

ALERT

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CalChamber-Backed Change in Primary Wins Approval



Proposition 14, the California Chamber of Commerce-supported measure to increase the right to participate in primary elections, won with strong

support of California voters this week.

Voters passed Proposition 14, 54 percent to 46 percent. Proposition 14 changes the primary election process for congressional, statewide and legislative races. The measure allows all voters to choose any candidate regardless of the candidate's or voter's political party preference.

The proposition ensures that the two candidates receiving the greatest number of votes will appear on the general election ballot regardless of party preference.

In effect, Proposition 14 moves the decision of who will represent a legislative district from the primary—where voter turnout is low—to the general election.

Victory for Voters

CalChamber President and CEO Allan Zaremberg called the passage of Proposition 14 a victory for the voters.

"The voters agree that the status quo is unacceptable," Zaremberg said. "The decisions facing California today require a broad outlook and candidates who understand the connection between business-friendly policies, jobs and a strong economy.

"Proposition 14 will certainly help California to get more pro-jobs candidates to Sacramento. This measure is a victory for all Californians because it

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Opposition Stops 'Job Killer' Bills in House of Origin



Strong opposition from the California Chamber of Commerce and other business groups has stopped a number of "job killer" bills from advancing beyond the

legislative house in which they were introduced.

The following "job killer" proposals are dead for this year.

Costly Workplace Mandates

● **AB 1994 (Skinner; D-Berkeley) Increased Workers' Compensation Costs.** Would have inappropriately increased costs to employers by expanding workers' compensation presumptions into the private sector for the first time by allowing hospital workers to be eligible for various presumptions, including H1N1, MRSA, and other diseases and injuries.

● **AB 2727 (Bradford; D-Gardena) New Liability for Hiring Decisions.** Would have increased potential liability exposure for hiring decisions by restricting the ability of employers to make their decision based on a job applicant's criminal conviction.

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Photo by Megan Wood

CalChamber President and CEO Allan Zaremberg highlights the importance of the passage of Proposition 14, the open primary measure, at a June 8 press conference called by Governor Arnold Schwarzenegger (left). Behind Zaremberg is Lieutenant Governor Abel Maldonado, author of the measure.

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Labor Law Corner

Religious Expression at Work: What's Reasonable Depends on Situation



Ellen S. Savage
HR Advisor

My administrative assistant tries to convert other employees to her religion and has an outgoing voice mail message that ends with the phrase "have a blessed day." Can I legally ask her to keep her views on religion to herself and remove the ending of the voice mail message?

A blanket policy prohibiting religious expression in the workplace may violate anti-discrimination laws. Both California

and federal law require an employer to *reasonably accommodate* the religious beliefs of their employees unless doing so would impose an *undue hardship* on the conduct of the business.

What is reasonable must be determined on a case-by-case basis, depending on the facts of each situation. An undue hardship occurs when there is more than a minor financial cost to the business, or where the accommodation diminishes efficiency in other jobs, infringes on other employees' job rights or benefits, or impairs workplace safety.

Proselytizing

When an employee is proselytizing (trying to convert others) at work, the employer should consider the potential for harassment and disruption from permitting this expression of religious belief, to determine if an undue hardship will result. This includes taking into account the effect such expression would have on co-workers, customers and business operations.

If the proselytizing is done in a harassing manner, it would be an undue hardship because the employer has a duty to protect other employees from religious harassment. An employee may engage in religious harassment by demeaning the religious beliefs of others, such as telling co-workers they will "burn in hell" if they do not accept the employee's religion.

Similarly, harassment may occur when an employee continues to proselytize co-workers who have made it clear the conduct is not welcome.

Even if not done in a harassing manner, proselytizing that disrupts the work of other employees also would be an undue hardship. An employer might

accommodate an employee's religious beliefs by asking him/her to limit his/her religious discussions to non-work time, such as rest and meal breaks. The employee also can be asked to stop his/her efforts to convert other employees when the discussions are disruptive to their work.

'Have a Blessed Day'

Court decisions are mixed on whether allowing an employee to use the phrase "have a blessed day" constitutes undue hardship. Even if clients or co-workers do not vocalize objections to the phrase, an employer may show an undue hardship where the expression could be mistaken as the employer's message.

One court found an employer had reasonably accommodated its employee by allowing her to regularly say "have a blessed day" to co-workers and supervisors who did not object, but prohibiting her from saying it to customers after at least one regular customer had objected to the phrase.

In the situation of an administrative assistant who regularly takes calls for her boss, the employer could probably demonstrate that the recording on the outgoing voice mail could be mistaken as representing the views of the boss and is therefore an undue hardship.

Since each case is fact-specific, an employer should consult legal counsel before issuing a blanket policy prohibiting religious expression.

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 Takes Positions on Initiatives



The California Chamber of Commerce Board of Directors recently voted to oppose the marijuana initiative on the November ballot and to support a

pending measure to protect local government funds, including transportation funding.

Marijuana Initiative

Regulate, Control and Tax Cannabis Act of 2010—Oppose

This proposed initiative on the November ballot would allow individuals 21 years or older to possess, cultivate or transport marijuana for personal use. The measure would permit local governments to regulate marijuana and, proponents believe, to tax its commercial production and sale.

If passed, this initiative would create a different, higher standard for employers to be able to discipline employees who use marijuana while at work than for those employees who use alcohol.

Current law allows employers to discipline employees who are “under the influence” of drugs or alcohol. This proposal would create a separate and higher standard for marijuana use to a level that requires the employer to prove that the employee is “actually impaired” from performing his or her job duties as a result of drug use.

This change in the law would undercut the ability of California employers to enforce drug-free workplaces.

The CalChamber Board of Directors voted to oppose the “Regulate, Control and Tax Cannabis Act of 2010” because it would drive up costs and significantly undermine the ability of employers to protect the safety of all employees in the workplace.

If this measure were approved, employers, including the State of California, would be faced with the burden of proving that an employee who tests positive for marijuana is “actually impaired” from performing the job before taking any adverse action against the employee. This process would delay disciplinary actions used to protect

workplace safety and drive up costs due to increased litigation.

In addition, the Cannabis Act threatens state and federal contracts and grants. If passed, this initiative could result in employers losing public contracts and grants because they could no longer effectively enforce federal drug-free workplace requirements.

“This initiative has dangerous implications and puts the safety of workers in jeopardy,” said CalChamber President and CEO Allan Zaremborg. “If this measure passes, California’s employers would not only face higher costs, but they would be put in the difficult position of having to protect the rights of some employees while allowing other employees to be put in harm’s way.”

Local Government Funding

The Local Taxpayer, Public Safety and Transportation Protection Act—Support

This proposed initiative would revoke the state’s ability to borrow from local government property tax funds currently authorized by Proposition 1A of 2004 and prohibit the state from borrowing Proposition 42 funds (gas tax) which voters have dedicated to transportation and mass transit.

In addition, the measure would further prevent the state from redirecting or borrowing from sources of other funds established to pay for public transit and transportation projects.

The CalChamber Board of Directors voted to support the “Local Taxpayer, Public Safety and Transportation Protection Act” because it would protect investments in transportation projects that help generate economic activity and create jobs and because it would keep the state from relying on short-term borrowing to fund continued deficit spending.

“For every \$1 billion invested in highway construction, we get about \$5 billion in economic activity,” said Zaremborg. “We must protect funds set aside to fix the roads and highways that are used to transport goods and our workers to and from their jobs.

“Further, the constant borrowing from these funds puts pressure on local governments to raise taxes on business which will kill more jobs and only serve

to create even more budget chaos.”

Supporters of the measure have submitted signed petitions to the Secretary of State and are awaiting verification that sufficient signatures were gathered to place the initiative on the ballot.

Other November Measures

The CalChamber Board previously took positions on the following measures slated for the November ballot:

● Safe, Clean and Reliable Drinking Water Supply Act of 2010—Support.

This measure is a vital step forward to restore and improve our water system. www.waterforca.com.

● Redistricting of Congressional Districts—Voters FIRST Act for Congress—Support.

The measure extends the successful Proposition 11 provisions from 2008 to give the Citizens Redistricting Commission the additional authority to draw new boundaries for U.S. congressional districts in 2011. www.votersfirstact.org.

Other Pending Measures

The CalChamber also has taken positions on the following initiatives, which are awaiting verification that sufficient signatures were submitted to qualify the measures for the ballot:

● Stop Hidden Taxes Initiative—Support.

This proposed measure closes a loophole in the law that allows the Legislature to raise, by a majority vote rather than the required two-thirds vote, taxes on products and services simply by calling them “fees” instead of “taxes.” www.nomorehiddentaxes.com.

● On Time Budget Act of 2010—Oppose. This proposed measure will eliminate the option of referendum for fees or fee increases that are part of a budget appropriation. It exempts the budget bill and bills providing for appropriations related to the budget bill from the existing two-thirds vote requirement, and provides that those take effect immediately.

● Repeal Corporate Tax Loopholes Act—Oppose.

This proposal repeals recently enacted tax benefits. www.stopthejobstax.com.

More information on CalChamber positions on ballot measures is available at www.calchamber.com/ballot.

Staff Contact: Denise Davis

CalChamber-Backed Change in Primary Wins Voter Approval



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will ensure accountability to the electorate.”

Zaremborg concluded that Proposition 14 will “fix a big problem with the current elections

process by making sure everyone’s vote counts in the November general election. In most legislative and congressional districts today, most people’s votes just don’t matter in the general election.”

Governor Arnold Schwarzenegger issued a statement Tuesday night saying that he is “thrilled California voters have decided to make a historic change and give equal access to the same ballot for all by passing Proposition 14.

“This sends a clear message that Californians are tired of partisan gridlock and dysfunction and want a system where representatives put what’s best for California ahead of extreme partisan doctrine.”

The Governor added that, “coupled with redistricting, Proposition 14 will change the political landscape in California—finally giving voters the power to truly hold politicians accountable.”

Other Measures

● Voters also passed CalChamber-supported Proposition 13, which promotes equity among taxpayers who reconstruct or improve structures to comply with local ordinances relating to seismic safety. The measure passed 84.5 percent to 15.5 percent.

● Californians rejected CalChamber-opposed Proposition 15, 42.5 percent to 57.5 percent. The measure would have repealed the ban on public funding of political campaigns. More than 20 years ago, voters prohibited taxpayer funds from being given to politicians for their political campaigns. California voters have already rejected public campaign financing twice in the last 10 years.

● Voters also failed to pass Proposition 16, which would have required two-thirds voter approval before local governments

may use public funds, bonds or other indebtedness to start up electric delivery service, expand electric delivery service into a new territory or implement a community choice aggregation program. The measure failed, 47.6 percent to 52.4 percent.

● Defeated by a vote of 48 percent to 52 percent was Proposition 17, which would have permitted companies to reduce or increase cost of insurance depending on whether a driver has a history of continuous insurance coverage. The measure would have aligned California with the vast majority of other states allowing insurers to offer this discount to all drivers who maintain ongoing auto insurance coverage. It also would have allowed consumers access to competitive or lower rates if an insured changes insurers.

For more information about the CalChamber’s positions, visit www.calchamber.com/ballot.

The latest election results are available at the Secretary of State website at www.ss.ca.gov.

CalChamber-Sponsored Seminars/Trade Shows

More information at
www.calchamber.com/events.

Business Resources

Toward Sustainable Groundwater in Agriculture. Water Education Foundation. June 15–16, San Francisco. (916) 444-6240.
Entrepreneurial Institute. National Black MBA Association. September 24, Los Angeles. (312) 580-8569.
2010 Aerotech Expo Job Fair. Aerotech News and Review. September 25, Lancaster. (877) 247-9288.

Human Resources

Rehiring Options. CalBizCentral. June 23, Live webinar. (800) 331-8877.
Social Media and the Workplace—Can the Two Coexist? CalBizCentral. July 1. Live webinar. (800) 331-8877.

International Trade

Rebuild Chile Expo. Kallman Worldwide. June 15–17, Santiago, Chile. (201) 251-2600.

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.

7th Annual Global California Conference. Monterey Bay International Trade Association (MBITA). June 23, Los Angeles. (831) 335-4780.

Indo Aquaculture 2010. Indonesia Directorate General of Livestock Services, Department of Agriculture. July 8–10, Jakarta, Indonesia. kontakt@merebo.de.

Indo Livestock 2010. Indonesia Directorate General of Livestock Services, Department of Agriculture. July 8–10, Jakarta, Indonesia. kontakt@merebo.de.

Africa’s Big Seven. Exhibition Management Services. July 18–20,

Johannesburg, South Africa. admin@exhibitionsafrica.com.

Indowater 2010. PT. Napindo Media Ashatama. July 28–30, Surabaya, Indonesia. contact@merebo.de.

Indowaste 2010. PT. Napindo Media Ashatama. July 28–30, Surabaya, Indonesia. contact@merebo.de.

Indomeelex 2010. PT. Napindo Media Ashatama. July 28–30, Surabaya, Indonesia. contact@merebo.de.

India Trade Conference. Port of Los Angeles, Southern California Edison and Quanta Consulting. July 29, Irwindale. (949) 480-9466.

Destination India 2010. Port of Los Angeles, Southern California Edison and Quanta Consulting. July 29, Irwindale. (949) 480-9466.

CalChamber Calendar

Public Affairs Council Spring Retreat:
June 15, Sacramento

CalChamber: Cost Containment Critical in Developing AB 32 Cap-and-Trade Plan



The California Chamber of Commerce and a coalition of business and taxpayer groups have voiced appreciation for a state agency's

sensitivity to economic considerations as it develops rules to implement California's landmark climate change law, AB 32.

The June 7 letter from the AB 32 Implementation Group, of which the CalChamber is a member, expressed support for the general direction outlined by the California Air Resources Board (ARB) staff at a May 17 workshop.

The goal of the implementation group is to serve as a constructive voice and ensure the state meets the greenhouse gas emission reductions required by AB 32 while maintaining the competitiveness of California businesses and protecting interests of consumers and workers.

The ARB is gathering comments on proposed rules for a cap-and-trade program that would set a maximum limit for greenhouse gas emissions while allowing regulated industries to buy or trade emissions credits to meet the goal of reducing greenhouse gas emissions as established by AB 32.

Competitiveness Concerns

The coalition's letter included the following comments.

- **Cost containment.** The coalition has consistently urged that AB 32 incorporate cost containment mechanisms that may be needed to ensure California companies can remain competitive with those in other states and nations. The coalition is encouraged by the ARB staff presentation's focus on addressing cost containment and leakage concerns.

- **Leakage.** Avoiding leakage also is important to maintain the environmental integrity of the program.

- **Allocation of allowances.** The coalition appreciates that ARB has recommended a free allocation of allowances as an important cost containment element. The proposed direction reflects sensitivity to current economic problems and one of the important recommendations made by Governor Arnold Schwarzenegger in a March 24 letter to ARB Chair Mary Nichols.

ARB staff has appropriately proposed limiting the use of an auction for allocating allowances in the early years of the program. An immediate auction for all allowances would impose very high and abrupt costs on public agencies

and companies subject to the program. The same concern will apply later if California has not transitioned to a comprehensive national program and the state's companies remain at a competitive disadvantage.

The ARB staff will be conducting an in-depth analysis of covered entities to determine an appropriate system for allocating permits.

In developing the allocation strategy, ARB should consider that California companies and other covered entities are much more energy efficient than competitors in other states and countries due to a decades-long history of high energy costs and aggressive energy efficiency programs. Investments and efficiencies already put in place by California companies should be rewarded or at least recognized.

- **Offsets.** The state should be sending strong signals now that offset projects will play a significant role in providing cost-effective emission reduction strategies to contain allowance costs for companies that want to keep jobs and expand in California. Allowing a broad use of offsets to contain costs will be very important as the emissions cap declines in the years leading up to 2020.

Staff Contact: Brenda M. Coleman

Opposition Stops 'Job Killer' Bills in House of Origin

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Economic Development Barriers

- **AB 1639 (Nava; D-Santa Barbara) Delays Residential Construction Industry Recovery.** Would have hindered recovery of the residential construction industry by reducing credit availability due to the imposition of a mandatory mortgage mediation program, which would have led to increased delays in resolving delinquent loans.

- **AB 2171 (C. Calderon; D-Montebello) Discourages Investments.** Would have created substantial uncertainty for employers and discouraged future investment in the state

by effectively creating an annual sunset for all investment incentives, including tax credits, deductions and exemptions, and capping how much can be claimed each year.

- **AB 2641 (Arambula; I-Fresno) Discourages Investments.** Would have created uncertainty for California employers making long-term investment decisions by requiring all future-enacted investment incentives to sunset after five years, and eliminating existing incentives that provide no "measurable benefit" without defining how that benefit would be measured.

- **SB 1113 (Wolk; D-Davis) Undermines Taxpayer Rights.** Would

have made it more costly and difficult for taxpayers to fight meritorious disputes and given the Franchise Tax Board (FTB) the upper hand by allowing FTB to request a new court trial of tax cases it loses at the administrative level.

Expensive, Unnecessary Regulatory Burdens

- **AB 2138 (Chesbro; D-North Coast) Unworkable Mandate.** Would have imposed new and costly mandates on California's food service industry by imposing an unworkable framework aimed at reducing marine debris.

Staff Contact: Marc Burtat

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.

Environmental Standard Job Creator Headed to Senate Committee



A California Chamber of Commerce-**supported** job creator bill that has the dual benefit of facilitating job creation while ensuring environmental integrity will be considered by a Senate committee next week.

AB 1846 (M. Pérez; D-Coachella) streamlines the California Environmental Quality Act (CEQA) approval process for certain projects by allowing industries subject to compliance with greenhouse gas regulations under AB 32 to go through an expedited environmental review through a focused environmental impact report (EIR).

California is aggressively working to meet its ambitious environmental goals set forth by AB 32, The California Global Warming Solutions Act of 2006. As regulations are being adopted to reduce California's greenhouse gas emission levels, companies subject to compliance with these regulations must make significant modifications to existing facilities in order to reduce emissions in compliance with the law.

By law, greenhouse gas regulations

must be adopted by January 1, 2011, so companies have a short timeframe to become AB 32 compliant. In order to make infrastructure changes, these companies must go through the necessary CEQA permitting process before construction of significant project modification/upgrades can begin. Since the CEQA process can be arduous, often marked by delays and great expense to business, it is important that the state look for ways to help streamline this process in order to help industries meet their AB 32 goals in a timely manner.

AB 1846 provides such a path by requiring an expedited environmental review of greenhouse gas compliance projects through a focused EIR.

Action Needed: AB 1846 is scheduled for a hearing in the Senate Environmental Quality Committee on June 14. The CalChamber is urging members of the business community to contact their legislators and committee members and urge them to **support AB 1846**.

Staff Contact: Brenda M. Coleman

CalChamber-Opposed Bill Increases Risk of Identity Theft



California Chamber of Commerce-**opposed** legislation that could expose a business' customers and employees to an increased risk of identity, financial and asset theft passed the Senate Labor and Industrial Relations Committee on June 9.

The "job killer" bill, **AB 482 (Mendoza; D-Norwalk)**, increases potential liability exposure for hiring decisions by unduly restricting the ability of businesses to use consumer credit reports as part of the background check process.

Employers strive to recruit and retain the best employees who they trust and will help grow their businesses. Consumer credit reports provide important insight into one aspect of a potential employee's ability to handle responsibility for cash, other assets and personal information. An employee with high consumer debt who handles cash or assets may be more likely to steal, and this bill prohibits an employer from accessing this important information as a part of the hiring process.

This risk is compounded by the fact that, in most situations, employers are liable for the actions of employees in the performance of their job duties, so an employee may take actions that bring an unacceptable level of liability on his/her employer.

Although an individual's credit history by itself is not predictive of potential theft, access to credit information can reveal patterns that may present an unreasonable risk to businesses resulting from an irresponsibility with regard to, or inability to, handle personal financial commitments.

Similar legislation was vetoed in 2008 and 2009 by Governor Arnold Schwarzenegger, who stated "California's employers and businesses have inherent needs to obtain information about applicants for employment and existing law already provides protections for employees from improper use of credit reports."

Staff Contact: Valerie Nera

Trans-Pacific Forum Set to Open in San Francisco

The second round of Trans-Pacific Partnership negotiations will be held in San Francisco the week of June 14.

The date was announced at the California Chamber of Commerce International Forum in Sacramento on May 17 by Ambassador Demetrios Marantis, deputy U.S. trade representative (USTR).

Through the Trans-Pacific Partnership, the Obama administration is seeking to develop “a high-standard, 21st century, regional trade agreement that will advance U.S. interests with some of the most dynamic economies in the world and help expand U.S. exports to support high-paying, high-quality jobs in the United States,” the USTR stated in a release.

Background

The Trans-Pacific Strategic Economic Partnership Agreement was signed by New Zealand, Chile, Singapore and Brunei in the summer of 2005.

Negotiations for the United States to join the Trans-Pacific Agreement were launched in September 2005. Australia, Peru and Vietnam also indicated interest in participating in negotiations from the first round.

The original Trans-Pacific Agreement negotiations were launched by Chile, New Zealand and Singapore at the Asia-Pacific Economic Cooperation (APEC) leaders summit in 2002. After attending a number of rounds as an observer, Brunei joined the Trans-Pacific Agreement as a “founding member.”

Following the passage of implementing legislation and regulations in March and April 2006, the Trans-Pacific Agreement entered into force on May 1, 2006 for New Zealand and Singapore, Brunei on June 12, 2006, and Chile on November 8, 2006.

One of the objectives of the Trans-Pacific Agreement is to create a trade agreement that can be seen as a model within the Asia-Pacific region and could potentially attract new members. The agreement is open to accession “on terms to be agreed among the parties, by any APEC economy or other state.”

As part of the original negotiations in 2005, participants agreed to begin negotiations on financial services and investment within two years of entry into force. Those negotiations began in March 2008, with the United States participating

while it considered whether to enter into negotiations to join the Trans-Pacific Agreement on a comprehensive basis.

Key Growth Driver

The Asia-Pacific region is a key driver of global economic growth, representing nearly 60 percent of global gross domestic product (GDP) and roughly 50 percent of international trade. The average GDP growth rate in the rapidly growing and dynamic countries in this region was 5.3 percent in 2007, compared with the world average of 3.8 percent.

Since 1990, Asia-Pacific goods trade has increased by 300 percent, while global investment in the region has increased by more than 400 percent. U.S. trade with Asian countries totals nearly \$1 trillion annually.

Even though U.S. exports to Asia continue to rise, the United States is gradually losing market share. Asian

countries have negotiated more than 160 trade agreements among themselves, while the United States has signed only two (Singapore and Australia). A third agreement, with Korea, awaits congressional approval.

The CalChamber supports 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.

More Information

Detailed information vital to the businesses that make California one of the largest exporting states in the nation and one of the largest economies in the world is available in the international trade section of the CalChamber website: www.calchamber.com/international.
Staff Contact: Susanne Stirling

CalChamber Health Care Committee Examines State Impact of New Federal Reform Law



Photo by Megan Wood

Discussing the California impacts of the federal health care reform law at the June 9 meeting of the CalChamber Health Care Policy Committee are (from left) Jennifer Kent, deputy legislative secretary for Governor Arnold Schwarzenegger; committee chair Viktor Rzeteljski of KPMG LLP; Marti Fisher, CalChamber policy advocate; Jeanne Cain, CalChamber executive vice president, policy; and Marian Mulkey, senior program officer, California HealthCare Foundation.



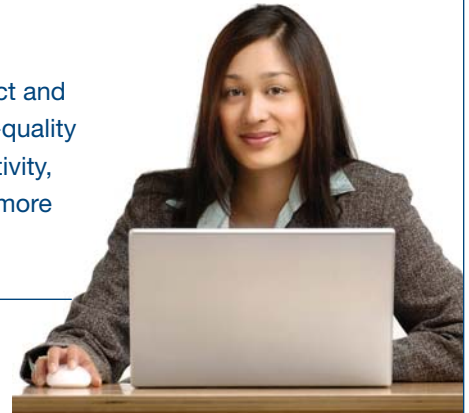
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