

ALERT

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Senate Policy Committee Rejects Flexible Scheduling



A California Chamber of Commerce-sponsored bill that would have provided

a simplified process for establishing flexible work schedules was rejected by a Senate committee this week.

SB 1335 (Cox; R-Fair Oaks/Dutton; R-Rancho Cucamonga) provided a simplified, voluntary way for establishing

flexible work schedules, and would have created a win-win-win for employees, employers and the environment by promoting better work-life balance, improved workplace productivity and retention, and reduced traffic and greenhouse gases.

Although the Senate Labor and Industrial Relations Committee heard testimony on the bill last week, a vote was not taken at that time because of absent committee members (see April 16 *Alert*).

See Senate: Page 4

Bills Discouraging Investment in California Moving in Legislature



A host of bills moving in the California Assembly and Senate are sending the message to stop investing in California.

OPPOSE

The California Chamber of Commerce-**opposed** bills target employers' use of investment incentives, including tax credits, deductions, exemptions or other benefits.

The CalChamber is urging legislators to reject the bills. California employers represent the best hope for speeding California's economic recovery, providing new jobs for the 12.5 percent of Californians who are still unemployed, and of increasing state revenue to help provide critical services to Californians in the long term.

Anti-Investment Proposals

The CalChamber-**opposed** anti-investment bills and their status are as follows:

- **AB 2171 (C. Calderon; D-Montebello):** Requires the Legislature to make a separate annual appropriation to fund all investment incentives for that year, and disallows all investment incentives claimed beyond the amount of the annual appropriation.

See Proposals: Page 3

Bipartisan Job Creator Gets Airing in Assembly



Photo by Megan Wood

From right, Assemblymen Charles Calderon (D-Montebello) and Brian Nestande (R-Palm Desert) explain to an Assembly policy committee the merits of CalChamber-supported job creator legislation sponsored by the Governor. See story on page 5.

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Labor Law Corner

Reporting Time Pay Amount Can Vary Based on Situation



Barbara Wilber
HR Advisor

Does an employee have to be paid for the one hour that he/she attends a meeting on his/her day off or is there a minimum amount he/she must be paid? If there is a minimum, are all hours paid at the overtime rate?

A scheduled one-hour meeting that is not regularly recurring and is on an

employee's day off would require a payment of one-half of the employee's usual day.

For example, if the employee normally works eight hours per day, the reporting time section would require a payment of at least four hours. If the employee already had worked 40 hours, time-and-one-half would be owed for the one hour of actual work time and an additional three hours at the regular rate to satisfy the reporting time requirement.

This answers the question for the specific facts presented, but the reporting time pay section includes exceptions that may apply to other fact situations.

Varied Situations

There are varied situations that would require an employer to pay a minimum amount pursuant to the "Reporting Time Pay" section contained in each of the Industrial Welfare Commission Wage Orders and quoted in part below:

(A) Each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage.

(B) If an employee is required to report for work a second time on any one workday and is furnished less than two (2) hours of work on the second reporting, said employee shall be paid for two (2) hours at the employee's regular rate of pay, which shall not be less than the minimum wage.

Reporting Time Interpretation

The California Division of Labor Standards Enforcement has interpreted this reporting time pay section as it applies to these varied situations for required training or staff meeting attendance. The policy and interpretations manual at Section 45.1.4 states:

1. Required meeting is scheduled for a day when the worker is not usually scheduled to work. The employer tells all of the workers that attendance at the meeting is mandatory and a one- or

two-hour shift is "scheduled" for this meeting. For those workers not "regularly scheduled" to work, the employee must be paid at least one-half of that employee's usual or scheduled day's work.

2. Required meeting is scheduled on the day a worker is scheduled to work, but after the worker's scheduled shift ends.

a. If there is an unpaid hiatus between the end of the shift and the meeting, the employee must be paid, pursuant to Section 5(B) (see above) at least two hours for reporting a second time in one day.

b. If the meeting is scheduled to immediately follow the scheduled shift, there is no requirement for the payment of reporting time no matter how long the meeting continues.

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 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

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Proposals Discouraging Investment in State Continue to Gain Approval in Legislature

From Page 1



OPPOSE

Passed Assembly Revenue and Taxation Committee on April 19. In Assembly Appropriations Committee.

● **AB 2230 (C. Calderon; D-Montebello):**

Requires Franchise Tax Board (FTB) to post private taxpayer information about the 100 largest publicly traded corporations on its website. *Passed Assembly Revenue and Taxation on April 19. In Assembly Appropriations.*

● **AB 2641 (Arambula; I-Fresno):** Requires the Legislature to review and determine whether investment incentives provide a measurable benefit to the state every five years, to eliminate those that do not, and also provides for all future created investment incentives to sunset

automatically every fifth year. *In Assembly Revenue and Taxation Suspense File pending a review of the bill's fiscal implications.*

● **AB 2666 (Skinner; D-Berkeley):** Requires FTB to collect and compile an annual report, to be posted on its website and searchable by the public, that includes detailed private taxpayer information about any California employer that receives an investment incentive, along with other private taxpayer information and also requires that the report be made available to the public in a searchable database. *In Assembly Revenue and Taxation Suspense File pending a review of the bill's fiscal implications.*

● **SB 1086 (Flores; D-Shafter):** Requires FTB to compile an annual report, to be posted on its website and searchable/downloadable by the public, that includes private taxpayer information about any California employer who receives an investment incentive of \$1,000 or more. *In Senate Revenue and Taxation Committee.*

● **SB 1272 (Wolk; D-Davis):** Establishes specific bill requirements for future enacted investment incentive bills, including that they set forth detailed performance indicators to be used to evaluate their effectiveness, data collection requirements for taxpayers and government agencies that would be charged with oversight, and an automatic five-year sunset provision. *In Senate Appropriations Committee.*

● **SB 1391 (Yee; D-San Francisco):** Requires California employers taking advantage of any investment incentives to provide a detailed report to FTB and return any portion disallowed due to a net decrease in the number of full-time employees. *Senate Revenue and Taxation hearing April 28.*

Action Needed

Write your legislators and urge them to **oppose** these bills.

More information is available at www.calchambervotes.com.
Staff Contact: Mira Guertin

CalChamber-Sponsored Seminars/Trade Shows

More information at www.calchamber.com/events.

Business Resources

Around the World with LES: PDS 100. Licensing Executive Society, Silicon Valley Chapter. April 26, Stanford. (415) 564-2600.

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

Toward Sustainable Groundwater in Agriculture. Water Education Foundation. June 15–16, San Francisco. (916) 444-6240.

International Trade

International Green CEO Summit. Indonesian Chamber in Jakarta. April 28–May 1, Jakarta, Indonesia. grace@greenceosummit.com.
Chilean Wine Tasting. Wines of Chile

Promotion Group. April 29, San Francisco. (415) 982-7665.

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

IBAGlobal 17th Annual World Trade Conference. International Business Association. May 4–5, Ontario. (702) 417-5467.

Export Compliance Training. International Traffic in Arms Regulations (ITAR). May 6 and May 20, Hawthorne. (310) 973-3148.

Bridging Global and Local Innovations. World Affairs Council of Northern California. May 6, Sacramento. (415) 293-4600.

Monterey Bay Marketplace—A Model for the World. Monterey Bay International Trade Association and Monterey County Business Council.

May 10, Monterey. (831) 335-4780.
Consular Corps Luncheon. NorCal World Trade Center. May 18, Davis. (916) 447-9827.

Clean-Tech Trade Mission to China. Monterey Bay International Trade Association and Asia Gateway Inc. May 22–29, Shanghai, China. (831) 335-4780.

Destination India 2010: New Business Trends. Quanta Consulting, Inc. June 17, Los Angeles. (949) 480-9466.

Agri Livestock Fisheries SMEDEX 2010. Sri Lanka Consulate in Los Angeles. June 18–20, Colombo, Sri Lanka. (213) 387-0214.

Business Future of the Americas Conference. The American Chamber of Commerce of Peru. June 21–22, Lima, Peru. (510) 705-8000.

Senate Policy Committee Rejects Flexible Scheduling

From Page 1

Business Community Support

The business community expressed strong support of this job creator bill. Letters urging committee members to approve SB 1335 came from 34 local chambers of commerce and numerous trade associations.

In addition, two employers appeared before the committee on April 14 to testify in support of and elaborate on the need for this legislation.

In testimony to the committee, Brian Hawley, chairman and chief financial officer of Luminex Software, which has offices in both Riverside and San Diego, emphasized the important message that SB 1335 sends to employers about job creation and to employees about their individual needs.

“You are telling the employers that you really do want us doing business in

California, and not moving or expanding operations in other states which follow more flexible guidelines,” Hawley said. “More importantly, you are telling employees that you really do care about their needs.”

Hawley explained to the committee that without this bill Luminex is unable to accommodate reasonable requests from its employees to work flexible schedules that are more conducive to the employees’ needs.

“It’s frustrating to both employers and employees that something mutually agreeable, perfectly reasonable and very common sense is so difficult to achieve,” he said.

Greg Gierczak, executive director of external relations for SureWest Communications from Roseville, emphasized to the committee that restrictive rules, like the current overtime law, affect business and investment

decisions for California companies.

Summarizing for the committee why SB 1335 really is a job creator, Gierczak said, “It really comes to the issue of when we have to make investments in California or in other states where we operate, we have to consider those rules; is it better to put our investment dollars in other states that are more flexible and easygoing and less costly to run?”

Key Vote

SB 1335 failed to pass Senate Labor and Industrial Relations on a party-line vote of 2-4 on April 19:

Ayes: Hollingsworth (R-Murrieta), Wyland (R-Carlsbad).

Noes: DeSaulnier (D-Concord), Ducheny (D-San Diego), Leno (D-San Francisco), Yee (D-San Francisco).

Staff Contact: Kyla Christoffersen

CalChamber Positions on June Ballot Propositions

| Proposition | Subject | Position |
|----------------|--|----------|
| Proposition 13 | Bars property tax increases on construction for seismic retrofits | Support |
| Proposition 14 | Increases right to participate in primary elections | Support |
| Proposition 15 | Repeals ban on public funding of political campaigns | Oppose |
| Proposition 16 | New two-thirds voter approval for local public electricity providers | Support |
| Proposition 17 | Makes continuous coverage auto insurance discount portable | Support |

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CalChamber Supports Bipartisan Proposal to Advance Environmentally Sound Projects



An Assembly committee heard comments this week on California

Chamber of Commerce-supported bipartisan legislation sponsored by the Governor that would spur job creation by protecting environmentally sound projects from unnecessary lawsuits.

The bill gives a limited number of environmentally sound development projects protection from California Environmental Quality Act (CEQA) lawsuits only after those projects have met CEQA's stringent environmental requirements.

Job Catalyst

Authored by Assemblyman Charles Calderon (D-Montebello) and Assemblyman Brian Nestande (R-Palm Desert) AB 1805 allows a select number of projects that have met their CEQA requirements to break ground sooner, which will create badly needed jobs and spur economic growth.

Supporters of AB 1805 appearing before the Assembly Natural Resources Committee on April 19 included representatives of labor, engineers, contractors, builders, property owners and manufacturers.

AB 1805 was held in the Assembly policy committee without a vote, much as occurred in February with similar special session legislation in the Senate—SBX8 42 (Correa; D-Santa Ana/Cogdill; R-Modesto).

Calderon told the Assembly committee he wanted to amend the bill in response to comments from critics before asking the committee to vote on the proposal.

Diverse Projects

CalChamber Policy Advocate Robert Callahan emphasized the importance of AB 1805 to boosting the economy and putting people back to work.

The types of projects that could benefit from passage of AB 1805 represent the diverse priorities of California, he noted, including transportation, renewable energy, hospitals and schools.



Photo by Megan Wood

CalChamber Policy Advocate Robert Callahan voices strong support for job creator legislation to the Assembly Natural Resources Committee.

Costly Delays

AB 1805 addresses the problem of important economic development projects being held up due to unnecessary and costly lawsuits filed under the guise of CEQA.

Nestande pointed out the average time to build a freeway interchange just studied in his district is 13 years—two years of construction and the remaining “11 years of planning and mitigation that drives up tremendously the cost of these projects.”

Calderon gave examples of projects around the state that have been delayed by opponents misusing the CEQA process.

Housing projects, shopping centers, infrastructure projects and more, often are challenged by opponents who simply dislike the project for non-environmental reasons and use CEQA litigation to frustrate, delay or even kill the project.

Ultimately, the economy suffers, jobs are lost and the public and private sectors spend millions of dollars defending themselves in court instead of creating jobs.

Protection

AB 1805 offers protection from CEQA litigation to a limited number of

projects that already have been certified as meeting the environmental standards of CEQA.

This bill does not provide an exemption from the CEQA process. Rather, the benefit of litigation protection is provided to a project only if:

- it has completed a full environmental review under CEQA and had that review certified;
- public hearings have been held in the region;
- it has been identified and approved by the Secretary of the Business Transportation and Housing Agency as having significant economic potential.

Selection Criteria

Projects are to be selected based on the following criteria:

- The number and quality of jobs that will be created by the project.
 - The amount of capital investment made by the project.
 - A balance between projects sponsored by public and private entities.
- The proposal will require the Business, Transportation and Housing Agency to select 25 projects each year for five years to protect from unwarranted litigation. The bill will sunset in 2016.

Staff Contact: Robert Callahan

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.

Small Business Bill Passes Assembly Committee



A California Chamber of Commerce-supported job creator bill that expands small business opportunities passed an Assembly committee 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.

AB 1771 passed the Assembly Jobs, Economic Development and the Economy Committee on a vote of 6-0. It will be considered next by the Assembly Public Safety Committee.

Staff Contact: Marti Fisher

Streamlining Energy Oversight Goal of Proposal



SUPPORT

California Chamber of Commerce-supported legislation to streamline California government entities dealing with energy policy is moving in the Legislature.

AB 2561 (Villines; R-Fresno) streamlines government by consolidating the state's various commissions, divisions, authorities, offices and departments with responsibility for energy policy into a new California Department of Energy.

The CalChamber and a coalition of business and industry groups, as well as utility companies, are urging legislators to support the consolidation.

Currently, responsibility for creating and implementing California's energy policies are spread within a broad range of entities. This dispersion of responsibility creates confusion, lessens transparency and makes no one accountable.

Consolidating the state's authority under a new department will create greater accountability with clear lines of leadership, responsibility and authority for developing, implementing and coordinating the state's energy policy.

Supporters of AB 2561 note that California's energy policy infrastructure was set up and evolved in the last century and is antiquated at best. An overhaul of the state's energy policy will allow California to implement strategies that will create new sources of green energy, maximize energy efficiency and keep energy costs down for California consumers and businesses.

AB 2561 has won unanimous approval from the Assembly Utilities and Commerce and Assembly Natural Resources committees in recent weeks and awaits action by the Assembly Appropriations Committee.

Staff Contact: Brenda Coleman

Assembly Committee Passes Resolution Hindering U.S.-Colombia Trade Agreement



OPPOSE

A California Chamber of Commerce-**opposed** state resolution that memorializes Congress to oppose the U.S.-Colombia Free Trade Agreement (FTA) passed an

Assembly policy committee this week.

AJR 27 (Torricio; D-Fremont), a California Assembly Joint Resolution, would cast the FTA and Colombia in an unproductive light if it were to pass. The measure is headed to a vote of the full Assembly.

The U.S.-Colombia FTA, signed in 2006, is a critical element of the U.S. strategy to liberalize trade through multilateral, regional and bilateral initiatives. The agreement will also increase momentum toward lowering trade barriers and set a positive example for other small economies in the Western Hemisphere.

Progress in Colombia

In testimony before the committee, Maria Fernanda Melo, vice consul from the Colombian Consulate General in Los Angeles, explained that Colombia has achieved great progress that is recognized not only domestically, but by international organizations, the media and analysts as well.

“The improvement and progress in Colombia has been unprecedented in the history of our country and in the region,” she said. “This success is due to the extensive commitment of the government and the people to restore security throughout the country, strengthen institutions, promote the rule of law and create better conditions for the development of its citizens.”

Colombia is on the right track Melo explained, and a strengthened and stable alliance with the United States, a critical partner, will contribute to a more rapid achievement of their mutual goals. Passing AJR 27 will only undermine Colombia’s progress, she said.

Important Trading Partner

Colombia is an important trading



Photo by Megan Wood

Maria Fernanda Melo (left), vice consul from the Colombian Consulate General in Los Angeles, meets with Susanne Stirling, CalChamber vice president, international affairs, in preparation for testifying to an Assembly committee about the importance of the U.S.-Colombia trade agreement.

partner with California and the United States and also a partner in stopping drug trafficking. In 2009, the United States exported more than \$9.5 billion worth of goods to Colombia, with total trade topping \$20.7 billion. Colombia is California’s 35th largest trading partner, exporting more than \$320 million in goods in 2009.

“The delay or rejection of a free trade agreement hinders the objectives of increasing living standards for Colombians and increasing security,” Melo said. “Indeed, the opposite seems to be the case; delaying a free trade agreement not only discourages much-needed investment, but reduces Colombia’s level of competitiveness on a daily basis by reducing access to the resources needed to invest in education, health, infrastructure and development.”

The FTA is pending approval by the U.S. Congress.

Export Opportunities

According to the U.S. Department of Commerce, International Trade Administration, the U.S.-Colombia Trade Promotion Agreement offers tremendous opportunities for California’s exporters.

When the FTA enters into force, 80 percent of U.S. consumer and industrial exports to Colombia will be duty-

free immediately, including nearly all information technology products; mining, agriculture, and construction equipment; medical and scientific equipment; auto parts; paper products; and chemicals. The remaining tariffs phase out over 10 years.

U.S. farmers and ranchers will also become much more competitive, benefiting from immediate duty-free treatment of 77 percent of current U.S. agriculture exports.

Key U.S. agriculture exports that will be duty-free when the agreement enters into force include cotton, wheat, soybeans, high-quality beef, apples, pears, peaches, cherries and almonds. Colombia will phase out all other agricultural tariffs within 19 years.

For more information on the U.S.-Colombia FTA, visit www.calchamber.com/colombia.

Key Vote

AJR 27 passed the Assembly Jobs, Economic Development and the Economy Committee on April 20 on a vote of 4-2.

Ayes: Beall (D-San Jose), Block (D-San Diego), M. Pérez (D-Coachella), Salas (D-Chula Vista).

Noes: B. Berryhill (R-Ceres), Logue (R-Linda).

Staff Contact: Susanne Stirling



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