California Ag Export Training Series. Center for International Trade Development. April 7–June 18, various locations. (888) 638-7888.

2nd Celebration of the International Trade Community. U.S.-Mexico Chamber of Commerce. April 23, Los Angeles.

Implementation of Renewable Energy in
See Page 4



CalChamber Urges Changes to Energy Bill

A Senate committee is reviewing an energy bill that the California Chamber of Commerce is **opposing unless it is amended**.

The Senate Appropriations Committee is scheduled to consider **SB 14 (Simitian; D-Palo Alto)** again on March 23. On March 16, the committee placed the bill on the suspense file, pending a review of the legislation's fiscal impacts.

Proposals in SB 14 affect existing law dictating, among other requirements, the percentage of electricity that investor-owned utilities must procure from renewable energy resources—the “Renewable Portfolio Standard” (RPS). SB 14 requires that 33 percent of the electricity come from renewable energy sources by the end of 2020, thereby also affecting the California Air Resources Board's (ARB) implementation of the AB 32 climate change law.

The CalChamber believes that the success of California's businesses and the strength of California's economy depend on the state's ability to develop policies that do not hinder economic growth or limit a company's ability to innovate in the marketplace.

Without amendments, SB 14 could have a negative impact on the economy and innovation.

Need for Cost Containment

Despite many efforts to increase energy efficiency, California remains a high energy cost state. This additional burden on businesses has worsened due to the weakening economy. The CalChamber believes it is necessary to strengthen the cost containment language in SB 14 to ensure that ratepayers will be protected from substantial rate increases. Furthermore, because the AB 32 scoping plan also includes a requirement for 33 percent of energy to come from renewable resources, the CalChamber believes SB 14 should uphold the same economic tests used for the AB 32 program.

SB 14 also should include a “cost-effective and technologically feasible” standard to further ensure ratepayers are not exposed to excessive costs.

The RPS and AB 32

Perhaps one of the more complex issues in developing a new RPS mandate is ensuring it does not hinder or conflict

with AB 32 requirements. Because the 33 percent RPS proposed in SB 14 would fit directly under the AB 32 program, the CalChamber believes it is necessary to look at the RPS from a greenhouse gas perspective. This overall umbrella will allow the state to connect the many benefits it can extract from a larger pool of technologies.

In order for the RPS to fully take advantage of the greenhouse gas benefits, the CalChamber believes it is necessary to expand the resources eligible under a 33 percent mandate. The existing eligibility does not include large hydro or technologies such as combined heat and power, which is proving to be extremely energy efficient and provides great potential for reducing greenhouse gases.

Because the ARB has identified combined heat and power as being an important technology to meeting the state's greenhouse gas goals, SB 14 should address its ability to play a role in reducing emissions and ensure a new mandate does not hinder such technologies.

New Transmission Needed

The CalChamber believes that the state's need for updated and new transmission infrastructure cannot be ignored. Increasing renewable development in California will require massive new investment in infrastructure.

The CalChamber believes that the Legislature must keep in mind that the cost of new infrastructure will be in addition to the already-high energy prices ratepayers will be facing in the near future due to various other initiatives—another reason SB 14 must include strong cost containment provisions.

Because California is not on target to meet its existing target, the Legislature must be mindful and honest about the challenges that lie ahead for a 33 percent RPS target. Lack of transmission is the most evident obstacle as it takes years in the current system to choose a location and build transmission infrastructure.

For example, projects such as the CalChamber-supported Sunrise Powerlink—bringing electricity generated from solar, geothermal and wind sources from the Imperial Valley to San Diego—are essential to meeting any RPS standard, yet it will have taken six

years for the project to go into operation. The project application was filed in August 2006 and the projected start of commercial operation is June 2012.

The CalChamber believes it is important to fix the existing problems that are causing delays in the system instead of creating a whole new transmission planning process. In addition, SB 14 should provide utility companies the appropriate amount of flexibility to ensure they are not penalized for not meeting their targets when projects are tied up due to lack of transmission or planning.

Expand Market for Renewable Energy Credits

The CalChamber is reminding policymakers to remember that renewables are intermittent and are not always available when consumers need energy.

Because California's electricity grid is interconnected to the entire Western region, the CalChamber believes it will be necessary to expand the existing renewable energy credit market to allow out-of-state renewable energy credits. Doing so recognizes the greenhouse gas reduction benefits of reducing energy demand both in and out of state and allows utility companies to contain costs for ratepayers. The CalChamber is very concerned that increasing the renewable mandate without such flexibility in the renewable energy credit market will lead only to a significant cost increase due to the swift increase in the demand for renewable energy.

Action Needed

The CalChamber is asking members to urge their legislators and Senate Appropriations to amend SB 14's RPS mandate to be sure electricity is affordable for ratepayers.

For a sample letter, visit www.calchambervotes.com.
Staff Contact: Amisha Patel

**Make a difference
on proposed laws**

calchambervotes.com

Governor Launches Website to Report Receipt, Use of Federal Stimulus Funds



Governor Arnold Schwarzenegger has announced the launch of a website that will report on federal economic stimulus funding as it is received and spent by the state.

The website, www.recovery.ca.gov, will provide Californians with

“new tools to monitor ongoing American Recovery and Reinvestment Act activity and provide up-to-date information about how and when their federal tax dollars are spent,” states the March 13 release announcing the launching of the website.

State Resources

As of this week, the state website listed several areas in which funding is expected:

- **The California Department of Transportation.** California is expected to receive about \$2.57 billion for highways, local streets and roads, freight and passenger rail, and port infrastructure projects.

The Governor’s office reported on March 11 that 57 projects receiving infrastructure-focused federal economic stimulus funding are expected to create more than 11,000 new jobs in California.

The California Transportation Commission has voted on and announced

\$625 million in funding, allocating close to \$565 million for the State Highway Operations and Protection Program, including work on rural and urban highways.

These projects (paving, fixing potholes, safety, bridge preservation) are receiving funding first because “protecting public safety is the highest priority and preserving the state’s investment in its highway system is highly cost-effective,” the state recovery website reports.

The commission also allocated \$60 million for pavement preservation projects.

The list of 57 projects appears in the economic recovery section of the Caltrans website, www.caltrans.ca.gov.

- **California Energy Commission** is expected to receive about \$295 million for energy efficiency and renewable energy programs. The commission’s two main areas of responsibility will be the State Energy Program and the Energy Efficiency and Conservation Block Grant Program.

- **The Department of Community Services and Development (CSD)** is listed as playing a “principal role in California” to ensure goals for use of new funding is “not only met, but maximized.” The CSD helps low-income Californians achieve self-sufficiency. It will be working with the “significant new funding” in the recovery act for

the Community Services Block Grant program and U.S. Department of Energy Weatherization Assistance Program.

Distribution of Funds

Using digital mapping technology, the website also will post the geographic distribution of funds spent as that information becomes available, according to the release.

The state also will be using the website to fulfill federal reporting requirements. The act requires states and others receiving the funds to report the following to each federal granting agency, Congress and [recovery.gov](http://www.recovery.gov) (the federal recovery website) on a quarterly basis:

- how funds will be used;
 - whether funds were used correctly;
 - jobs created/sustained by the funds;
- and
- non-federal funding sources used to complete projects.

Reporting to be included on the state website, according to the release, includes:

- announcements for grant competitions;
- allocations of formula grants;
- awards of competitive grants;
- quarterly reports from the President’s Council of Economic Advisors on the estimated impact on employment and economic growth.

CalChamber-Sponsored Seminars/Trade Shows

From Page 2

the Emerging Markets of Africa, Latin America and the Caribbean. Centers for International Trade Development. April 27–29, San Francisco. (650) 738-7098.

World Trade Week Kickoff Breakfast. Los Angeles Area Chamber. May 7, Los Angeles. (213) 580-7569.

8th Annual Maritime Leadership Symposium. California Association of Port Authorities; California Marine Affairs and Navigation Conference. May 12–14. (916) 444-7158.

Busan International Machinery Fair. Busan Metropolitan City and others. Busan (South Korea), May 20–24.
TIBCO Bucharest International Fair. Consulate General of Romania. June 3–7, Bucharest, Romania. (310) 477-0197.

6th World Chambers Congress. International Chamber of Commerce. June 3–5, Kuala Lumpur, Malaysia. wcc2009@fmm.org.my.

Thailand-Los Angeles Port Seminar. Los Angeles Port Authority. June 12, San Pedro. (310) 732-3870.

Labor Law

FMLA 101. Live Web Seminar. CalBizCentral. March 31. (800) 331-8877.

CalChamber Calendar

Labor and Employment Committee:

April 6, Sacramento

Business Summit:

May 18–19, Sacramento

Board of Directors:

May 19, Sacramento

CalChamber Outlines Trade Priorities for Newly Confirmed U.S. Trade Official



Ron Kirk

Shortly after the U.S. Senate overwhelmingly confirmed former Dallas Mayor Ron Kirk as the new U.S. trade representative, the California Chamber of Commerce outlined its strong support for free trade and urged him to work for approval of U.S. free trade agreements with Colombia, Panama and Korea.

In a letter congratulating Kirk on his appointment and confirmation,

outlined its strong support for free trade and urged him to work for approval of U.S. free trade agreements with Colombia, Panama and Korea.

CalChamber President Allan Zaremborg reiterated the CalChamber's support for free trade worldwide, expansion of international trade and investment, fair and equitable market access for California products abroad, and elimination of disincentives that impede the international competitiveness of California business.

International-related commerce (including exports and imports of goods and services) accounts for roughly one-quarter of California's \$1.8 trillion economy, which ranks among the top 10 in the world.

As President Barack Obama's top international trade official, Kirk will be responsible for opening new markets for

U.S. products and enforcing international trade rules at home and abroad. The former Dallas mayor was confirmed by a vote of 92-5.

Kirk's original confirmation hearing took place March 10 before the U.S. Senate Finance Committee, which has sole jurisdiction over international trade and ordered his nomination favorably reported out of committee on March 12.

Kirk Statement

In a written statement to the finance committee, Kirk outlined his support for free trade and the important role it plays in the nation's economy.

"The President and I believe trade

See Trade: Page 6

CalChamber Hosts Meeting to Catalyze Canada-California Collaboration

The California Chamber of Commerce recently hosted a meeting of the Canada-California Strategic Innovation Partnership (CCSIP), a catalyst for collaborative research, development and delivery between two innovation-intensive jurisdictions: California, one of the most dynamic innovation engines on earth; and Canada, a leading country in university research intensity.

Call for Proposals

The partnership is running a university-led call for proposals to stimulate novel models of collaboration between California and Canada

Far greater than the sum of its parts, the partnership is:

- Stimulating the launch of revolutionary research, development and delivery projects that promise to provide economic and social benefits to citizens in both Canada and California;

- Bringing together brilliant minds and innovation resources from California and Canada;

- Facilitating leadership and action on key global sustainability challenges facing the planet today.

More information is available at the partnership website, www.ccsip.org.

Staff Contact: Susanne Stirling



CCSIP Steering Committee members in photo are: *Front row (from left):* Henri Rothschild, president and chief executive officer, ISTPCanada; Yolanda Benson, Government Strategies Inc.; Sonya Shorey, communications strategist; Kathleen Erwin, director, Research Program Application & Review Center, University of California; Lou Witkin, HP Labs Open Innovation Office; Thierry Weissenburger, senior trade commissioner, Canadian Consulate General San Francisco. *Back row (from left):* Eric Holdrinet, technology partnership officer, Canadian Consulate General Los Angeles; Barry M. Klein, vice chancellor for research, University of California, Davis; John Hepburn, vice president of research, University of British Columbia; Steven Beckwith, vice president of research, University of California; Nigel Lloyd, executive vice president, National Sciences and Engineering Research Council of Canada; Denis Thérien, vice president of research and international relations, McGill University; Gretchen Kalonji, director of international strategy development, University of California; Dominic Jean, secretary, CCSIP Steering Committee; Marc Lepage, Canadian Consul General San Francisco; Roberto Peccei, vice chancellor for research, University of California, Los Angeles.

Governor, NBC Political Director to Speak at CalChamber Summit

From Page 1

from the campaign trail. He is chief White House correspondent, on-air political analyst for *NBC Nightly News with Brian Williams* and the *Today* show, and a contributing editor to *Meet the Press*.

He edits *First Read*, the network's guide to political news and trends in and around the nation's capital. He has appeared on C-SPAN's *Washington Journal* and MSNBC's *Hardball with Chris Matthews*. He works as a graduate-level professor at Johns Hopkins University, was featured in the *Washingtonian* December 2005 "Best of" issue in the journalism section, and was named one of the 50 most influential people in politics by *George* magazine.

Tools to Help

CalChamber President Allan Zaremberg will open the Summit with an overview of priority business issues.

During the luncheon, the CalChamber will announce local chamber of

commerce winners of the new President's Circle award, which recognizes chambers for excellence in business advocacy and marketing business compliance products.

Also to be recognized will be recipients of the CalChamber Political Partner of the Year and Small Business Advocate of the Year awards.

Afternoon breakout sessions will give attendees the option to learn about best practices or hear information updates to enhance their political or human resources activities:

- Legislative Advocacy Boot Camp 101: How to use technology in building a grassroots network to gain access, influence and clout with legislators.
- Political Action 101: Legal basics on how to organize and manage a political action committee.
- HR 101: Helping alert attendees to changes in California.

Host Committee Events

Summit attendees will have an

opportunity to end their day by mingling with their peers and other leaders from business, agriculture, state government, education and the military at the Sacramento Host Reception the evening of May 18.

The reception welcomes out-of-town guests to the invitation-only 83rd annual Sacramento Host Breakfast on May 19.

Summit attendees also have the opportunity to attend the exclusive breakfast the day after the Summit.

Early Bird Rates

Attendees who register by April 17 qualify for savings of at least 20 percent.

The two-day registration package, including Summit with lunch, the Host Reception and Host Breakfast, is \$220 now, \$275 after April 17. Other registration options are available.

Online registration and more information are available by clicking on the link at www.calchamber.com.

Staff Contact: Alicia Smith

CalChamber Committee Reviews New Round of Health Care Proposals



Photo by Aaron Lambert

Senator Tony Strickland (R-Moorpark), vice chair of the Senate Health Committee, reviews with the CalChamber Health Care Policy Committee and chair Russell Gould (center), Wachovia Portfolio Services, the health care mandates and other proposals being introduced in the California Legislature. Staff to the CalChamber committee is Marti Fisher (left), policy advocate.

Trade Representative

From Page 5

plays a key role in contributing to the strength of our nation's and the world's economy," he said. "We believe fundamentally that fair, open and transparent rules-based trade can act as a catalyst to benefit working families and business, large and small, throughout this country."

Kirk, the first African American to hold the trade representative job, has promised to work with Congress to win approval of free trade agreements negotiated by the administration of former President George W. Bush with Colombia, Korea and Panama, but has said the agreements with Korea and Colombia represent significant challenges.

"Other priorities include working with our trading partners to advance the Doha Round negotiations, working with you and the countries in question on pending agreements, and pursuing new initiatives that will seek to channel trade as a driver of economic progress—if they are done right," he said.

Staff Contact: Susanne Stirling

Anti-Commerce Bill Passes Assembly Judiciary Committee



OPPOSE

California Chamber of Commerce-**opposed** legislation that will eliminate jobs and restrict businesses' ability to advertise by imposing a moratorium on

outdoor digital billboards passed the Assembly Judiciary Committee this week.

AB 109 (Feuer; D-Los Angeles) imposes a moratorium on the construction, conversion, enhancements or modifications of a billboard to a digital format if it can be seen from a highway. The bill also prohibits conversion of official highway digital displays to advertisements for commercial purposes.

In opposing the bill, the CalChamber pointed out that many California businesses use digital billboards to display and promote their products. "With the economy being so slow, every opportunity to stimulate commerce must be pursued," said CalChamber Policy

Advocate Valerie Nera. "When products move, people work."

Businesses that use billboards to advertise include restaurants, movie theaters, automotive dealers and hotels.

Converting to digital media also provides jobs for a variety of skilled labor and construction crews that have had few opportunities for employment due to the downturn in commercial and residential developments. Electricians, pipefitters and crane operators are among the positions affected.

The CalChamber said regulating digital billboards should be left to local communities, many of which already have rules in place. In addition, prohibiting digital billboards cuts off a source of revenue for local communities, many of which are facing severe budgetary deficits.

Citing the use of Amber Alerts about abducted children, traffic updates and emergency messages, the California State Outdoor Advertising Association noted that digital billboards in California and elsewhere are very effective for public

safety response and awareness efforts.

Commercial digital billboards, the association added, offer state and local agencies "fast access to a network of highly effective emergency communication—resources government cannot afford to buy in these tough budget times."

No documented safety issues have been raised about the use of digital billboards, the association said.

Key Vote

The 7-3 vote on AB 109 in Assembly Judiciary was:

Ayes: Feuer (D-Los Angeles); Brownley (D-Santa Monica); Evans (D-Santa Rosa); Jones (D-Sacramento); Krekorian (D-Burbank); Lieu (D-Torrance); Monning (D-Monterey).

Noes: Tran (R-Costa Mesa); Knight (R-Palmdale); Nielsen (R-Gerber).

AB 109 will be considered next by the Assembly Governmental Organization Committee.

Staff Contact: Valerie Nera

CalChamber Board Hears Updates on National Politics, Financial Crisis



William S. Haraf (left), commissioner of financial institutions with the California Business, Transportation and Housing Agency, shares his personal thoughts and insights on the national financial crisis and the global economic downturn at the March 6 meeting of the CalChamber Board of Directors. Columnist Ronald Brownstein, political director for Atlantic Media Company, describes the shift in voting demographics in the presidential election and the early days of the Obama administration at the Board's March 5 dinner gathering.

March Madness Special

Stay informed and get a \$10 Starbucks Card

It's crunch time for California companies. A nerve-racking economy, FMLA and CFRA laws, new cell phone usage standards and a slew of other challenges demand that you be in the know at all times. Arm yourself now with two timely essentials:

- the updated classic **Labor Law Digest**; and
- a subscription to the monthly **California Employer Update** newsletter.

*Prepayment by check or credit card is required for Web seminars, online training, and orders under \$150. Offer expires 4/20/09 and is valid for new orders only. Prices and packaging are subject to change. To receive the Starbucks Card, you must order the 2009 Labor Law Digest and the California Employer Update newsletter together and use priority code LDC. Offer may not be combined with any other offer. CalChamber Preferred and Executive members will receive their 20% member discount in addition to the Starbucks Card.

Two great labor law resources



Order both by 4/20/09 to get \$10 Starbucks card*
Use priority code LDC

Order online at www.calbizcentral.com or call 1-800-331-8877



ADDRESS SERVICE REQUESTED

Helping California Business Do BusinessSM

P.O. BOX 1736 SACRAMENTO, CA 95812-1736
(916) 444-6670 FACSIMILE (916) 444-6685
www.calchamber.com

CALIFORNIA CHAMBER OF COMMERCE

ALERT

Periodicals
Postage
PAID
Sacramento, CA