

ALERT

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CalChamber Seeks Economic Analysis of ARB Regulations



SUPPORT

A California Chamber of Commerce-supported bill that requires an economic analysis of all major California Air Resources Board (ARB) regulations

failed to pass the Senate Environmental Quality Committee this week.

SB 960 (Dutton; R-Rancho Cucamonga) provides oversight and accountability by requiring a thorough economic analysis of regulations proposed by ARB. A report conducted by the Office of Administrative Law (OAL) would focus on a cost benefit analysis and the technological feasibility of a regulation.

Key Tool

The CalChamber believes that a thorough economic study, which tests the full impacts and benefits of a regulation on the state, is key to ensuring the state is using the best tools possible to meet the goals of proposed ARB regulations.

As regulators weigh different policy choices, their decision making must be guided by a sound economic analysis that reveals the cost implications of those decisions.

Independent Analysis

SB 960 helps to provide such guidance by directing an independent agency (OAL) to provide sound economic analysis of regulations proposed by ARB. This independent analysis would establish oversight and accountability by ensuring that policymakers and stakeholders know the

true costs of the regulations.

A stronger analysis of the regulations will give regulators and lawmakers additional information to make decisions for the long-term, providing both justification for ARB regulations like those under AB 32, California's greenhouse gas reduction law, and sensitivity toward the current state of the economy.

Balanced Approach

Since the passage of AB 32 in 2006, the CalChamber has been advocating a balanced approach to implementation that takes into consideration the needs of the environment and the economy.

Given the current state of California's economy, it is imperative to accurately assess a regulation's overall cost to business. Furthermore, returning the state to economic health and vitality should be the state's highest priority.

The CalChamber believes it is important to continue to work toward ensuring that compliance costs are minimized by pushing for measures that are cost-effective, technologically feasible and allow for business growth in California.

Key Vote

Senate Environmental Quality rejected SB 960 on April 5 on a party-line vote of 2-4:

Ayes: Runner (R-Antelope Valley), Strickland (R-Thousand Oaks).

Noes: Corbett (D-San Leandro), Lowenthal (D-Long Beach), Pavley (D-Agoura Hills), Simitian (D-Palo Alto).

Absent/ abstaining/ not voting: Hancock (D-Berkeley).

The bill was granted reconsideration.
Staff Contact: Brenda M. Coleman

CalChamber-Supported Bill Protects Employee Training Dollars



A California Chamber of Commerce-supported job creator bill that

protects and maximizes the amount of training dollars that stay in the Employment Training Program (ETP) fund is scheduled to be considered April 21 by the Assembly Insurance Committee.

AB 1804 (Hagman; R-Chino Hills) helps California stay competitive by ensuring that employer-generated dollars for the ETP fund are not diverted by the state to other programs. This ensures that the funds remain available to train employees of businesses looking to locate or expand in California, as well as retraining and bolstering existing California employees and operations.

Funding from Employer Tax

For more than 20 years, the ETP has been a partner with California companies to help develop advanced skills for their workers. The ETP is funded directly by California employers for their employees through the Employment Training Tax. For every \$1 spent on training there is a \$5 return on investment.

Examples of ETP successes include:

- Since July 2005, investing \$49 million aimed at business expansion,

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Labor Law Corner

Issues to Consider When Reducing Wages, Benefits in Lieu of Layoffs



Susan Kemp
HR Advisor

The Helpline continues to receive questions about reducing employees' wages, hours and benefits, in lieu of laying off employees. Below are some of the issues to be considered before taking such actions.

The first consideration is whether you have made any commitments or promises—either verbal or written—

about compensation and benefits.

Do you have employment contracts, commission agreements, an offer letter, employee handbook or collective bargaining agreements that address these issues? If the answer is “yes” to any of these, consult with your legal counsel before taking any action.

Reducing Compensation

An employer may choose to cut wages across the board by a specific percentage, or may choose a class of employees, such as managers and above. You must be sure that you are not discriminating, even unintentionally, against any one class or group of employees—such as all employees over 40 years old.

No minimum advance notice of pay adjustments is required. You may reduce compensation that has not yet been earned.

For example, today is April 9. You can announce that effective May 1, 2010, there will be a reduction in wages across the board of a specific amount. You cannot make the reduction in pay retroactive—that money has already been earned.

You must make sure, however, that non-exempt employees do not fall below

the state minimum wage of \$8 per hour. Exempt employees must be paid a salary of at least two times minimum wage, or \$33,280 a year or \$2,773.33 a month.

Reducing Benefits

You may not reduce or eliminate an employee's accrued or earned vacation or paid time off (PTO). You may change accrual rates going forward, however. Much as in the prior example, announce that at some date in the future, the accrual rate will decrease and let the employees know what the new accrual rate will be.

Unlike vacation or PTO, which is protected by state law, sick leave may be reduced or changed at any time. If you currently convert unused sick leave to vacation time or permit the payout of sick leave, however, consult with your legal counsel before making any changes to your policy.

The Labor Law Helpline is a service to California Chamber of Commerce preferred and executive members. For expert explanations of labor laws and Cal/OSHA regulations, not legal counsel for specific situations, call (800) 348-2262 or submit your question at www.hrcalifornia.com.

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CalChamber-Sponsored Seminars/Trade Shows

More information at www.calchamber.com/events.

Business Resources

Silicon Valley 10th Annual Conference. Licensing Executive Society, Silicon Valley Chapter. April 28, Palo Alto. (415) 564-2600.

International Trade

U.S.-Spain Renewable Energy Summit. Extenda: Trade Promotion Agency of Andalusia. April 13, San Francisco. (305) 444-4647.

Expanding Your Horizons: Doing Business Abroad. Los Angeles World Airports. April 22, Los Angeles. (310) 646-4268.

International Green CEO Summit. Indonesian Chamber in Jakarta. April 28–May 1, Jakarta, Indonesia. grace@greenceosummit.com.

World Trade Week Breakfast. Los Angeles Area Chamber. May 3, Los Angeles. (213) 580-7569.

Labor Law

What Health Care Reform Means to Your Business. CalBizCentral. April 15, Webinar. (800) 331-8877.

CalChamber Calendar

Business Summit/Host Breakfast:

May 17–18, Sacramento

Council for International Trade:

May 17, Sacramento

Water Committee:

May 17, Sacramento

Environmental Committee:

May 17, Sacramento

Board of Directors:

May 17–18, Sacramento

Fundraising Committee:

May 18, Sacramento

Public Affairs Council Spring Retreat:

June 15, Sacramento



Proposition 15 Authorizes Use of Tax \$\$ to Fund Political Campaigns in Perpetuity



California Chamber of Commerce-**opposed Proposition 15** on the June ballot repeals the voter-approved ban on public financing of campaigns, a

coalition of opponents is pointing out.

Proposition 15 imposes a new tax on lobbyists, lobbying firms and lobbyist employers (including the CalChamber) to pay for a pilot program that would use the public money to finance campaigns for Secretary of State.

Although the pilot program sunsets after two election cycles, the ban on public campaign financing is repealed permanently.

Reasons to Oppose Prop. 15

Following are five reasons to stop Proposition 15, adapted from the website of the opposition campaign, made up of a coalition of taxpayers, governmental advocates and small businesses.

1. Proposition 15 is a trick.

More than 20 years ago, voters prohibited taxpayer funds from being given to politicians for their campaigns. Proposition 15 repeals that prohibition. The ballot label approved by legislators didn't include the repeal, but a judge

ordered the first sentence to read, "Repeals ban on public financing of political campaigns."

Supporters contend that Proposition 15 is about using a new tax on lobbyists to fund a harmless pilot program, but the pilot program expires after two elections while the repeal on the public campaign financing ban is permanent. Another hidden provision of Proposition 15 allows legislators to use tax money for any campaigns they wish, including their own. All it takes is a simple majority vote.

2. Proposition 15 raises taxes.

Proposition 15 includes a severability clause, which means that if the court rules that the lobbyist tax is unconstitutional (as two courts have ruled already), the repeal of the ban on public campaign financing remains in effect. If the courts throw out the new tax or even if it just falls short of paying for the campaigns the Legislature wants to finance, Proposition 15 says they can use money from the General Fund "or any other sources." If they want more, they can raise taxes like the \$12 billion tax hike approved last year. California has no shortage of problems; it doesn't need to use taxpayer money for negative ads and junk mail.

3. Proposition 15 does not stop the influence of special interest money.

Proposition 15 claims to curb the influence of special interests and lobbyists. Lobbyists already are

prohibited from contributing to candidates, and Proposition 15 specifically authorizes politicians to continue to ask for money from special interests for things like legal fees, inaugural parties and "officeholder expenses."

4. California voters have already rejected public campaign financing twice in the past 10 years.

Proposition 15 repeals the law voters passed more than 20 years ago to prohibit politicians from using tax dollars to run for office. Time and again, voters have said NO to taxpayer-funded political campaigns. Just four years ago, 74 percent of voters said NO to Proposition 89, a similar proposal to use tax dollars for political campaigns. In 2000, two-thirds of voters rejected Proposition 25, which would have allowed public financing.

5. Taxpayer financing of political campaigns is a bad idea.

Proposition 15 requires lobbyists to pay for the election campaigns of candidates for Secretary of State, whose job it is to regulate lobbyists. The measure gives money to any eligible candidate regardless of who they are or what they stand for. There's no restriction on how candidates spend taxpayer dollars. They can even put their friends and relatives on their campaign payrolls at taxpayer expense.

More information is available at www.StopProp15.com.

CalChamber Positions on June Ballot Propositions

Proposition	Subject	Position
Proposition 13	Bars property tax increases on construction for seismic retrofits	Support
Proposition 14	California Top Two Candidates Open Primary Act	Support
Proposition 15	California Fair Elections Act of 2008	Oppose
Proposition 16	Taxpayers Right to Vote Act	Support
Proposition 17	Continuous Coverage Auto Insurance Discount Act	Support

CalChamber Opposes Initiatives to Change Budget Vote, Ax Redistricting Commission



The California Chamber of Commerce Board of Directors recently voted to **oppose** two proposed initiatives, one seeking to reduce the vote threshold for

approving state tax hikes and the other rescinding use of an independent commission to redraw political district boundaries.

Supporters of the measures are circulating the initiatives for signatures to qualify the proposals to appear on the November ballot.

They have until July to submit signatures of 694,354 registered voters.

Budget Vote

The so-called Passing the Budget on Time Act initiative proposal changes the vote requirement for passage of a state budget and other related appropriation bills and penalizes legislators for not

passing a budget by the constitutional deadline.

The CalChamber Board voted to oppose this measure because it will eliminate the ability of members of the public to potentially refer new fees or fee increases to voters for a referendum election if those fees are included in a bill that is an appropriation related to the budget.

In addition, the measure threatens to reduce the vote threshold for state tax increases and has the potential to give the majority party in the Legislature, with the approval of the Governor, exclusive domain over the size and shape of the state budget.

“The problem with California’s budget is not that it is late, but that it’s unbalanced and undisciplined,” said CalChamber President and CEO Allan Zaremberg.

Cuts Redistricting Commission

According to a summary prepared by the California Attorney General, the Financial Accountability in Redistricting Act (FAIR) eliminates the 14-member redistricting commission selected from an

applicant pool picked by government auditors. The measure also reduces the budget and imposes a limit on the amount the Legislature may spend on redistricting.

The CalChamber Board voted to oppose this initiative based on the fact that it would overturn the California Voters First Act reform (Proposition 11 of 2008), which the CalChamber supported. The FAIR measure eliminates the current commission process and returns the responsibility of redistricting back to the politicians in the Legislature.

“This measure seeks to overturn Proposition 11, which allows the voters to select their elected representatives. We simply cannot afford to return to a system where the politicians select their voters,” said Zaremberg.

“It is not surprising that politicians are working behind the scenes to try to overturn meaningful political reform. While Proposition 11 is not popular with politicians, it is strongly supported by a bipartisan coalition of consumer, senior, public interest, taxpayer, community and business groups.”

Staff Contact: Denise Davis

CalChamber.

2010 Business Summit

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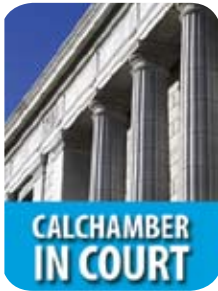


Howard Fineman
Senior Washington
Correspondent, Newsweek

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California Supreme Court Agrees to Review Workers' Comp Cost-of-Living Adjustments



At the urging of the California Chamber of Commerce, the state Supreme Court has agreed to grant review of an appeals court ruling and evaluate the methodology for calculating the

impact of inflation cost-of-living increases on workers' compensation cases involving life pensions and permanent total disability awards.

The CalChamber submitted a letter urging the California Supreme Court to grant review and correct the lower court's ruling before irreversible damage is done to the economic stability of the business community of California. The CalChamber's next step will be to submit a "friend of the court" brief in this case.

Applying Adjustments

The issue in the case of *Duncan v. Workers' Compensation Appeals Board* (XYZZX SJO2) is the application of cost-of-living adjustments and when they should be applied to the awards—do they go back to date of injury, the date an injured worker actually becomes eligible for the benefits, or January 1, 2004.

In a ruling issued by the entire board, the Workers' Compensation Appeals Board said the date of injury should be used, while the 6th District Court of

Appeal ruled the adjustment should be applied as of January 1, 2004.

Under the appeals court's rationale, the cost of living adjustment (COLA) increases are necessary to protect against inflation. The appeals court did not, however, address the fact that the underlying benefits are already subject to statutory increases which protect injured workers against inflation.

CalChamber Letter

The CalChamber argued in its letter that rather than sensibly interpreting the statutory language to require COLA increases each January 1 after the underlying payments become due, the court of appeal has required the COLA increases to be added to the underlying payments starting January 1, 2004, *period*. The court's interpretation was not advocated by either party of the case, nor was either party afforded the opportunity to file legal arguments on the issue.

In its letter, the CalChamber explained that the lower court's decision means that total permanent disability payments must increase before an injured worker is even determined to be medically eligible for the benefit. Worse, it means that the court of appeal has granted retroactive payment increases to employees who have not yet even been injured.

This decision represents a nonsensical adherence to a strict interpretation of the statute, without regard to the fiscally hazardous and unworkable result, the

CalChamber said in its letter.

Simply stated, the lower court has misapprehended the manner in which workers' compensation benefits are calculated. In its decision, the court of appeal attempted to protect injured workers' benefits from the erosion of inflation. But the court of appeal failed to appreciate that the decision would permit two separate escalators to do that job.

Because the temporary disability rates that determine the underlying payment have already been legislatively accelerated from January 1, 2003, onward (Labor Code Section 4453(a)), the decision now actually imposes a double increase on the benefits owed, the letter stated.

Increased Costs for Employers

"Make no mistake: If allowed to stand, the decision . . . will dramatically raise costs to every single one of the state's employers," the CalChamber stated. The CalChamber's letter reminded the court that in a time of unprecedented economic downturn, the business community cannot withstand this unwarranted legal assault.

Because the Supreme Court agreed to hear the case, the appeals court ruling in effect ceases to exist while the case is pending. The Supreme Court often takes a year and a half or longer to hear a case and issue a decision, so a ruling is not expected immediately.

Staff Contact: Erika Frank

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Legislative Outlook

An update on the status of key legislation affecting businesses. Visit www.calchambervotes.com for more information, sample letters and updates on other legislation. Staff contacts listed below can be reached at (916) 444-6670. Address correspondence to legislators at the State Capitol, Sacramento, CA 95814. Be sure to include your company name and location on all correspondence.

Bill Opens Opportunities for Small Businesses



A California Chamber of Commerce-**supported** bill that would create jobs by opening up new opportunities for small businesses to do business with the state is set for hearing on April 20.

AB 1771 (Mendoza; D-Norwalk) helps promote new opportunities and business for small businesses and saves the state money by allowing state departments to award contracts of less than \$25,000 for goods or services by certified micro businesses, small businesses or Disabled Veteran Business Enterprises (DVBEs) without seeking an exemption of the Prison Industry Authority (PIA) mandate if they are able to make the product for less than the PIA.

Current law in effect gives the PIA precedence over other vendors during the contract bid evaluation process,

regardless of the price of the product. The PIA mandate unnecessarily reduces business opportunities for private companies and drives up state costs.

By reducing the impact of the PIA mandate and setting the bidding preference for micro-businesses and small businesses at the same level as the PIA, the state would expand the number of businesses that can compete for small state projects, with likely savings for most bids.

Action Needed: AB 1771 is set to be considered by the Assembly Jobs, Economic Development and the Economy Committee on April 20. The CalChamber is urging members of the business community to write committee members and urge them to **support AB 1771**.

Staff Contact: Marti Fisher

Legislation Increases Construction Jobs



California Chamber of Commerce-**supported** legislation increasing construction jobs failed to pass a Senate committee this week.

SB 1010 (Correa; D-Santa Ana), a job creator bill, facilitates job creation by giving a limited number of environmentally sound development projects protection from California Environmental Quality Act (CEQA) lawsuits.

This benefit allows projects that have met their CEQA requirements to break ground sooner, thereby creating badly needed jobs and spurring economic growth.

SB 1010 has a specific focus only on projects certified by lead agencies as environmentally sound under California's premier environmental law, CEQA. By maintaining the requirement that projects still comply with the strict environmental standards required under CEQA before moving forward, SB 1010 has the dual benefit of facilitating job creation while ensuring environmental integrity.

SB 1010 requires the state Business, Transportation and Housing Agency to annually select for five years a list of 25 projects that deserve protection from litigation based upon specific qualifications.

Projects are carefully selected on the basis of their expected economic value by taking into account the number and quality of jobs that will be created, the amount of capital investment involved, and a balance between public and private projects.

The result is that only projects which have mitigated their environmental impacts and that have a high potential for jobs creation and economic growth are allowed to receive the benefits of this program, which promotes a finer balance between the state's economic and environmental priorities.

Key Vote

SB 1010 failed passage in the Senate Environmental Quality Committee on a 2-4 vote:

Ayes: Runner (R-Antelope Valley), Strickland (R-Thousand Oaks).

Noes: Simitian (D-Palo Alto), Corbett (D-San Leandro), Lowenthal (D-Long Beach), Pavley (D-Agoura Hills).

Absent/abstaining/not voting: Hancock (D-Berkeley).

The committee then granted the bill reconsideration.

Staff Contact: Robert Callahan

CalChamber Offers Live Webinar on Health Care Reform Law

To help employers understand the recent health care reform legislation signed into law, the California Chamber of Commerce is offering a live webinar on April 15.

The Health Care webinar will explain how the reforms affect employers and their employees.

The 90-minute webinar will cover key points for:

Large Employers

- How the reforms affect part-time workers.
- Insurance reforms and grandfathered group health plans.
- Modifications to the Medicare Part D drug subsidy, Medicare Advantage

reductions and other fees and taxes.

Small Employers

- Premium subsidies.
- Individual responsibility.

General

In addition, the webinar will cover:

- The legislation's likely impact on costs/coverage.
- A 2010 legislative and regulatory forecast to explain the U.S. Department of Health and Human Services timeline for issuing rules to put the reforms into practice.

Presenter

The Health Care webinar will be presented by Darren Willcox, director

of the Health Care Practice at Dutko Worldwide. Willcox spent 10 years on Capitol Hill, playing a leadership role in every health care bill considered by Congress.

Willcox provides strategic counsel for clients in a variety of sectors, including leaders in the biotechnology, pharmaceutical and medical-device industries.

Registration

Registration and more information on the webinar are available at www.calbizcentral.com/training or by calling (800) 331-8877.

CalChamber-Supported Bill Protects Employee Training Dollars

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retention and job creation at key California companies such as Genentech, Virgin Air and SYSCO Food Services, resulting in approximately 24,000 new and saved jobs.

- Addressing the growing demand for and shortage of nurses by training, in the past five years alone, almost 6,000 workers such as certified nurse assistants and health facility caregivers.

- Effective January 2007, launching a Seasonal Worker Pilot Training Program to increase employment retention and productivity in all cycles of agricultural crop production, including harvesting, packing, processing and transportation.

Funds Diverted

Unfortunately, over the last 10 years, the ETP training funds have been diverted to the Department of Social Services, ranging from amounts of 26 percent to as high as 68 percent of the ETP fund. Over the last three years, these amounts have exceeded \$190 million.

It is especially critical to stop continued diversion of these dollars now, since ETP fund revenue has decreased dramatically. Employers with numerous layoffs tend to fall into negative reserve and no longer have to pay the Employment Training Tax. Significant job losses in the economic downturn have resulted in almost a 50 percent decrease of the fund.

Reinvesting in Workers

Although difficult choices must be made to balance the state's budget, the backbone of California's economy is a skilled workforce. Undercutting programs that help business prosper, create high-wage jobs and generate tax revenue will only exacerbate California's budget problem.

AB 1804 would help ensure that California employers will continue to see their employment training tax dollars reinvested in California workers.

A similar job creator bill from 2009, AB 816 (Hagman; R-Chino Hills), failed to pass Assembly Insurance last year.

Staff Contact: Kyla Christoffersen

'Fit Business' Awards Application Process Opens



The California Chamber of Commerce is urging members of the business community to apply for the 2010 California Fit Business Awards.

The annual awards program,

sponsored by the California Task Force on Youth and Workplace Wellness, recogniz-

es companies that make their employees' health a priority by creating business models that promote a healthier workplace.

After presenting awards to more than 70 employers in 2009, the task force announced it hopes to bring in 300 applications in 2010.

Examples of programs include: promoting stair use instead of the elevator; providing healthy snacks at meetings instead of cookies and sugary foods; walking programs; Weight

Watchers at Work; on-site fitness facilities or classes; providing free water or subsidized healthy foods; health risk assessments; employee gardens; and mobile health units for workers and families.

The application deadline is June 16. For more information about the awards or for a list of businesses that have received recognition in the past, visit www.wellnesstaskforce.org.



Staying informed will help you stay out of court.



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