

ALERT

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Proposition 25 Would Allow Majority-Vote Tax Increases *Eliminates Referendum on Budget-Related Bills*



California Chamber of Commerce President and CEO Allan Zarembeg and the Stop Hidden Taxes committee hosted a reporter roundtable on July

8 to discuss three major flaws uncovered in Proposition 25—the so-called Majority Vote Budget initiative that will appear on the November 2 ballot.

The CalChamber Board of Directors voted to oppose Proposition 25 because they believe it will give the majority party

too much power and eliminate the option of referendum for fees or fee increases that are part of a budget appropriation. The measure would exempt the budget bill and other bills providing for appropriations related to the budget bill from the existing two-thirds vote requirement, and provide that those take effect immediately.

Perception vs. Reality

Although Proposition 25 proponents claim the measure would not allow the Legislature to raise taxes with a majority vote and that it would penalize politicians for failing to deliver an

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CalChamber Helps Stall Tax Amnesty Program ‘Job Killer’ Bill



A California Chamber of Commerce-opposed “job killer” bill that would have created penalties with the potential to severely harm innocent

taxpayers was pulled from committee by the author, and subsequently failed to meet the policy committee deadline earlier this month.

The bill, **AB 2498 (Skinner; D-Berkeley)**, would have established a tax amnesty program related to “abusive tax avoidance transactions” along with severe penalties that could harm innocent taxpayers, as well as unfairly restrict the rights of attorneys and tax professionals to practice their professions.

Amnesty Must Be Simple

The CalChamber does not condone, under any circumstances, the use of illegal tax avoidance transactions by taxpayers. The CalChamber strongly opposed AB 2498, however, because it did not focus on encouraging voluntary compliance according to clear guidelines. Instead, AB 2498 would have imposed a series of complex new definitions, standards and penalties that would have left taxpayers unaware of their responsibilities related to the amnesty program, created confusion that would

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Photo by Megan Wood

From left, California Chamber of Commerce President and CEO Allan Zarembeg and California Taxpayers’ Association President Teresa Casazza discuss three major flaws in Proposition 25 at a July 8 reporter roundtable.

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Labor Law Corner

Payday Requirements Vary When Employers Close for Weekends, Holidays



Gary Hermann
HR Advisor

What are the payday requirements when an employer is closed?

Occasionally, the designated payday will fall on a holiday or on another day that the employer may not be open for business. The question then becomes: When are the employees required to be paid?

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Home page: www.calchamber.com.*

If the employer is closed on a Saturday, Sunday or holiday, which happen to be the designated payday, the employer may pay wages on the next regular workday.

Enforcement Provisions

The Labor Commissioner has established an enforcement position, which relies on the provisions of Sections 7, 9, 10 and 11 of the California Civil Code (CC) and Section 12(a)(a) of the California Code of Civil Procedure (CCP) (Division of **Labor Standards Enforcement Policy and Interpretations Manual**, Sections 7.6 - 7.62):

- CC 7: "Holidays within the meaning of this code are every Sunday and such other days as are specified or provided for as holidays in the Government Code of the State of California."

- CC 9: "All other days than those mentioned in Section 7 are business days for all purposes;..."

- CC 10: "The time in which any act provided by law is to be done is computed by excluding the first day and including the last day, unless the last day is a holiday, and then it is also excluded."

- CC 11: "Whenever any act of a secular nature, other than a work of necessity or mercy, is appointed by law or contract to be performed upon a particular day, which day falls upon a holiday, it may be performed upon the next business day, with the same effect as if it had been performed upon the day appointed."

- CCP 12(a)(a): "If the last day for the performance of any act provided or required by law to be performed within a specified period of time is a holiday, then that period is hereby extended to and including the next day that is not a holiday. For the purposes of this section

'holiday' means all day on Saturdays and all specified holidays."

Designated Holidays

The following days have been designated as holidays in the Government Code: January 1, the third Monday in January, February 12, the third Monday in February, March 31, the last Monday in May, July 4, the first Monday in September, the second Monday in October, November 11, Thanksgiving, the day after Thanksgiving and December 25.

The above statutes have been relied upon by the Division of Labor Standards Enforcement to allow an employer the option of paying wages due on a Saturday or Sunday (or holiday listed in the Government Code and scheduled as a holiday by the employer) on the next business day.

If an employer chooses to close the day before a designated holiday or the day following, however, the obligation to pay on the designated day would not be effected. For example, Christmas 2010 falls on a Saturday. If an employer chooses to close on Friday, which is the designated payday, the wages would be due on that Friday. If the designated payday is Saturday, the statutory extension would still apply, even if the employer chose to close on Friday. In such event, the employer would be able to pay on Monday, December 27, 2010, the next business day.

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

More information at www.calchamber.com/events.

Business Resources

Northern California Water Tour. Water Education Foundation. September 22-24, Sacramento. (916) 444-6240.

Entrepreneurial Institute. National Black MBA Association. September 24, Los Angeles. (312) 580-8569.

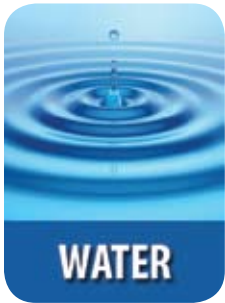
2010 Aerotech Expo Job Fair. Aerotech
See CalChamber-Sponsored: Page 4

CalChamber Calendar

*Public Affairs Council Post-Election Retreat
November 10-12*



CalChamber-Sponsored Bill Reducing Water Penalties Headed to Assembly Committee



A California Chamber of Commerce-co-sponsored bill that would amend the broad definition of water quality-related “serious violation” penalties will be heard in an

Assembly committee next week.

The bill, **SB 1284 (Ducheny; D-San Diego)**, disallows compounding mandatory penalties for violations that are non-threatening like failing to report that a facility had no discharge under their permit unless the water board has given notice of the violation.

Current Law

Current law gives the State Water Resources Control Board (SWRCB) and the California Regional Water Quality Control Boards (regional board) the authority to prescribe waste discharge requirements in accordance with the federal Clean Water Act and the Porter-Cologne Water Quality Control Act. The Porter-Cologne Act, with certain exceptions, imposes a mandatory minimum penalty of \$3,000 for each “serious waste discharge violation.”

The CalChamber, along with the Association of California Water Agencies and the Regional Council of Rural Counties, believes that mandatory minimum penalties are a deterrent and a punishment for willful violators, and should remain in place for that intended purpose. The way the statute is currently drafted, however, the definition of a “serious violation” warranting the imposition of a mandatory minimum

penalty is far too broad and exposes public agencies who simply failed to file a report indicating no discharges to the vast penalties.

Streamlines Statute

SB 1284 provides that a violation involving the failure to file a discharge monitoring report for no discharges does not constitute a “serious violation” resulting in mandatory minimum penalties if the discharger submits a written statement to the appropriate regional water quality control board or state board under the penalty of perjury stating that no discharges occurred. The written statement also must give a reason for the failure of the discharger to file a required report.

This amendment is intended to conform the statute to changes the SWRCB has recently approved in its Water Quality Enforcement Policy.

Under SB 1284, a discharger who has not previously received notification from the state or regional board of an enforcement action including mandatory minimum penalties, and where the current violation consists of failures to file discharge monitoring reports for reporting periods where discharges did not violate numeric effluent limitations, that discharger will be subject to a one-time-only fine of \$3,000 per required report.

For any reporting violations occurring after this one-time fine, a discharger who subsequently fails to file such a report will be fined in accordance with Section 13385(h). This section also is amended to state that regardless of whether the failure to file such reports is subject to the one-time relief provided, the failure to file the required report(s) may be subject to discretionary penalties.

Prevents Unjustified Penalties

Several respective public agency members operating under National Pollutant Discharge Elimination System general permits requiring discharge monitoring reports have reported that they have received excessive, disproportionate fines for a simple failure to file the required report, either in instances where no discharges occurred, or where relatively minimal discharges occurred. Those discharges did not violate any numeric effluent limitations, but one small water agency’s fine is in excess of \$600,000.

While certain violations are appropriately viewed as serious, this case was merely a paperwork issue, and SB 1284 would help prevent instances such as this—where significant mandatory penalties are imposed when no environmental harm has resulted—from further occurrence.

Further, the Legislature has recognized that it is unfair to penalize an agency that needs time to make capital improvements or operational changes before it can come into compliance. Existing law limits the relief that can be granted to a single five-year period. This proposal would revise the statute to reflect the current state policy allowing up to 10 years if the discharger can demonstrate that additional time is necessary in order for them to reach compliance with effluent limitations.

Action Call

SB 1284 is scheduled to be heard in the Assembly Appropriations Committee on August 4. The CalChamber is urging members of the business community to contact their representatives and urge them to **support SB 1284**.

Staff Contact: Valerie Nera

They won't know unless you tell them. Write your legislator.

calchambervotes.com

Proposition 25 Would Allow Majority-Vote Tax Increases *Measure Also Eliminates Referendum on Budget-Related Bills*

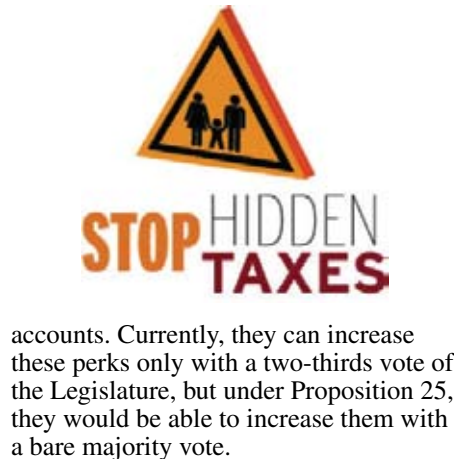
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on-time budget, the reality is far different.

Legal Analysis

A legal analysis by the law firm of Nielsen Merksamer, LLP revealed that Proposition 25 would:

- effectively eliminate the right of voters to use the referendum to force a vote and stop taxes disguised as “fees;”
- allow the state Legislature to enact taxes as part of the budget with a bare majority vote, circumventing the state constitution’s two-thirds vote requirement for passing new or increased taxes; and
- make it easier for politicians to increase their lavish travel and expense



accounts. Currently, they can increase these perks only with a two-thirds vote of the Legislature, but under Proposition 25, they would be able to increase them with a bare majority vote.

Voters Don’t Want ‘Gimmicks’

“Voters want the gimmicks and the games to end, and instead they want a fiscally responsible budget, less deficit spending and no more tax increases,” said Zaremborg. “But if Proposition 25 is successful, what voters will get is a Legislature that will raise taxes and spend money the state doesn’t have, and they’ll be able to do it with a bare majority vote.

“Most importantly, Proposition 25 eliminates the ability of the public to have a check and balance on the Legislature.”

For more information about the No on 25 campaign, visit www.nomorehiddentaxes.com/learn-more.

CalChamber Helps Stall Tax Amnesty Program ‘Job Killer’ Bill

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ensnare unwitting, law-abiding taxpayers and exposed California employers to exorbitant and duplicative penalties.

At a time when California is desperately in need of jobs, this punitive approach would have strongly discouraged employers from relocating,

remaining or expanding within the state, since an unwitting error could have been financially catastrophic under the terms of the bill.

Continued Action

While AB 2498 has been stopped, a tax amnesty program based on its approach

will likely be included as part of the budget discussions. The CalChamber is working with a large coalition of employers and associations to ensure that such a proposal does not become part of the final budget solution.

Staff Contact: Mira Guertin

CalChamber-Sponsored Seminars/Trade Shows

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News and Review. September 25, Lancaster. (877) 247-9288.
Second Annual California Sustainable Tourism Summit. California Travel and Tourism Commission. October 14–15, Lake Tahoe. (916) 319-5426.

International Trade

Complying with U.S. Export Controls. U.S. Bureau of Industry and Security. August 11–12, Los Angeles. (949) 660-0144.
N-Expo/Kansai '10. Japan External Trade Organization/Nippo Co. Ltd. September 1–3, Osaka, Japan. (415) 392-1333.
U.S.-Asia Expo 2010. U.S. Asia Business Forum. September 17–19,

Los Angeles. (562) 607-2861.
Business Mission to Dubai. Chester County Chamber of Business and Industry. September 21–28, Dubai. (610) 725-9100.
Green ICT and Energy Trade Mission to Mexico City. U.S. Commercial Service. September 27-29, Mexico City. Aliza.Totayo@trade.gov.
Cambodia Industry Shows. Merebo Messe Marketing. October 21–23, Phnom Penh, Cambodia. contact@merebo.com.
Deal-Making Clean Tech Trade Mission to China. Monterey Bay International Trade Association (MBITA) and Asia Gateway Inc. October 23–30, Shanghai, China.

(831) 335-4780.
Americas Business Trade Mission. U.S. Commercial Service of the International Trade Administration, U.S. Department of Commerce. October 25–28, Mexico City and Monterrey, Mexico. (310) 235-7206.
China International Industry Fair. Shanghai World Expo Group. November 9–13, Shanghai China. ciif@shanghaiexpogroup.com.
Sri Lanka Design Festival 2010. Academy of Design. November 11–17, Sri Lanka. ajantha@aod.lk.
Outbound Mission to India. Western United States Agricultural Trade Association. November 13–20, India, Delhi and Bangalore. (559) 324-6401.

Study: State Education Spending Increased While Classroom Contributions Declined

Scholars say administrative dollars could have paid for 22,000 more classroom teachers

A study highlighting state public school expenditure patterns over a five-year period was unveiled during a July 21 news conference at the California Chamber of Commerce headquarters in Sacramento.

During the well-covered event, scholars from Pepperdine University's Davenport Institute discussed the fact that, notwithstanding all the talk of "education budget cuts," while school spending steadily increased between the 2003–04 and 2008–09 budget years, overall, direct classroom expenditures declined.

Efficiency Needed

"In an era of scarce resources, we need to be more efficient with what is available and ensure that we get the greatest return on investment," said Allan Zarembeg, president and CEO of the California Chamber of Commerce. "We must work to get the maximum amount of our limited funds into the classroom because that will give us the biggest educational bang for our buck."

"A failed educational system endangers our children, our economy and our business climate," continued Zarembeg. "The demand for highly educated workers will continue to increase and the question is: Will we be able to meet that need? Our policy makers must use resources wisely and make investments in educating students—not in bureaucracies."

Classroom Expenditures

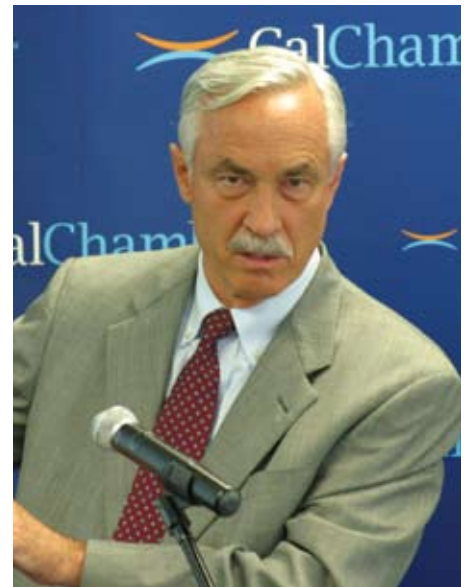
The scholars from the Davenport Institute examined how money was spent and especially how that money was allocated. During the five-year period, total school spending per capita (not including capital spending) increased by 25.8 percent, which was far greater than the growth in per capita personal income or inflation. During the same period, direct classroom expenditures statewide went from 59 percent of total expenditures to 57.8 percent.

These statewide totals reflect a very wide range of variance among individual



Photos by Blake Ellington

CalChamber President and CEO Allan Zarembeg discusses the importance of being efficient with California's education funding during the July 21 press conference.



Pepperdine University Professor Steven B. Frates presents the findings of the study analyzing California public K-12 education expenditure patterns.

school districts, whose classroom expenditure ratios ranged from more than 70 percent to less than 45 percent (for the 52 selected districts that were examined).

Direct classroom expenditures include the following:

- salaries and benefits of teachers and instructional aides;
- textbooks and other books;
- materials and supplies related to instructional functions; and
- professional and consulting services related to instructional functions.

Over the study period, statewide expenditures for teacher salaries and benefits declined from 50 percent of total statewide spending to 48 percent. In other

words, less than half of K–12 operating expenditures in the state were for teacher salaries and benefits.

Lost Opportunities

"It is interesting to contemplate the lost opportunities this study highlights," said Loren Kaye, president of the California Foundation for Education and Commerce (CFCE), a sponsor of the study. "If California had the extra \$1.8 billion that went to things other than teaching, we might have been able to hire more than 22,000 teachers statewide. This would have increased the number of teachers statewide by more than 7 percent."

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.

CalChamber-Supported Identity Theft Bill Signed by Governor



SUPPORT

A California Chamber of Commerce-**supported** bill that reinforces the importance of punishing identity thieves and the seriousness of this crime was signed by Governor Arnold Schwarzenegger this month.

The bill, **SB 1087 (Alquist; D-Santa Clara)**, requires persons convicted of identity theft to pay restitution to victims for cost of credit monitoring for a reasonable time and for economic losses.

Identity theft continues to top the Federal Trade Commission's (FTC) list of consumer complaints. According to the FTC, 8.1 million U.S. residents were

victims of identity theft in 2007, with a total cost of about \$45 billion.

Victims spend many hundreds of hours and thousands of dollars clearing up their records and their lives. Businesses also suffer from identity theft when their name is stolen and used illegally and also when their employees are victims, subsequently needing time off to clear up their personal records.

The CalChamber believes that vigorous investigation, arrest and prosecution of identity thieves will slow the growing threat of this crime.

Staff Contact: Valerie Nera

CalChamber-Opposed Bill Causes Confusion in State's Climate Change Goals



OPPOSE

A California Chamber of Commerce-**opposed** bill that unfairly takes into account only environmental considerations while negating crucial economic factors regarding climate change adaptation strategies will be heard by the Assembly Appropriations Committee next week.

The bill, **SB 1006 (Pavley-D; Agoura Hills)**, fosters a no-growth mentality by prematurely providing data to local government and regional agencies on climate change adaptation strategies that could become the de facto blueprint for the planning and development of sustainable communities.

SB 1006 also requires the Strategic Growth Council (SGC) to provide information and data to local government and regional agencies regarding climate change adaptation strategies.

The bill also could conflict and/or cause confusion with the current work of the Climate Adaptation Advisory Panel (CAAP), and does not need to be codified because the panel can already do this work under current law. It is premature to

direct the SGC to develop climate adaptation guidelines for local and regional governments, because the state is currently coordinating action to address the issue of climate change impacts through the CAAP.

This independent, non-partisan panel has been directed to develop recommendations on key areas that are likely to have an impact on California relating to climate change. The CAAP is expected to release their recommendations later this year.

Although well intentioned, SB 1006 unnecessarily creates confusion with that process.

Action Needed

SB 1006 is scheduled to be heard by the Assembly Appropriations Committee on August 4.

The CalChamber is urging members of the business community to contact members of the committee and their Assembly representative and ask them to **oppose SB 1006**.

Staff Contact: Brenda M. Coleman

CalChamber Advocacy Pays Off; Sunrise Powerlink Approved by USFS

The United States Forestry Service (USFS) approved the California Chamber of Commerce-supported Sunrise Powerlink transmission line on July 13, an important addition to the state's electricity grid.

For the last three years, the CalChamber has been actively advocating for approval of this project through public education efforts and testimony before regulatory bodies including the California State Park and Recreation Commission, California Public Utilities Commission and the U.S. Department of Energy.

Rigorous Review

After a rigorous environmental review that took more than a year, the USFS issued its Record of Decision approving the construction, operation and maintenance of a 19-mile segment of the transmission line through the Cleveland National Forest. The permitting process and environmental approvals required for the Sunrise Powerlink have been exhaustive and represent the most comprehensive



review process ever completed for a power line in California history.

Clean Energy Benefits

The Sunrise Powerlink will be constructed between the Imperial Valley and San Diego. When completed in 2012, the 120-mile line will carry 500 volts of electricity—capable of serving the electricity need of more than 650,000 customers. Not only will the line ensure a safe and reliable energy supply for the

state's second largest city, the Sunrise Powerlink will create greater access to clean energy from renewable sources such as solar, wind and geothermal.

The 1,000 megawatts of renewable energy the Sunrise Powerlink will bring to the grid is estimated to eliminate up to 7 million tons of greenhouse gas that would be emitted if this needed energy were generated by fossil fuel.

Meeting Demand

Forecasts show that by later this year, the San Diego region will demand more power than can be generated locally or imported over existing transmission lines. Until recently, San Diego had not seen any new power plants built in the area for nearly 50 years, and the last new transmission line like the Sunrise Powerlink was constructed in 1983. Since that time, the demand for energy has doubled — straining existing infrastructure to the limit.

The project will create 400 to 500 direct construction jobs and provide more than \$100 million in annual energy savings.

CalChamber Labor, Employment Committee Examines Labor Issues



Special guest at the CalChamber Labor and Employment Committee meeting on July 1 Senator Mark DeSaulnier (D-Concord).



Discussing challenges and solutions to California labor issues at the July 1 meeting of the CalChamber Labor and Employment Committee are (from right) committee chair Diane Miller of Wilcox, Miller & Nelson; Marti Fisher, CalChamber policy advocate; and committee vice chair Thomas Cawley, chief financial officer of Peet's Coffee & Tea, Inc.

Register for Our Webinar on How to Pay Non-Exempt Employees



California laws on classifying and paying non-exempt employees are complex. Now you can become the expert who has the knowledge to help reduce your company's risk of costly wage and hour violations. So get your questions ready, mark your calendar and register now to hear CalBizCentral specialists Erika Frank and Susan Kemp as they present the important rules and regulations for paying non-exempt employees.



Thursday, August 5, 10:00 a.m.–11:30 a.m. (PDT)
\$170 regular, \$136 Preferred and Executive Members

Register now at www.calbizcentral.com or call (800) 331-8877

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