

# ALERT

VOLUME 36, NUMBER 29 • OCTOBER 8, 2010



## Prop. 19 Jeopardizes Workplace Safety

The marijuana initiative on the November ballot (Proposition 19) is more about making it illegal for employers to have a marijuana-free workplace than it is about removing criminal penalties for possession.

What is in the language of Proposition 19 that should cause concern for all employers? Proposition 19 creates a new protected class of workers and prohibits discrimination against marijuana users, just like age, gender and ethnicity.

Thus, even though pre-employment drug testing is not per se prohibited, an employer cannot use the results of a positive marijuana test as the reason not to hire an applicant.

Moreover, unless a local ordinance is subsequently passed in a community, it will be legal to smoke marijuana in the workplace. Employers will be prohibited from disciplining or terminating an employee who is "high" at work unless the employer can show that the use "actually impaired" the employee's job performance.

### 'Actual Impairment' Undefined

Under current law, an employer does not need to prove actual impairment to



### Commentary By Allan Zaremborg

discipline for alcohol or drug use in the workplace. If Proposition 19 passes, an employee could still be disciplined for alcohol use, but could not be disciplined for marijuana use unless the employer could prove "actual impairment." This term is undefined and untested and an accident may have to happen first before an employer can prove actual impairment.

Other than public safety employees, Proposition 19 would apply to everyone, private or public sector jobs, such as fork lift drivers, nurses and school bus drivers.

In addition, any employer who relies on federal funds that require a drug-free workplace could have the receipt of those funds jeopardized by the passage of Proposition 19.

**See Q & A  
on Prop. 19:  
Pages 5-6**

### Workplace Issues

Most news stories discuss only whether marijuana should be decriminalized. It is important to get these workplace issues in front of the voters. I encourage California Chamber of Commerce members to spread the word about how Proposition 19 could jeopardize the safety of your workforce and lead to new employment law litigation, unless it is defeated in November.

*Allan Zaremborg is president and chief executive officer of the California Chamber of Commerce.*

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Which candidate is best for California?  
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## Labor Law Corner

# Required Uniforms, Shirts Must Be Provided By Employer



**Barbara Wilber**  
HR Advisor

*Is a black shirt with a company logo a uniform that must be provided by the employer?*

Yes. If an employer requires employees to wear any specific clothing of a distinctive design or color, it is considered a uniform pursuant to the Industrial Welfare Commission orders,

Section 9(A) or Section 8(A) in Order 16:

“When uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer. The term ‘uniform’ includes wearing apparel and accessories of distinctive design or color.”

### ‘Usual/Generally Usable’

The Division of Labor Standards Enforcement (DLSE) has historically allowed some leeway with regard to clothing that is usual and generally usable in a particular occupation. The Industrial Welfare Commission (IWC) explained this concept in its Statement as to the Basis:

“The definition and [DLSE] enforcement policy is sufficiently flexible to allow the employer to specify basic wardrobe items which are usual and generally usable in the occupation, such as white shirts, dark pants and black shoes and belts, all of unspecified design, without requiring the employer to furnish such items. If a required black or white uniform or accessory does not meet the test of being generally usable in the occupation the employee may not be required to pay for it.”

Although a black shirt or blouse of any design might not be considered a “uniform,” depending on the circumstances, once an advertising insignia or logo is part of the shirt’s design, it becomes a uniform subject to the IWC order and the employer must pay for it.

Not only is it a distinct design, but the employee certainly would not be able to use the shirt while working at his or her “occupation” with another employer.

### Specific Designs

Are you required to pay for the uniform, or image, you want portrayed in your business? Besides logos, other specific designs that are tied to advertising raise the question. It is not always as clear cut as employers would like it to be, but the DLSE has provided guidance.

In one instance where an employer wanted a specific image, the DLSE took the position that tropical shirts and rugby pants must be provided by the employer.

At issue in *DIR v. UI Video* (1997) 55 Cal App 4th 1084 was a required blue shirt and tan or khaki pants that DLSE considered to be a uniform subject to the IWC regulation.

Before requiring specific clothing, review the IWC requirements, DLSE opinion letters as well as the **DLSE Manual**. Take into consideration that historically the IWC did not want employees to bear the expense of work clothing that is not standard in the occupation.

*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](http://www.hrcalifornia.com).*

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*Alert (ISSN 0882-0929) is published weekly during legislative session with exceptions by California Chamber of Commerce, 1215 K Street, Suite 1400, Sacramento, CA 95814-3918. Subscription price is \$50 paid through membership dues. Periodicals Postage Paid at Sacramento, CA.*

*POSTMASTER: Send address changes to Alert, 1215 K Street, Suite 1400, Sacramento, CA 95814-3918. Publisher: Allan Zaremborg. Executive Editor: Ann Amioka. Art Director: Marcy Wacker. Capitol Correspondent: Christine Haddon. Photographer: Megan Wood.*

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## California Chamber of Commerce Public Affairs Council Fall Retreat

November 10–12, 2010  
The Mission Inn Hotel and Spa | Riverside, California



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# Governor Vetoes 10 ‘Job Killer’ Bills



Governor Arnold Schwarzenegger has vetoed 10 of the 12 “job killer” bills passed by the Legislature this year. The vetoed “job killer” bills are as follows:

## Costly Workplace Mandates

- **AB 482 (Mendoza; D-Norwalk)**

### Expanded Employer Liability:

Increases exposure to liability for hiring decisions by unduly restricting the ability of employers to base employment

decisions on the evaluation of all legally available information, including consumer credit reports.

- **AB 2187 (Arambula; I-Fresno)**

**Expanded Employer Liability:** Creates a significant disincentive to locate jobs and operations in California by potentially criminalizing almost any legitimate wage dispute with a terminated employee that takes longer than 90 days to resolve.

- **SB 145 (DeSaulnier;**

### D-Concord) Workers’ Compensation

**Apportionment:** Erodes recent workers’ compensation reforms and leads to higher premiums for California employers

by undercutting fair and reasonable provisions in current law that protect an employer from paying for disability that was not caused by a workplace accident.

- **SB 1121 (Florez; D-Shafter)**

### Harms California Farms and Farm Workers:

Places farms at a competitive disadvantage, increases cost of doing business for California farmers, and reduces available resources to invest in workers and farms by removing overtime exemption for agricultural employees.

- **SB 1474 (Steinberg;**

### D-Sacramento) Increased Agricultural Costs:

Designed to increase union

*See Vetoes: Page 4*

## In Memoriam

# Joe Shumate, Top Political Consultant to Governors, Russian President Yeltsin



Joe Shumate, long recognized as one of California’s top political consultants, passed away unexpectedly October 1. He was 69.

Shumate was a member of the California Chamber of Commerce “family,” both through his work with JobsPAC and as a regular speaker and commentator at CalChamber events.

“We all mourn Joe’s passing,” said CalChamber President and CEO Allan Zaremberg. “He was one of the best political consultants of our time with few equals. Joe was the best advisor many successful candidates and officeholders ever had.

“But for those of us who knew Joe well, he was much more than an excellent political advisor and strategist. In a political world of half-truths and arrogance, Joe Shumate was a gracious gentleman who embraced only the whole truth. Joe’s ethics were steadfast and beyond reproach when others accepted compromise. His wit and dry humor would quietly infect those around him. Joe will be greatly missed, quite simply, because he was a great guy.”

## Biography

Shumate was a graduate of San Francisco City College and San Francisco State University. Early in his career, he worked for the Kern County Land Company.

He became heavily involved in San Francisco politics and worked extensively with political campaigns around the Bay Area.

He later served as deputy chief of staff to former California Governor Pete Wilson and directed the Governor’s redistricting effort in 1991. Shumate was also a key senior advisor to Wilson’s 1994 come-from-behind re-election effort.

Shumate was a pioneer in applying quantitative and mathematical modeling methods to develop highly effective, targeted messaging for political campaigns.

During the 1970s, Shumate went into business with Ron Smith and Emily Pike in the political consulting firm of Shumate, Smith and Pike. He later launched Joe Shumate and Associates in the 1980s.

## ‘Spinning Boris’

Shumate is best known for his role as a member of a three-person team of American political consultants who directed Russian President Boris Yeltsin’s re-election campaign in 1996. The cam-

paign was the subject of a *Time* magazine cover story and the movie *Spinning Boris*.

## Winning Campaigns

In 1998, Shumate directed the winning campaigns of the only two Republicans to win statewide election that year. During the 2000 elections, he worked on three successful statewide initiatives and directed a major presidential independent expenditure effort.

In 2002, Shumate was involved in Arnold Schwarzenegger’s winning After School Programs Initiative. Shumate also oversaw polling and focus groups for Schwarzenegger prior to his decision to run for Governor in 2003. Shumate also served as a member of Schwarzenegger’s successful re-election campaign team in 2006.

Other clients have included U.S. Senate candidate Carly Fiorina, Attorney General Candidate Steve Cooley, California Insurance Commissioner Steve Poizner, JobsPAC, CalChamber and countless local and statewide ballot measures.

Shumate passed away in his Sacramento second residence and was a resident of Sausalito. He is survived by his wife, Joyce; his brother, Tom, of San Jose; and his sister, Linda Gayle, of San Diego.

# Governor Signs 4 Job Creator Bills



Governor Arnold Schwarzenegger has signed four job creator bills during

this legislative year, all of which will lead to increased construction jobs.

● **AB 1846 (V. M. Pérez; D-Coachella) Expedited Environmental Review:** Streamlines the California Environmental Quality Act 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. Signed by Governor, August 27. Chapter 195.

● **AB 2098 (Miller; R-Corona) Increases Construction Jobs:** Authorizes Riverside County Transportation Commission to use design-build to construct a portion of State Highway 91, thus putting more jobs on the ground more quickly. Signed by Governor, September 24. Chapter 250.

● **SB 1192 (Oropeza; D-Long Beach) Increases Construction Jobs:** Creates construction jobs building travel infrastructure and creates a better travel

environment for state business and tourism. Signed by Governor, September 30. Chapter 642.

● **SBX8 34 (Padilla; D-Pacoima) Supports Construction of Vital Projects:** Ensures the expedited permitting of environmentally sound solar thermal projects, enabling them to qualify for grants under the American Recovery and Reinvestment Act of 2009. Signed by Governor, March 22. Chapter 9 (urgency).

The laws will take effect on January 1, 2011. The urgency measure took effect immediately upon being signed in March.

**Staff Contact: Marc Burgat**

## Vetoes of 'Job Killer' Bills

*From Page 3*

representation of agricultural employees even when it is against the will of employees by undermining the process that now guarantees, through secret-ballot elections, a fair vote and the expression of agricultural employees' true sentiments on the selection of a collective bargaining representative. This act would have hurt California's businesses by driving up costs and made employers less competitive in a global market.

### Economic Development Barriers

● **AB 1405 (De León; D-Los Angeles) Climate Change Tax Increase:** Increases costs and discourages job growth by granting the Air Resources Board broad authority to implement unlimited fees and taxes with little or no oversight.

● **SB 967 (Correa; D-Santa Ana) Restricts Business Options:** Limits choice and drives up prices for consumers and for state and local government by providing a preference to bidders who commit that 90 percent of the work will be performed by California employees.

● **SB 1272 (Wolk; D-Davis) Discourages Investment:** Creates uncertainty for California employers

making long-term investment decisions by requiring all future-enacted investment incentives to sunset after seven years.

### Inflated Liability Costs

● **AB 1680 (Saldaña; D-San Diego) Interferes with Contractual Agreements:** Burdens businesses with unnecessary litigation costs and slows resolution of disputes by presumptively invalidating arbitration agreements in an otherwise voluntary contract if the underlying claim involves a possible hate crime.

● **AB 2773 (Swanson; D-Alameda) Undermines Judicial Discretion:** Unreasonably increases business litigation costs by limiting judicial discretion to reduce or deny exorbitant legal fees in fair employment and housing cases.

### Governor Signs Health Bills

The Governor signed **AB 1602 (John A. Pérez; D-Los Angeles)** and **SB 900 (Alquist; D-Santa Clara)**, both identified by the CalChamber as "job killer" bills. These bills seek to implement the federal health care law, but go far beyond what the law requires and potentially add hundreds of millions in General Fund costs, according to an analysis by former state Finance Director Michael Genest.

**Staff Contact: Marc Burgat**

## Seminars/Trade Shows

More at [www.calchamber.com/events](http://www.calchamber.com/events).

**Business Resources**  
Second Annual California Sustainable Tourism Summit. California Travel and Tourism Commission. October 14–15, Lake Tahoe. (916) 319-5426.  
2010 Water and Climate Change Adaptation Symposium. Water Education Foundation. October 19–20, Long Beach. (916) 444-6240.  
Sacramento Valley Forum. Great Valley Center. October 27, Chico. (209) 522-5103.

### International Trade

Levant Information and Communications Technologies (ICT) Trade Mission. National U.S.-Arab Chamber of Commerce. October 9–15, Lebanon, Jordan and Syria. (202) 289-5920.  
Expo Rebuild Chile. U.S. Department of Commerce. October 12–14, Concepcion, Chile. (201) 251-2600.  
U.S.-Sri Lanka: Private-Public Partnership. Sri Lanka Embassy-WDC. October 13–14, Sri Lanka. (202) 483-4029.  
Europe-America Luncheon Seminar. Monterey Bay International Trade Association (MBITA). October 20, San Jose. (831) 355-4780.  
18th Annual Meeting: From Silicon Valley to Skolkovo: Forging Innovation Partnerships. U.S.-Russia Business Council. October 20–21, San Francisco. (202) 739-9188.

*See Seminars/Trade Shows: Page 7*

Next Alert:  
October 22

# Q & A: Prop. 19's Impact on the Workplace



Proposition 19 seeks to legalize the cultivation, processing, transportation, distribution and sale of marijuana for personal use in California. However, the measure is written

in a way that blurs the line for employers regarding important workplace issues, including whether employers must allow marijuana smoking at work and who will pay for marijuana-related accidents.

Proposition 19, the Regulate, Control and Tax Cannabis Act of 2010, not only would legalize pot use in California but also would create a legal quagmire for employers by compromising workplace safety and establishing a new class of protected workers in the state.

To help employers understand the impact Proposition 19 will have on the workplace, the California Chamber of Commerce has assembled questions and answers based on the recent legal analysis of the measure.

## Smoking on the Job

*Q: Will pot smoking be allowed in the workplace if Proposition 19 becomes law?*

A: Under Proposition 19, that door certainly would be opened. Because Proposition 19 creates a new protected class of workers, employers would very likely be required to allow marijuana smoking at work because Proposition 19 would prohibit denial of any right or privilege granted by the act, without defining what that means.

Just as confusing, the proposition states that users can “possess” or “share” marijuana in a “non-public place” without defining what “non-public place” is, and as such, we must turn to court cases for a definition on public v. non-public places. Recently, a California court found that even a grocery store was not a public place. Based on court interpretation, it is reasonable to conclude that users of marijuana would be able to smoke in virtually any workplace.

Current anti-smoking laws don't come into play either. Those cover only tobacco

products and therefore the proposition would *not* prohibit employees from smoking marijuana in the workplace.

Even if a local ordinance is enacted that prohibits smoking marijuana in the workplace, employees could smoke just before coming to work or offsite on a break and the employer would have no ability to immediately discipline them when they return to work under the influence of marijuana.

## Marijuana, Alcohol Workplace Rules

*Q: Under Proposition 19, wouldn't marijuana use be the same as alcohol use where workplace rules and regulations are involved?*

A: No. When proponents of the measure say Proposition 19 will have the same result for marijuana as is the case for alcohol use in the workplace today, they are wrong.

Proposition 19 requires employers to prove “actual impairment” before they can discipline a worker for marijuana use. The standard of “actual impairment” is undefined and untested. Currently, no test for “actual impairment” exists in law.

Under current law, an employer does not need to prove actual impairment to discipline an employee for alcohol or drug use in the workplace. Today, if an employer has a policy that prohibits drug and alcohol use in the workplace, an employee can simply be sent home or disciplined pursuant to the employer's stated policy.

Under Proposition 19, because an employer has to prove “actual impairment,” an accident might have to happen first before an employer could prove that an employee's drug use compromised safety or impaired performance.

## Prohibiting Use

*Q: The measure states that an employer could ban employees from using pot if the consumption actually impairs job performance. Between this language and current bans on smoking tobacco at work, wouldn't it be easy for employers to prohibit marijuana use by their employees?*

A: No, the question here becomes (1) what does “actual impairment” mean

as this new standard is undefined, and (2) how do you prove “actual impairment”?

For example, if a forklift driver showed up reeking of marijuana smoke, an employer could not take disciplinary action under Proposition 19 until it could be proven that the employee's job performance was “actually impaired” by the marijuana use (for example, after an accident occurred).

Under Proposition 19, marijuana use would be more protected than alcohol.

## Federal Funding

*Q: News reports have stated that federal funding would be jeopardized if Proposition 19 passes. Why is this the case?*

A: Marijuana is still illegal under federal law. The federal Drug Free Workplace Act requires that in order to receive grants and other sources of funding, employers must be able to ensure a drug-free workplace.

Under Proposition 19, because an employer cannot take into account a person's prior or current marijuana use, it would be difficult to ensure a drug-free workplace pursuant to federal guidelines. This measure absolutely puts federally funded jobs and projects at risk.

## Employment Issues

*Q: Why can't an employer that doesn't want to hire someone who smokes pot just choose another candidate?*

A: Proposition 19 creates a new protected class of workers that doesn't exist today. Therefore, an employer would not be able to take an applicant's marijuana use into account when deciding whether to hire an applicant.

In addition, an employer that does not hire an applicant who was unqualified for the job, but who also happens to smoke pot, could face a lawsuit with the applicant claiming he or she didn't get the job because the employer knew the applicant was a pot smoker.

## Drug Testing

*Q: If an employee seems to be performing poorly on the job, under Proposition 19 can't the employer just test the employee for pot use to determine if that is the problem and prove “actual impairment”?*

*See Q & A: Next Page*

# Q & A: Prop. 19's Impact on the Workplace

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A: No, testing would immediately expose an employer to litigation. Because Proposition 19 creates a protected class of workers, an employer's actions to prove marijuana use would very easily be construed as discriminatory.

Why would an employer test if the employer is unable to use the results to make a hiring decision or justify a disciplinary action? After a positive drug test, any actions an employer would take related to that employee would certainly be defined as discriminatory.

Under Proposition 19, an employer cannot take any action unless and until the employer can show that the employee was "actually impaired," yet the proposition provides no guidance on what "actually impaired" means or how such conduct can be proven.

## CalChamber Legal Analysis

*Q: What was CalChamber's motivation in preparing the legal analysis of Proposition 19?*

A: CalChamber produces employment law products for our members to assist them in navigating through and complying with California's difficult employment laws and regulations. When Proposition 19 qualified for the ballot,

we began to look at the measure from the standpoint of employer compliance. That is what led to the legal analysis.

## November Ballot

*Q: Aren't these just scare tactics to get people to vote no on the measure?*

A: No, they aren't scare tactics because the issues are real. This analysis was prepared by an employment law expert who regularly litigates issues just like these. It is clear under Proposition 19 that employers would face a legal quagmire if this measure passes.

Regardless of the intent of the drafters of Proposition 19, the practical result is a new class of protected workers—marijuana users—along with reduced safety, more costs and exposure to litigation in the workplace.

## 'Actual Impairment'

*Q: Proponents claim that Proposition 19 simply restricts employers from discriminating against recreational or medicinal pot smokers who use the drug in private. They claim it is unfair that recreational or medicinal users can't pass drug tests because small amounts of the drug are detectable in a person's system up to 30 days after use, even if that doesn't impair job performance. Why*

*would employers have a problem with what employees do on their own time?*

A: Proposition 19 creates a new protected class, thereby restricting an employer's ability to take an adverse action against an employee unless the employee is "actually impaired" from performing the job. There is no test for "actual" impaired job performance. That is a huge issue in how Proposition 19 is written. In addition, the measure sets up a situation where all employers must ignore all marijuana use.

Under this proposal, employers must treat the person who smokes marijuana once every six months the same way as the employee who smokes marijuana six times a day. The measure establishes protections that go well beyond recreational or occasional use.

All marijuana users would be protected from being singled out or treated differently from any other worker in the same company based solely on their use of the drug.

In fact, the very workers who might create a safety risk for their co-workers would be more protected than those placed at risk by the marijuana users' behavior.

## CalChamber Positions on November Ballot Propositions

Proposition	Subject	Position
Proposition 18	Safe, Clean and Reliable Drinking Water Supply Act of 2010	Moved to 2012 ballot
Proposition 19	Regulate, Control and Tax Cannabis Act of 2010	Oppose
Proposition 20	Redistricting of Congressional Districts—Voters FIRST Act for Congress	Support
Proposition 21	\$18 Vehicle License Surcharge to Help Fund State Parks/Wildlife Programs	No Position
Proposition 22	Local Taxpayer, Public Safety and Transportation Protection Act	Support
Proposition 23	Suspends Implementation of Air Pollution Control Law (AB 32)	No Position
Proposition 24	Repeal Corporate Tax Loopholes Act	Oppose
Proposition 25	On Time Budget Act of 2010	Oppose
Proposition 26	Stop Hidden Taxes Initiative	Support
Proposition 27	Eliminates State Commission on Redistricting	Oppose

Reasons for positions at [www.calchamber.com/November2010ballot](http://www.calchamber.com/November2010ballot)

## CalChamber Among Leaders to Participate in Newly Formed Chile-California Council

The California Chamber of Commerce will be participating in the newly formed Chile-California Council, consisting of U.S. and Chilean government and business leaders.

The council, developed by the Chilean Ministry of Foreign Affairs, aims to promote, support and provide guidance to public and private Chilean initiatives to be developed in California. Susanne Stirling, CalChamber vice president, international affairs, sits on this council.

Council members met for the first time on September 24 in Los Angeles with Chilean President Sebastián Piñera, before his meeting with Governor Arnold Schwarzenegger to discuss cooperation on education, the environment and energy technology, and the signing of related memoranda of understanding.

The Governor called for further trade, tourism exchanges and other cooperation between California and Chile.

"I look forward to working with President Piñera to further strengthen our partnership," Schwarzenegger told a luncheon audience at the University of California, Los Angeles.

### Cooperative Ties

The meeting between President Piñera and Governor Schwarzenegger followed a June 12, 2008 event at which the Governor and former Chilean President Michelle Bachelet signed a memorandum of understanding to further strengthen cooperative ties between California and Chile. The signing ceremony marked the start of the "Chile-California Plan: A Strategic Association for the 21st Century."

The association is based on the joint commitment of Chile and California to develop business opportunities, expand research and teaching in education, and develop projects in different areas that are strategic for both territories.

Three top areas have been determined to be key ones for initial promotion and coordination: human capital, research and development, and trade and business.

It is anticipated that the plan will generate opportunities for developing innovative international exchange models and public-private networks in government, business and academic fields.



Chilean President Piñera (center) addresses the newly formed Chile-California Council, consisting of U.S. and Chilean government and business leaders.



Newly appointed U.S. Ambassador to Chile Alejandro D. Wolff with Susanne Stirling, CalChamber vice president of international affairs.

### U.S.-Chile Trade Agreement

Since the U.S.-Chile Free Trade Agreement (FTA) was implemented on January 1, 2004, bilateral trade between Chile and the United States has doubled and both trade and investment opportunities abound.

Under the FTA, 85 percent of industrial products are traded without duties together with 75 percent of farm production. After just 10 years, all trade in non-agricultural goods will take place without tariffs or quotas; for agriculture, the phase-out will take 12 years.

Two-way trade in goods between the United States and Chile decreased to \$15.3 billion in 2009. According to the Office of the U.S. Trade Representative, exports to Chile from the United States

have risen by more than 90 percent since implementation of the FTA. Exports to Chile of petroleum, machinery and fertilizer from the United States have increased markedly since 2003.

Chile is the United States' 24th largest export partner. Top exports from Chile to the United States include copper cathodes, fresh grapes and salmon. Top exports from the United States to Chile include transmission receptors, computers and diesel trucks.

Nearly 12,000 U.S. firms export approximately 5,000 products to Chile. More than 2,000 Chilean firms export as many different products to the United States.

For further information, please visit [www.calchamber.com/Chile](http://www.calchamber.com/Chile).

**Staff Contact: Susanne Stirling**

### Seminars/Trade Shows

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California-China Trade and Investment Conference. Southern California Regional District Export Council. October 21, Los Angeles. (714) 424-9999.

Pan African Global Trade Conference. Africa-USA Chamber. October 21-22, Carson. (323) 293-1612.

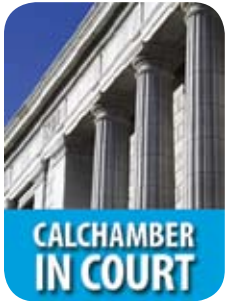
Cambodia Industry Shows. Merebo Messe Marketing. October 21-23, Phnom Penh, Cambodia. [contact@merebo.com](mailto:contact@merebo.com).

Deal-Making Clean Tech Trade Mission to China. Monterey Bay International

Trade Association (MBITA). 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) 235-7205. International Buyer-Seller Meeting 2010. Sri Lanka Consulate. October 28-29, Ceylon Chamber of Commerce, Colombo, Sri Lanka. (213) 387-0214.

# Appeals Court Supports Decision Weakening Workers' Comp Reforms



The 6th District Court of Appeal has affirmed a Workers' Compensation Appeals Board (WCAB) decision that weakens a key aspect of the 2004 workers' compensation reforms.

The court's August 19 ruling supports the WCAB decision giving physicians leeway to rate permanent disability (PD) cases by analogy rather than by strictly applying the American Medical Association (AMA) guidelines, as called for by the reforms.

In the case of *Milpitas Unified School District v. WCAB and Joyce Guzman*, the issue before the court was how parties can rebut the Permanent Disability Rating Schedule (PDRS) and whether physicians are limited to the most appropriate chapter for rating an industrial injury or whether they can rate by analogy and use this to boost the whole person impairments (WPI) rating.

The court wholeheartedly endorsed the board's decision, quoting extensively from it in response to arguments raised by appellants and various amicus parties, especially the California Chamber of Commerce. The court spent almost as much time discussing the issues raised by "friends of the court" as it did those raised by the defendant.

## CalChamber Voices Concerns

The CalChamber filed an initial "friend of the court" brief in January 2009 in an attempt to overturn *Guzman*, as it is one of three cases that weaken 2004 workers' compensation reforms enacted to make calculating PD awards more objective.

The CalChamber also filed a "friend of the court" brief in June 2009 when the WCAB took the unusual step of deciding to reconsider the *Guzman* case *en banc* (as a full board).

This decision breaks no new ground as far as how to approach describing impairment using the concepts in the

*Guzman* case issued by the WCAB.

The court specifically rejected the arguments raised by the defendant in regards to Labor Code Section 4660. The court rejected the strict interpretation and use of the AMA guides because the traditional methodology of the guides did not allow for the kind of creative application endorsed by the WCAB.

The court also emphasized the need for physicians to have some flexibility in describing impairment in complex and extraordinary cases, much as the WCAB had in its decision.

The court's opinion quotes from the CalChamber's brief highlighting CalChamber concerns that "maintaining the board's decision will result in burdensome litigation, inconsistent ratings, employer-employee conflicts and 'doctor shopping.'"

## Reforms Subverted

CalChamber contends that the very foundation of the 2004 reforms will be subverted because the board's decision will allow a physician "unrestrained license" to manipulate the AMA guides through an "ad hoc" approach based on subjective considerations "without any need to evaluate the doctor's opinion against the objective evidence."

The AMA guides will be rendered "irrelevant whenever an evaluating physician and/or the Workers' Compensation Judge (WCJ) disagrees with the result," CalChamber argued in its brief.

The court also adopted the WCAB's requirements that deviation from the guides requires substantial evidence to support and not simply a conclusory statement by a physician.

In its June 2009 brief, CalChamber explained that the Legislature sought to eliminate the vagueness and subjectivity of the old workers' compensation system by spelling out the mandatory method for calculating the percentage of PD. The stated purpose of the new statute was to promote "consistency, uniformity and objectivity."

The court concluded that such medical opinions should not be routine or widely applied. CalChamber disagrees and argued that the reforms accomplished that goal by defining the elements that make up the PD percentage calculation in terms of objective, measurable factors, empirical evidence, and aggregate and averaged data.

In short, CalChamber pointed out that the new system eliminates subjectivity and guess work from PD calculations, thereby ensuring that similarly situated employees are treated equally, promoting fairness and consistency across the board.

## Appeal Likely

This case is likely to be appealed to the California Supreme Court. After a petition is filed, it takes the court two to three months to reply whether the issue will be heard.

**Staff Contact: Erika Frank**

## ShakeOut Drill Set for October 21



The ground starts shaking—it's an earthquake! What do you do?

Drop, cover and hold on!

For more information on how to protect yourself during an earthquake, visit [www.shakeout.org/register](http://www.shakeout.org/register) to practice how to be quake-safe with the rest of California in the largest U.S. drill—October 21 at 10:21 a.m.



# Final Status Report on Major Business Bills

The following list summarizes the final status of priority bills for the California Chamber of Commerce that were sent to the Governor this year.

At the federal level, the CalChamber-supported free trade agreements and a CalChamber-opposed act limiting free

speech were still pending in Congress and therefore are not listed below.

On October 22, the CalChamber will publish a record of legislators' votes on key bills affecting the California business climate. Generally, the bills selected for the vote record have

appeared in one of the status reports.

Bills signed by the Governor will become law on January 1, 2011. Urgency measures went into effect immediately upon being signed.

Status of bills as of September 30, 2010.

Subject — CalChamber Position	Status
<b>Agriculture and Natural Resources</b>	
<b>Pest Eradication in Schools.</b> SB 1157 (DeSaulnier; D-Concord) Increases taxes on chemicals categorized as pesticides to fund programs that promote non-chemical means of pest eradication in schools. Oppose.	Vetoed
<b>California Endangered Species Act Experimental Populations.</b> SB 1349 (Cogdill; R-Modesto) Conforms state law to federal law regarding experimental populations of endangered species. Support.	Signed—Chapter 291
<b>Endangered Species.</b> SB 1303 (Wolk; D-Davis) Aids agricultural production by eliminating the sunset provision allowing accidental take of an endangered species during normal agricultural practices. Support.	Signed—Chapter 290
<b>Ag Commodity Valuations.</b> SB 1338 (Harman; R-Huntington Beach) Deters theft of certain agricultural commodities by setting their value at wholesale price which increases the crime to grand theft. Support.	Signed—Chapter 694
<b>Timber Harvest Plan.</b> AB 2163 (Mendoza; D-Norwalk) Reduces costs to forestry companies by extending the lifespan of current timber harvest plans. Allows forestry companies flexibility to sell timber when the market improves. Support.	Signed—Chapter 376 Urgency
<b>Recasts the Rigs to Reef Program.</b> AB 2503 (J. Pérez; D-Los Angeles) Reduces costs to oil companies by leaving underwater decommissioned oil rigs in place to provide habitat for sea life. Support.	Signed—Chapter 687
<b>Coastal Development Permits.</b> AB 291 (Saldaña; D-San Diego) Before amendments, would have halted development in the coastal zone by refusing to grant permits to anyone who has any outstanding unresolved violations on property before the Coastal Commission and presumed guilt until innocence was proven. Neutral.	Signed—Chapter 565
<b>Banking/Finance</b>	
<b>Deficiency Judgments.</b> SB 1178 (Corbett; D-San Leandro) Promotes an increasing practice of borrowers who strategically default despite having the financial capacity to pay their mortgage, which will further delay economic recovery as excess inventory will depress property values and contribute to blighted communities. Oppose Unless Amended.	Vetoed
<b>California Financial Literacy Fund.</b> AB 2457 (Salas; D-Chula Vista) Establishes a financial literacy fund for public-private partnering to enhance financial literacy of California residents, potentially averting future financial problems for many of California's families. Support.	Vetoed
<b>Climate Change</b>	
<b>Climate Change Tax Increase.</b> AB 1405 (De León; D-Los Angeles) Increases costs and discourages job growth by granting the Air Resources Board broad authority to implement unlimited fees and taxes with little or no oversight. Oppose/ <b>Job Killer</b> .	Vetoed

<p><b>Expedited Environmental Review.</b> AB 1846 (V. M. Pérez; D-Coachella) Streamlines the California Environmental Quality Act 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. Support/<b>Job Creator</b>.</p>	<p>Signed—Chapter 195</p>
<p><b>Climate Change Adaptation Strategies: Sustainable Communities.</b> SB 1006 (Pavley; D-Agoura Hills) Before amendments, would have fostered 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. Now expands eligibility of financial assistance (Proposition 84 funds) to include Joint Power Authorities and special districts as entities eligible for Strategic Growth Council Funding. No Position.</p>	<p>Signed—Chapter 632</p>
<p><b>Increases Energy Efficiency.</b> AB 1873 (Huffman; D-San Rafael) Makes it more attractive for local governments to offer Property Assessed Clean Energy (PACE) programs and lower the interest rate of loans to home and business owners for energy and water efficiency improvements. Support.</p>	<p>Signed—Chapter 583</p>

## Education

<p><b>Race to the Top.</b> SBX5 4 (Romero; D-East Los Angeles) In combination with SBX5 1, places California in the best position to meet federal Race to the Top competitive grant requirements and secure up to \$700 million in federal funding by making comprehensive changes to the state's education system in the areas of teacher and administrator evaluation, school reform, parental empowerment, and content standards. Support.</p>	<p>Signed—Chapter 3</p>
<p><b>Race to the Top.</b> SBX5 1 (Steinberg; D-Sacramento) In combination with SBX5 4, places California in the best position to meet federal Race to the Top competitive grant requirements and secure up to \$700 million in federal funding by making comprehensive changes to the state's education system in the areas of teacher and administrator evaluations, school reform, parental empowerment, and content standards. Support.</p>	<p>Signed—Chapter 2</p>
<p><b>Student Transfer Achievement Reform Act.</b> SB 1440 (Padilla; D-Pacoima) Will help employers identify highly qualified individuals in the workforce, and increase the number of students who go on to obtain a four-year degree by requiring California Community Colleges to offer an associate's degree for transfer. Support.</p>	<p>Signed—Chapter 428</p>

## Energy

<p><b>Supports Construction of Vital Projects.</b> SBX8 34 (Padilla; D-Pacoima) Ensures the expedited permitting of environmentally sound solar thermal and photovoltaic power plants, enabling them to qualify for grants under the American Recovery and Reinvestment Act of 2009. Support/<b>Job Creator</b>.</p>	<p>Signed—Chapter 9 Urgency</p>
<p><b>Green Energy.</b> AB 222 (Adams; R-Hesperia) Before amendments, would have encouraged new investment and job creation by allowing conversion of solid waste to energy at a biorefinery to count toward meeting the state's renewable energy goals. As first amended was a Solid Waste Definitions bill that provided little to no benefit to the state's environmental and energy goals. Amended again to deal with child care. No Position/<b>Former Job Creator</b>.</p>	<p>Signed—Chapter 431</p>
<p><b>Streamlining Energy Oversight.</b> AB 2769 (Committee on Utilities and Commerce) Provides oversight and accountability by requiring President of Public Utilities Commission to appear before Legislature to provide a full report and update of the commission's annual work plan. Support.</p>	<p>Signed—Chapter 477</p>

## Environmental Regulation

<p><b>Commercial Recycling.</b> AB 737 (Chesbro; D-North Coast) Prejudges the work product of an existing regulatory process by imposing its own, less effective commercial recycling mandate on California businesses. By imposing its mandate only upon the private sector rather than including the public sector as CalRecycle has proposed, the bill would hinder the state's ability to meet its recycling goals and put greater economic and regulatory burdens on California businesses. Oppose/<b>Former Job Killer</b>.</p>	<p>Vetoed</p>
<p><b>Air Pollution Penalties.</b> SB 1433 (Leno; D-San Francisco) Increases air pollution penalties by automatically adjusting them for inflation, which reduces the likelihood that periodic, comprehensive reviews of such laws will be conducted by the Legislature. Oppose.</p>	<p>Vetoed</p>

<p><b>Air Discharges.</b> SB 1224 (Wright; D-Inglewood) Helps businesses comply with environmental regulations by providing a new level of consistency to California’s odor nuisance law. Support.</p>	<p>Signed—Chapter 411</p>
<h2 style="color: red;">Health</h2>	
<p><b>Unrestrained Government Control.</b> AB 1602 (J. Pérez; D-Los Angeles) AB 1602, together with SB 900, prematurely creates overly broad and expansive governance and guidelines without oversight for the state health benefit exchange, which could lead to unnecessary cost increases and limited choice for employers. Oppose/<b>Job Killer.</b></p>	<p>Signed—Chapter 655</p>
<p><b>Unrestrained Government Control.</b> SB 900 (Alquist; D-Santa Clara) SB 900, together with AB 1602, prematurely creates overly broad and expansive governance and guidelines without oversight for the state health benefit exchange, which could lead to unnecessary cost increases and limited choice for employers. Oppose/<b>Job Killer.</b></p>	<p>Signed—Chapter 659</p>
<p><b>Health Insurance Litigation.</b> AB 2470 (De La Torre; D-South Gate) Before amendments, would have driven up the cost of health care premiums and gone beyond federal health care reform by establishing litigation as the only meaningful approach to resolving disputes over canceled coverage. After amendments, conforms California rescission rules to federal requirements. No Position.</p>	<p>Signed—Chapter 658</p>
<p><b>Health Care Coverage.</b> SB 890 (Alquist; D-Santa Clara) Before amendments, would have imposed new restrictions on health care coverage plans, increasing health care premiums and limiting choice, resulting in more people becoming uninsured. No Position</p>	<p>Vetoed</p>
<p><b>Increased Costs.</b> SB 961 (Wright; D-Inglewood) Increases health care premiums by limiting co-payments for one type of pharmaceutical: orally administered anti-cancer medications. Oppose.</p>	<p>Vetoed</p>
<p><b>Increased Costs.</b> SB 220 (Yee; D-San Francisco) Increases health care premiums by requiring health plans and insurers to cover counseling, prescriptions and over-the-counter treatments for smoking cessation. Oppose.</p>	<p>Vetoed</p>
<p><b>Increased Costs: Mandated Expanded Mental Health Coverage.</b> AB 1600 (Beall; D-San Jose) Increases health care premiums by mandating that health plans and insurers provide parity coverage for an expanded list of mental health disorders. Oppose.</p>	<p>Vetoed</p>
<p><b>Increased Costs: Mandated Maternity Services Benefits Coverage.</b> AB 1825 (De La Torre; D-South Gate) Increases health insurance premiums and increases the ranks of the uninsured by mandating that all health insurance policies provide maternity coverage. Oppose.</p>	<p>Vetoed</p>
<h2 style="color: red;">Housing and Land Use</h2>	
<p><b>Building Standards.</b> AB 1693 (Ma; D-San Francisco) Raises compliance levels for state building codes and reduces cost to state when adopting new codes by increasing amount of time available for education and training for new building standards prior to those standards taking effect. Support.</p>	<p>Signed—Chapter 145</p>
<p><b>Building Standards.</b> AB 2670 (J. Pérez; D-Los Angeles) Establishes a State Capitol Sustainability Task Force that uses a private building standard rather than using the state’s own groundbreaking mandatory standards, the California Green Building Code (CALGreen). Oppose.</p>	<p>Vetoed</p>
<p><b>Building Standards.</b> SB 518 (A. Lowenthal; D-Long Beach) Provides an alternative method for reducing water consumption in non-residential buildings, thus providing the building industry with increased design flexibility in meeting the mandatory provisions of the state’s green building standards (CALGreen). Support.</p>	<p>Signed—Chapter 622</p>
<p><b>Housing Elements.</b> AB 602 (Feuer; D-Los Angeles) Before amendments, would have threatened construction industry jobs by eliminating the statute of limitations in actions challenging the sufficiency of a housing element, allowing for challenges to be brought years after a housing element is adopted. Now makes changes regarding when a housing element can be challenged in court. No Position.</p>	<p>Vetoed</p>
<h2 style="color: red;">Industrial Safety and Health</h2>	
<p><b>Unjustified Citations.</b> AB 2774 (Swanson; D-Alameda) Before amendments, included overly expansive definition that would have led to an increase in “serious” Cal/OSHA citations that are now and should continue to be classified as “general.” A serious citation carries significant financial implications for employers so therefore should be issued only where warranted. No Position Due to Amendments.</p>	<p>Signed—Chapter 692</p>

<b>International Relations/Trade</b>	
<b>Human Trafficking.</b> SB 657 (Steinberg; D-Sacramento) Inappropriately creates a situation where companies are publicly identified for “failing” to address issues they are powerless to address. Oppose.	Signed—Chapter 556
<b>Slave and Sweat-Free Code of Conduct.</b> SB 1231 (Corbett; D-San Leandro) Creates a costly, unreasonable burden on companies that contract with the state by requiring them to track the entire supply chain of manufactured products and certify that their products were not produced using forced labor. Authorizes non-profits to investigate these companies to ensure compliance, and could exclude certain products even if they were not produced using forced labor. Would raise the cost of products, and increase litigation, thereby raising costs to taxpayers. Oppose.	Vetoed
<b>Posting Requirements.</b> SB 1230 (DeSaulnier; D-Concord) Codifies into state law the name and contact information of a non-profit organization dealing with human trafficking, irrespective of possible future changes, and creates a new burden on employers by requiring them to post information regarding human trafficking and phone numbers to call to report cases. Oppose.	Vetoed
<b>Public Contracts and Investment Activities.</b> AB 1650 (Feuer; D-Los Angeles) Before amendments would have resulted in California state and local governments being unable to access financial markets by requiring financial institutions that wish to contract with government to certify they are not engaged in the energy sector in Iran, yet providing no workable process by which to accomplish this certification. Now establishes a workable process for those companies bidding on state or local government contracts. Provides that companies be notified and permits them to comment if the state lists them as having such involvement. Includes a statute of limitations for penalties and reinforces that the bill does not authorize a private right of action. Neutral.	Signed—Chapter 573
<b>State Point of Contact.</b> AB 2443 (V. M. Pérez; D-Coachella) Requires state point of contact to share executive branch correspondence with U.S. Trade Representative with Legislature. Amendments will ensure correspondence to Legislature is given after the fact, to ensure Governor is not hampered by the Legislature on trade issues. No Position.	Vetoed
<b>U.S.-Colombia Free Trade Agreement (FTA).</b> AJR 27 (Torrice; D-Fremont) Assembly Joint Resolution opposing U.S.-Colombia FTA would cast FTA/Colombia in unproductive light if it were to pass. Colombia is important trading partner and partner in stopping drug trafficking. Oppose.	Resolution Chapter 145
<b>Labor and Employment</b>	
<b>Increased Agricultural Costs.</b> SB 1474 (Steinberg; D-Sacramento) Designed to increase union representation of agricultural employees even when it is against the will of employees by undermining the process that now guarantees, through secret-ballot elections, a fair vote and the expression of agricultural employees’ true sentiments on the selection of a collective bargaining representative. This act will hurt California’s businesses by driving up costs, making employers less competitive in a global market. Oppose/ <b>Job Killer.</b>	Vetoed
<b>Expanded Employer Liability.</b> AB 482 (Mendoza; D-Norwalk) Increases exposure to liability for hiring decisions by unduly restricting the ability of employers to base employment decisions on the evaluation of all legally available information, including consumer credit reports. Oppose/ <b>Job Killer.</b>	Vetoed
<b>Expanded Employer Liability.</b> AB 2187 (Arambula; I-Fresno) Creates a significant disincentive to locate jobs and operations in California by potentially criminalizing almost any legitimate wage dispute with a terminated employee that takes longer than 90 days to resolve. Oppose/ <b>Job Killer.</b>	Vetoed
<b>Harms California Farms and Farm Workers.</b> SB 1121 (Florez; D-Shafter) Places farms at a competitive disadvantage, increases cost of doing business for California farmers, and reduces available resources to invest in workers and farms by removing overtime exemption for agricultural employees. Oppose/ <b>Job Killer.</b>	Vetoed
<b>Increased Penalties.</b> AB 1881 (Monning; D-Carmel) Unreasonably expands employer liability by doubling liquidated damages in minimum wage claims in court. Oppose.	Vetoed
<b>Expansion of Leave Requirements.</b> AB 2340 (Monning; D-Carmel) Potentially makes the management of overlapping leave requests unfeasible or unfair and could create staffing shortages that temporarily halt operations by requiring every employer to provide every employee with up to three days of unpaid bereavement leave per year. Oppose.	Vetoed

<p><b>Expansion of Leave Requirements.</b> SB 1304 (DeSaulnier; D-Concord) Potentially makes the management of overlapping leave requests unfeasible or unfair and creates staffing shortages that temporarily halt operations by requiring employers to provide paid leave of up to 30 days for organ donations and five days for bone marrow donations. Oppose.</p>	<p>Signed—Chapter 646</p>
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## Legal Reform and Protection

<p><b>Undermines Judicial Discretion.</b> AB 2773 (Swanson; D-Alameda) Unreasonably increases business litigation costs by limiting judicial discretion to reduce or deny exorbitant legal fees in fair employment and housing cases. Oppose/<b>Job Killer</b>.</p>	<p>Vetoed</p>
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<p><b>Interferes with Contractual Agreements.</b> AB 1680 (Saldaña; D-San Diego) Burdens businesses with unnecessary litigation costs and slows down resolution of disputes by presumptively invalidating arbitration agreements in an otherwise voluntary contract if the underlying claim involves a possible hate crime. Oppose/<b>Job Killer</b>.</p>	<p>Vetoed</p>
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<p><b>Business to Business Contract Rights.</b> AB 2490 (Jones; D-Sacramento) Before amendments, would have limited the freedom of sophisticated businesses to include forum-selection and choice-of-law provisions in contracts governing workers’ compensation claims. As amended, requires that agreements governing disputes between employers whose principal place of business is California and their workers’ compensation insurance carriers, over claims arising in California, be resolved in California according to California law unless otherwise agreed to by the parties at the time of the original contract establishing insurance coverage; and that this provision must be filed with the insurance commissioner. No Position.</p>	<p>Vetoed</p>
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<p><b>Expedited Jury Trials.</b> AB 2284 (Evans; D-Santa Rosa) Establishes a new alternative to full-length jury trials, allowing individuals/organizations in California to resolve disputes efficiently and effectively, improving state’s legal climate and encouraging companies to expand/invest here. Support.</p>	<p>Signed—Chapter 674</p>
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## Other/Miscellaneous

<p><b>Restricts Business Options.</b> SB 967 (Correa; D-Santa Ana) Limits choice and drives up prices for consumers and for state and local government by providing a preference to bidders who commit that 90 percent of the work will be performed by California employees. Oppose/<b>Job Killer</b>.</p>	<p>Vetoed</p>
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<p><b>Food Safety Training.</b> SB 602 (Padilla; D-Pacoima) Industry-supported regulation requiring food handlers in restaurants to be trained and certified in basic food safety. Support.</p>	<p>Signed—Chapter 309 Urgency</p>
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## Privacy and Confidentiality

<p><b>Gift Certificates: Redemption.</b> SB 885 (Corbett; D-San Leandro) Before amendments, would have imposed new burdensome and infeasible regulations on businesses that provide gift cards to consumers. Neutral.</p>	<p>Vetoed</p>
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<p><b>Victim’s Compensation.</b> 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. Support.</p>	<p>Signed—Chapter 107</p>
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<p><b>Disclosures Requirement.</b> SB 909 (Wright; D-Inglewood) Before amendments, would have imposed additional requirements on investigative consumer reporting agencies compiling information derived overseas or reports being transmitted overseas. Now requires agencies to disclose on primary Internet website that some information may be handled overseas. Neutral.</p>	<p>Signed—Chapter 481</p>
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## Taxation

<p><b>Discourages Investment.</b> SB 1272 (Wolk; D-Davis) Creates uncertainty for California employers making long-term investment decisions by requiring all future-enacted investment incentives to sunset after seven years. Oppose/<b>Job Killer</b>.</p>	<p>Vetoed</p>
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<p><b>New Tax Penalty.</b> SBX8 32 (Wolk; D-Davis) Reduces complexity and waste in tax reporting and administration by conforming many California tax provisions to recent changes in federal tax law, but is harmful to the business community because it also includes a harsh, unfair new penalty on taxpayers. Oppose.</p>	<p>Vetoed</p>
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<p><b>Simplifies Tax Code/Federal Conformity.</b> SB 401 (Wolk; D-Davis) Reduces complexity and waste in tax reporting and administration by conforming many California tax provisions to recent changes in federal tax law and includes a conformity provision that gives financial relief to troubled borrowers by excluding debt forgiven by a lender from a borrower's taxable income. Support.</p>	<p>Signed—Chapter 14</p>
<p><b>Stigmatizes Employers Using Tax Incentives.</b> AB 2666 (Skinner; D-Berkeley) Stigmatizes California employers for taking advantage of investment incentives by requiring the Franchise Tax Board to provide private tax information in a searchable online database for the largest 250 publicly traded corporations that claim these incentives. Oppose.</p>	<p>Vetoed</p>
<p><b>Taxpayer Protection in Board of Equalization Proceedings.</b> AB 2195 (Silva; R-Huntington Beach) Increases burden of proof for Board of Equalization to clear and convincing evidence standard for intent to evade fraud penalties. Support.</p>	<p>Signed—Chapter 168</p>
<p><b>Equitable Administration of Interest by Board of Equalization.</b> SB 1028 (Correa; D-Santa Ana) Provides taxpayer fairness by allowing Board of Equalization to compute interest due on a monthly basis when equitable. Support.</p>	<p>Signed—Chapter 316</p>
<h2 style="color: red;">Tourism</h2>	
<p><b>Increases Construction Jobs.</b> SB 1192 (Oropeza; D-Long Beach) Creates construction jobs building travel infrastructure and creates a better travel environment for state business and tourism. Support/ <b>Job Creator.</b></p>	<p>Signed—Chapter 642</p>
<p><b>Increases Business Liability.</b> AB 1652 (Jones; D-Sacramento) Before amendments, would have placed substantial burdens on California ski resorts and opened them up to significant increased liability by requiring them to make their safety plans available to the public or publish them on the resort's website. No Position.</p>	<p>Vetoed</p>
<p><b>Legal Burden for Rental Car Companies.</b> AB 2059 (C. Calderon; D-Montebello) Before amendments, would have required car rental companies to accept service of process for international renters who purchase supplemental liability coverage, and to notify them of service at the rental company's expense. As amended, requires car rental companies to accept service of process for international renters who purchase supplemental liability coverage, and to notify them of service. Neutral.</p>	<p>Vetoed</p>
<h2 style="color: red;">Transportation and Infrastructure</h2>	
<p><b>Increased Construction Jobs.</b> AB 2098 (Miller; R-Corona) Authorizes Riverside County Transportation Commission to use design-build to construct a portion of State Highway 91, thus putting more jobs on the ground more quickly. Support/<b>Job Creator.</b></p>	<p>Signed—Chapter 250 Urgency</p>
<p><b>Protectionist Language in High-Speed Rail Authority.</b> AB 619 (Blumenfield; D-San Fernando Valley) Increases the cost of the high-speed rail system and chances for delays by requiring companies bidding for contracts to acknowledge they were not involved in the deportation of concentration camp victims during World War II. Oppose.</p>	<p>Vetoed</p>
<p><b>County Design-Build.</b> SB 879 (Cox; R-Fair Oaks) Makes local public works projects more efficient, less costly, and puts jobs on the ground more quickly by extending the sunset for design-build authorization for counties. Support.</p>	<p>Signed—Chapter 629</p>
<p><b>Equipment Performance Standards.</b> AB 2738 (Niello; R-Fair Oaks) Directs state regulators to set performance standards rather than mandate the use of specific technologies, equipment, actions or procedures. Support.</p>	<p>Signed—Chapter 398 Urgency</p>
<p><b>Gas Tax Swap.</b> ABX8 6 (Committee on Budget) Authorization for metropolitan planning organizations to raise taxes and suspension of unitary tax credit and NOL tax credit has been removed. Increases diesel sales tax on some industries. Oppose.</p>	<p>Signed—Chapter 11</p>
<p><b>Engineering Firms.</b> SB 1008 (Padilla; D-Pacoima) Allows engineering and land surveying firms to organize as a limited liability partnership (LLP). This gives them more flexibility to grow and to create more specialty partnerships that will boost project delivery options. Support.</p>	<p>Signed—Chapter 634 Urgency</p>
<p><b>Continuation of C-17 Production.</b> SJR 29 (Wright; D-Inglewood) Urges U.S. government to extend C-17 production in Long Beach. Support.</p>	<p>Resolution Chapter 138</p>

<p><b>National Freight Policy.</b> SJR 33 (A. Lowenthal; D-Long Beach) Urges the U.S. Congress to create a national freight policy as a component of the next federal transportation bill, which will promote improved investment in the national and international supply chains. Support.</p>	<p>Resolution Chapter 100</p>
<h2 style="color: red;">Unemployment Insurance</h2>	
<p><b>California Training Benefits Program.</b> AB 2058 (Block; D-San Diego) Before amendments, broadly expanded unemployment insurance benefits for enrollment in any training or education without requiring a connection to employment upon completion. Now streamlines the delivery of unemployment insurance benefits to individuals who qualify for the California Training Benefits Program. No Position.</p>	<p>Signed—Chapter 591</p>
<h2 style="color: red;">Water Supply and Quality</h2>	
<p><b>Mandatory Minimum Penalties.</b> 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 its permit unless the water board has given notice of the violation. Sponsor/Co-Sponsor.</p>	<p>Signed—Chapter 645</p>
<p><b>Property Rights.</b> AB 2304 (Huffman; D-San Rafael) Potentially abrogates private property rights by altering and expanding groundwater recharge definitions and requirements surrounding recharge areas. Oppose.</p>	<p>Vetoed</p>
<p><b>California Water Commission. Terms.</b> AB 1260 (Fuller; R-Bakersfield) Updates obsolete terms of appointments for commissioners. Support.</p>	<p>Signed—Chapter 125</p>
<p><b>Water Bond.</b> AB 1265 (Caballero; D-Salinas) Places the water bond on the November 2012 ballot. Allows Joint Power Authorities to include non-governmental entities in their membership but bars for-profit entities membership. Support.</p>	<p>Signed—Chapter 126 Urgency</p>
<h2 style="color: red;">Workers' Compensation</h2>	
<p><b>Workers' Compensation Apportionment.</b> SB 145 (DeSaulnier; D-Concord) Erodes recent workers' compensation reforms and leads to higher premiums for California employers by undercutting fair and reasonable provisions in current law that protect an employer from paying for disability that was not caused by a workplace accident. Oppose/<b>Job Killer</b>.</p>	<p>Vetoed</p>
<p><b>Utilization Review.</b> AB 933 (Fong; D-Cupertino) Increases the cost of performing utilization review (UR) on medical treatment requests by requiring all doctors who make UR decisions to be licensed in California. Oppose.</p>	<p>Vetoed</p>
<p><b>Increased Workers' Compensation Costs.</b> AB 2253 (Coto; D-San Jose) Drives up workers' compensation costs for public sector employers and creates pressure to apply similar presumptions to the private sector by giving public safety employees an extended timeframe to file for the cancer presumption from 60 months, or five years, to 120 months, or 10 years, after the termination of employment. Oppose.</p>	<p>Signed—Chapter 672</p>
<p><b>Workers' Compensation Coverage.</b> SB 1254 (Leno; D-San Francisco) Authorizes the state to issue stop order to a contractor that does not have workers' compensation coverage. Support.</p>	<p>Signed—Chapter 643</p>
<p><b>Streamlined Medicare Claims Resolution.</b> AJR 42 (Solorio; D-Anaheim) Allows parties to more quickly settle claims involving Medicare beneficiaries by providing them important information about potential Medicare Secondary Payer claims, and allowing them to more quickly, and with finality, settle claims they may have against third parties. Support.</p>	<p>Resolution Chapter 92</p>

# ALERT

CALIFORNIA CHAMBER OF COMMERCE

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