

ALERT

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Air Resources Board Hits Business with \$2 Billion Tax



The California Air Resources Board (CARB) has adopted the rules for a cap-and-trade program as part of implementing the

AB 32 climate change law.

Included in what CARB approved is a tax—estimated by a CARB member to raise \$2 billion from businesses—that will drive up costs for California consumers.

CARB's action on October 20 would set a maximum limit for greenhouse gas emissions while allowing regulated industries to buy or trade emissions credits to meet the goal of reducing greenhouse gas emissions as established by AB 32.

Illegal, Arbitrary Tax

California Chamber of Commerce Policy Advocate Brenda M. Coleman has urged CARB to eliminate what has been

identified as an illegal and arbitrary tax.

The CalChamber has also argued for adoption of an operable, cost-effective market designed to meet the goals of AB 32 without creating undue harm to the economy.

“Imposing a tax on business via CARB’s proposal does nothing to maximize environmental benefits required under AB 32 and it is not needed to ensure the stringency of the overall cap,” said Coleman.

“In fact, the tax proposed by CARB contradicts the AB 32 requirements of minimizing costs and maximizing benefits for California’s economy in the design of emission reduction measures. The tax will negatively affect all California businesses and increase costs that will be passed down to consumers.”

On October 20, Coleman told CARB again: “CalChamber believes this is an illegal tax that will negatively impact

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CalChamber Urges Court to Clarify Legality of Rounding Timecard Entries



The California Chamber of Commerce has asked the 4th District Court of Appeal to review a trial court decision and clarify whether rounding employees’ time entries is legal.

In a “friend-of-the-court” letter, the CalChamber urges the appeals court to grant a petition by See’s Candy Shops, Inc. to review a decision by the San Diego County Superior Court that the practice of rounding employee time entries to the nearest six minutes violates California law.

Until recently, employers have had no reason to suspect that rounding time entries might be unlawful, the letter explains to the court. For many years, employers have relied on the position of the U.S. Department of Labor (DOL) and state Department of Labor Standards Enforcement that rounding is a lawful practice, the letter states.

That approval is reflected in DOL regulations and the California Labor Commissioner’s enforcement policy, which follows the DOL regulations.

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President Signs Free Trade Agreements

CalChamber-Backed FTAs Will Promote Economy, Jobs



U.S. President Barack Obama has signed legislation implementing the Korea, Panama and Colombia free trade agreements (FTAs).

Following the October 21 signing ceremony, President Obama

called President Juan Manuel Santos

of Colombia and President Ricardo Martinelli of Panama to exchange congratulations on the successful signing of the agreements.

During his calls, President Obama noted that the agreements indicate the deep and enduring ties between the United States and both Colombia and Panama.

The week before signing the agreements, Obama had hosted an October 13 White House dinner for Korea President Lee Myung-Bak. Lee addressed

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Labor Law Corner

Workplace Holiday Festivities Still Subject to Legal Workplace Issues



Ellen S. Savage
HR Adviser

When planning a company holiday party are there any legal issues to consider?

Holiday parties can raise legal issues for employers, including liability for serving alcohol, wage-and-hour violations, workers' compensation, and religious discrimination.

Libations = Liability

Holiday frivolity easily can become holiday liability when alcohol is served at a company party. Employers can be held liable if employees are involved in auto accidents after drinking too much at a company function.

Consider serving only non-alcoholic beverages, or give each employee a limited number of tickets to be used for alcoholic beverages. If an employee or guest is inebriated, pay for a cab or arrange another ride home. Enlist the help of company managers to keep an eye on how much employees are drinking.

A party with too much alcohol is also the perfect breeding ground for sexual harassment claims. Redistribute the company's sexual harassment and substance abuse policies to everyone a

week or so before the party to remind them that their liability for sexual harassment applies at all times, including during the party.

Party Time Can Be Work Time

If you put on a company holiday luncheon during a work day, you may be liable for meal break penalties if employees are required to attend the party. Employees generally are entitled to a meal break of at least one-half hour where they are free to leave the premises, and if employees are required to attend the lunchtime party and then go straight back to work, they have missed their meal break, even though they were not performing any work and you fed them lunch.

If attendance at the party is purely

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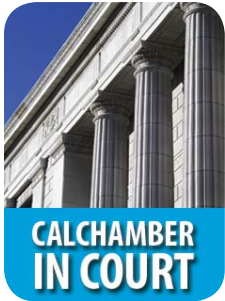
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Ann Amioka
Vice President, Communications
September 27, 2011



State High Court Sets Oral Arguments for Important Meal/Rest Breaks Case



In a case that will have a major impact on how employers must handle meal and rest breaks, the California Supreme Court has scheduled oral arguments for November 8.

Once the oral arguments have been presented in the case of *Brinker v. Superior Court*, the justices can take up to 90 days to issue a written opinion. Employers can expect a decision by early February 2012, if not sooner.

Key Issues

California employers have been watching this case for more than three years. The key issues before the court are:

- Must employers make meal breaks available or must the employer ensure that the meal period is taken?
- When during an employee's shift must the meal period occur?
- How many rest breaks are required during a shift?
- When must rest breaks be taken?

While the California Chamber of Commerce and employers statewide have been waiting for a *Brinker* ruling, California courts of appeal have continued to rule that employers do not have to force employees to take meal periods, but only make them available for employees to take. These decisions have been placed on hold until the Supreme Court resolves the *Brinker* issues.

CalChamber is reminding employers that despite these decisions, until *Brinker* is decided, employers must continue to make

sure that their employees take these breaks.

Background

In early 2008, class certification for a meal-and-rest period lawsuit was denied by a federal district court, which found that nothing in California law requires the employer to ensure that employees take their meal breaks. The federal district court said the employer need only supply or make such time available to employees (*Brown v. Federal Express Corporation* 249 F.R.D. 580 (2008)).

Because this was a federal court ruling, however, it did not have an impact on California's rule that employers must ensure employees stop working during their meal breaks. In California, merely providing meal breaks to non-exempt employees is insufficient.

Then, in July 2008, a California Court of Appeal denied class certification for almost 60,000 restaurant employees. Specifically, the court found that:

- Although employers cannot impede, discourage or dissuade employees from taking rest periods, employers need only provide, not ensure, rest periods are taken.
- Employers need only authorize and permit rest periods every four hours or major fraction thereof and the rest periods need not, where impracticable, be in the middle of each work period.
- Employers are not required to provide a meal period for every five consecutive hours worked.
- Although employers cannot impede, discourage or dissuade employees from taking meal periods, employers need only provide the meal periods and not ensure they are taken.
- Although employers cannot coerce,

require or compel employees to work off the clock, an employer can be held liable for employees working off the clock only if the employer knew or should have known the employees were doing so.

Because the court found that rest and meal breaks need only be made available and not ensured, the court also found that individual issues predominated, and that these individual issues did not lend themselves to class treatment. Further, the off-the-clock claims did not lend themselves to class treatment because individual issues predominated on the questions of whether employees were forced to work off the clock, whether the employer changed time records and whether the employer knew or should have known employees were working off the clock (*Brinker v. Superior Court* 165 Cal. App. 4th 25 (2008)).

This case was appealed to the California Supreme Court, which on October 22, 2008, agreed to hear the case.

CalChamber Recommendation

CalChamber recommends that businesses:

- Contact legal counsel to ensure that policies reflect the most prudent practices relating to meal and rest breaks and tracking of employee time.
- Always track all hours worked and not worked by all non-exempt employees.
- Make sure supervisors and managers consistently enforce the business' policies and procedures, in particular, as they relate to meal and rest breaks for non-exempt employees.
- Remember that until *Brinker* is decided, employers must continue to make sure that their employees take these breaks.



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Workplace Holiday Festivities Still Subject to Legal Workplace Issues

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voluntary, be sure to let employees know this in writing when you invite them to the party. When attendance is voluntary, there are no meal break penalties because employees had the option to leave the premises.

If the party is not during regular working hours, again be sure to let employees know attendance is purely voluntary. If you require non-exempt employees to attend the party then they are “on the clock” and must be paid for their time. If the party is after a work day, this could result in overtime pay obligations as well.

Some employers allow employees who are attending a holiday party on the evening of a work day to go home early, while those who are not attending work their regular schedule. As long as all employees are paid for the number of

hours they work that day, this is a legal practice, although it may cause morale issues for those who don’t get to leave early.

Injuries

Even though there’s no work involved, an employee who gets hurt at the party can file a workers’ compensation claim unless you’ve made it clear that attendance at the event is strictly voluntary.

Religious Beliefs

Before you deck the halls only with boughs of holly, consider your employees’ religious beliefs. Instead of limiting decorations to the usual Christmas tree and Santa motif, let employees know they are welcome to bring decorations for their winter

holidays as well. Make room for a Hanukkah menorah, the red, green and black candles of the Kwanzaa kinara, and any other winter holiday decorations employees would like to contribute to party decor.

Be sensitive to employees who do not wish to celebrate religious holidays. Equal employment laws require reasonable accommodation of employees’ religious beliefs, so an employee who does not wish to attend a holiday party should be excused from taking part in the festivities.

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.

International Trade

Export Training Assistance Program (ETAP). Centers for International Trade Development. November 2–January 18. (714) 310-6908.

Business Export Workshop. November 8, Pico Rivera. (562) 801-2134.

U.S.-Canada Energy Relationship. CalChamber and World Affairs Council. November 8, Sacramento. (415) 293-4600.

Global Trade for All-Online Solutions. TradePort.Org and Monterey Bay International Trade Association. November 15, Santa Clara. (831) 335-4780.

International Exhibit of Chemical Industry. Trust International Group. November 28–30, Alexandria, Egypt.

WITmas. Women in International Trade. December 7, Long Beach. (916) 563-3200.

Labor Law

Determining Independent Contractor Status. CalChamber. On Demand. (800) 331-8877.

HR 101: Intro to HR Administration Seminar. CalChamber. December 7,

Emeryville; January 9, 2012, Costa Mesa; January 12, 2012, Long Beach; January 18, 2012, San Jose; April 11, 2012, Sacramento. (800) 331-8877.

HR 201: California Labor Law Update Seminar. CalChamber. December 9, Sacramento; January 10, 2012, Costa Mesa; January 11, 2012, Anaheim; January 13, 2012, Long Beach; January 19, 2012, San Jose; January 20, 2012, Emeryville. (800) 331-8877.

CalChamber Calendar

Business Services Committee:
December 1, San Francisco

Water Committee:
December 1, San Francisco

Education Committee:
December 1, San Francisco

Board of Directors:
December 1–2, San Francisco

International Trade Breakfast:
December 2, San Francisco

Annual Meeting:
December 2, San Francisco

Fundraising Committee:
December 2, San Francisco

Annual Meeting

In compliance with Article VII of the bylaws, notice is hereby given that the annual meeting of the members of the California Chamber of Commerce, a mutual benefit corporation operating under the laws of the State of California, will be held on Friday, December 2, 2011, at 9 a.m. in Salon III at the Ritz-Carlton, 600 Stockton Street, San Francisco, California, for the transaction of whatever business may be necessary.

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November 11

CalChamber Vote Record: Major Bills 2011

This report for the first year of the 2011–2012 legislative session focuses on California legislators' floor votes on California Chamber of Commerce priority bills.

This is the 36th vote record the CalChamber has compiled. The CalChamber publishes this report in response to numerous requests by member firms and local chambers of commerce that would like a gauge by which to measure the performance of their legislators.

To help readers assess legislators' vote records, the charts group bills into six areas: economic development, environmental regulation, health care, labor and employment, litigation, and taxation.

Partial Picture

No vote record can tell the entire story of a legislator's attitude and actions on issues of importance to business. Each year, legislators cast thousands of votes on thousands of proposed laws. To fully evaluate your legislative representative, consult the legislative journals and examine your legislator's votes in committee and on floor issues. You can view these via links at www.calchambervotes.com.

Many anti-business bills were rejected by legislators in policy or fiscal committees, thus stopping proposals before they reached the floor for a vote. The vote record does not capture these votes.

Most bills in this report cover major business bills that are of concern to both small and large companies.

The CalChamber recognizes that there are many bills supported or opposed by business that are not included in this vote record and analysis.

Factors Considered

The CalChamber considers the following factors in selecting vote record bills:

- The bills and votes reflect legislators' attitudes toward private enterprise, fiscal responsibility and the business climate.

- Each bill was a priority for the CalChamber in a particular field. Priority bills have appeared in the "Status Report" sections of *Alert*.



- The bills were voted upon by either the full Senate or Assembly. This year the vote record covers 13 votes in the Senate and 14 votes in the Assembly.

- Unless otherwise noted, final floor votes are shown. Concurrence votes and conference report votes are considered final votes.

When 'Not Voting' Helps

Sometimes a legislator is unwilling to vote against a colleague, but is willing to support the CalChamber's opposition to a bill. In such cases, a legislator may abstain from voting, which will hinder passage of a bill, just as a "no" vote does.

To recognize that not voting can aid the CalChamber's opposition to a bill, the vote record includes the number of times legislators did not vote "aye" on a CalChamber-opposed bill in the total for the column listing actions "in accord with" the CalChamber's position, if the legislator was not absent for the day.

Priority Bills

Economic Development

- **AB 880 (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 review through a focused environmental impact report. Passed Assembly, May 31, 77-2. In Senate

Environmental Quality Committee. CalChamber Supported/**Job Creator**.

- **SB 469 (Vargas; D-San Diego) Stifles Economic Development.** Undermines local land use discretion by mandating an additional and costly economic and community impact report prior to approving a permit to construct a large retail establishment. Passed Senate, May 31, 21-14. Passed Assembly, September 1, 46-28. Vetoed. CalChamber Opposed.

- **SB 475 (Wright; D-Inglewood) Infrastructure Financing.** Creates private sector construction-related jobs and investment in infrastructure by providing local governments more flexibility and authority to use public-private partnerships. Passed Senate, May 9, 26-4. Failed passage in Assembly Local Government, June 29, 3-2. Reconsideration granted. CalChamber Supported/**Job Creator**.

- **SB 617 (R. Calderon; D-Montebello) Regulatory Reform.** Reforms the regulatory process by requiring an economic analysis of all major regulations at the beginning of the regulatory process thus providing more transparency and better data on which to base selection of most cost-effective regulatory alternative. Passed Senate, May 16, 37-0. Passed Senate, September 10, 39-0. Signed by Governor—Chapter 496. CalChamber Supported.

Environmental Regulation

- **AB 246 (Wieckowski; D-Fremont) Water Quality: Enforcement.** Promotes inconsistent enforcement of water quality regulations, hindering business' compliance. Allows city or county attorneys to file cases that are handled by a single unit in the Attorney General's Office. Passed Assembly, May 19, 47-29. Placed on Senate Inactive File, September 7. CalChamber Opposed.

- **AB 1319 (Butler; D-Marina del Rey) Consumer Product Ban.** Prejudges the work product of the forthcoming, science-driven Green Chemistry Program by banning the use of bisphenol A (BPA) in specified consumer products. Passed Assembly, May 23, 42-29. Passed Senate, August 30, 21-12. Assembly concurred in Senate amendments, September 6, 49-27.

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CalChamber Vote Record: Major Bills 2011

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Signed by Governor—Chapter 467.
CalChamber Opposed.

Health Care

● **AB 52 (Feuer; D-Los Angeles) Rate Regulation.** Creates uncertainty and delays for employers by creating an unworkable complex rate approval and regulation process for employer-sponsored health coverage and adds implementation fees on health insurers to support a complex and regulated plan approval process. Passed Assembly, June 1, 47-28. Placed on Senate Inactive File, September 1. CalChamber Opposed/**Job Killer**.

● **SB 946 (Steinberg; D-Sacramento) Increased Costs.** Increases health care premiums by requiring health plan coverage beyond medically necessary treatment for autism by mandating coverage of services that are educational, academic, or custodial in nature. Passed Assembly, September 9, 52-21. Senate concurred in Assembly amendments, September 9, 25-4. Signed by Governor—Chapter 650. CalChamber Opposed.

Labor and Employment

● **AB 350 (Solorio; D-Anaheim) Costly Employee Retention Mandate.** Inappropriately alters the employment relationship by requiring any successor contractor for “property services,” defined as licensed security, building maintenance, window cleaning or food cafeteria services, to retain employees of the former contractor for a minimum of 60 days and thereafter offer continued employment unless the employees’ performance during that period was unsatisfactory. Passed Assembly, May 31, 46-31. Refused passage in Senate, September 10, 17-18. CalChamber Opposed/**Job Killer**.

● **AB 889 (Ammiano; D-San Francisco) Onerous Wage-and-Hour Mandates for Individual Homeowners.** Requires individual homeowners who hire “domestic work employees” to comply with onerous wage-and-hour mandates that even sophisticated businesses in California struggle to satisfy, thereby discouraging such homeowners from retaining the services of these domestic work employees. Passed Assembly, June 2, 49-28. Held in Senate Appropriations Committee. CalChamber Opposed.

● **AB 1155 (Alejo; D-Watsonville)**

Erodes Workers’ Comp Reforms.

Increases costs and lawsuits in the workers’ compensation system by eroding the apportionment provision that protects an employer from paying for disability that did not arise from work. Passed Assembly, May 12, 47-26. Passed Senate, September 7, 24-14. Assembly concurred in Senate amendments, September 9, 51-27. Vetoed. CalChamber Opposed/**Job Killer**.

● **SB 459 (Corbett; D-San Leandro) New Liability for Using Independent Contractors.** Creates additional uncertainty for employers who use independent contractors by imposing new penalties for the willful misclassification of someone as an independent contractor even though state agencies provide no clear or consistent definition of an independent contractor. Passed Senate, June 2, 24-12. Passed Assembly, September 7, 51-26. Senate concurred in Assembly amendments, September 8, 22-14. Signed by Governor—Chapter 706. CalChamber Opposed.

Litigation

● **AB 559 (Swanson; D-Alameda) Undermines Judicial Discretion.** Unreasonably increases business litigation costs by limiting judicial discretion to reduce or deny exorbitant attorneys fees in fair employment and housing claims that should have been raised in a limited civil proceeding. Passed Assembly, May 26, 47-26. Passed Senate, August 31, 22-16. Vetoed. CalChamber Opposed/**Job Killer**.

● **AB 1062 (Dickinson; D-Sacramento) Undermines Efficient Dispute Resolution.** Significantly increases litigation costs for employers by eliminating the right to appeal a court order denying or dismissing a petition to compel arbitration if the plaintiff is over the age of 65 or a dependent adult, thereby driving more cases into the courts. Passed Assembly, May 26, 42-29. Refused passage in Senate, September 8, 15-21. CalChamber Opposed/**Job Killer**.

Taxation

● **SB 364 (Yee; D-San Francisco) Creates Employer Tax Credit Uncertainty.** Eliminates the incentive effect of future-enacted tax credits by imposing a penalty on California employers who claim the credit and subsequently experience a loss in

Key to Using This Section

- Y means voted for bill.
- N means voted against bill.
- means not voting “aye” on a CalChamber-opposed bill.
- means not voting or absent.

Boldface type indicates votes in accord with CalChamber position.

Red column headings are “Job Killer” bills.

Green column headings are “Job Creator” bills.

The last three columns are a tabulation of votes in accord with the CalChamber position, not in accord with the CalChamber and not voting or absent.

employment greater than 10% in a single year, whether or not the reduction of employees is connected to the effectiveness of the incentive. Passed Senate, June 1, 22-17. Passed Assembly September 1, 42-28. Senate concurred in Assembly amendments, September 2, 22-15. Vetoed. CalChamber Opposed.

● **SB 535 (De León; D-Los Angeles) Climate Change Tax Increase.** Increases costs and discourages job growth by implementing unlimited fees and taxes under a cap-and-trade system. Passed Senate, June 2, 23-15. Assembly Appropriations Committee Suspense File. CalChamber Opposed/**Job Killer**.

● **SBX1 23 (Committee on Budget and Fiscal Review) Multiple Tax Increases.** Mischaracterized “budget trailer bill” that is not necessary to implement the state budget. Rather, this bill creates uncertainty for taxpayers by providing 58 counties, over 70 community college districts, and over 1,000 school districts, subject to voter approval, the authority to impose and/or increase a local tax on all products and services. Passed Senate, June 10, 21-16. In Assembly Revenue and Taxation Committee at close of special session. CalChamber Opposed/**Job Killer**.

2011 Senate Vote Record

| | Economic Development | AB 880 Expedited CEQA Review | SB 469 Stifles Economic Development | SB 475 Infrastructure Financing | SB 617 Regulatory Reform | Environmental Regulation | AB 246 Water Quality: Enforcement | AB 1319 Consumer Product Ban | Health Care | AB 52 Rate Regulation | SB 946 Increased Costs | Labor and Employment | AB 350 Employee Retention Mandate | AB 889 Domestic Workers | AB 1155 Erodes Workers' Comp Reforms | SB 459 Independent Contractors | Litigation | AB 559 Judicial Discretion | AB 1062 Dispute Resolution | Taxation | SB 364 Tax Credit Uncertainty | SB 535 Climate Change Tax Increase | SBX1 23 Multiple Tax Increases | In Accord with CalChamber | Not in Accord with CalChamber | Not Voting or Absent |
|------------------------|-----------------------------|-------------------------------------|--|--|---------------------------------|---------------------------------|--|-------------------------------------|--------------------|--|-------------------------------|-----------------------------|--|--------------------------------|---|---------------------------------------|-------------------|-----------------------------------|-----------------------------------|-----------------|--------------------------------------|---|---------------------------------------|----------------------------------|--------------------------------------|-----------------------------|
| Alquist, E. (D) | Y | — | Y | | | | Placed on Senate Inactive File on September 7. | Y | | Placed on Senate Inactive File on September 1. | Y | Y | Y | Y | Y | Y | Y | Y | — | Y | Y | Y | 1 | 10 | 2 | |
| Anderson, J. (R) | N | Y | Y | | | | | N | | N | N | N | N | N | N | N | N | N | N | N | N | N | 13 | 0 | 0 | |
| Berryhill, T. (R) | — | Y | Y | | | | | N | | ● | ● | N | N | N | N | N | N | N | N | N | N | N | 12 | 0 | 1 | |
| Blakeslee, S. (R) | N | Y | Y | | | | | N | | ● | ● | N | N | N | N | N | N | N | N | ● | N | N | 13 | 0 | 0 | |
| Calderon, R. (D) | ● | Y | Y | | | | | N | | Y | ● | ● | Y | Y | Y | Y | Y | N | Y | Y | Y | Y | 6 | 7 | 0 | |
| Cannella, A. (R) | N | Y | Y | | | | | N | | ● | ● | N | N | N | N | N | N | N | N | N | N | N | 13 | 0 | 0 | |
| Corbett, E. (D) | Y | — | Y | | | | | Y | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | 1 | 11 | 1 | |
| Correa, L. (D) | Y | Y | Y | | | | | Y | | Y | Y | ● | Y | Y | Y | ● | N | ● | N | N | N | N | 9 | 4 | 0 | |
| de León, K. (D) | Y | — | Y | | | | | Y | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | 1 | 11 | 1 | |
| DeSaulnier, M. (D) | Y | N | Y | | | | | Y | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | 1 | 12 | 0 | |
| Dutton, B. (R) | N | Y | Y | | | | | N | | ● | ● | N | N | N | N | N | N | N | N | N | N | N | 13 | 0 | 0 | |
| Emmerson, B. (R) | N | Y | Y | | | | | ● | | ● | ● | N | N | N | N | N | N | N | N | N | ● | N | 13 | 0 | 0 | |
| Evans, N. (D) | Y | — | Y | | | | | Y | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | 1 | 11 | 1 | |
| Fuller, J. (R) | N | Y | Y | | | | | N | | ● | ● | N | N | N | N | N | N | N | N | N | N | N | 13 | 0 | 0 | |
| Gaines, T. (R) | N | Y | Y | | | | | N | | Y | Y | N | N | ● | N | N | N | N | N | N | N | N | 12 | 1 | 0 | |
| Hancock, L. (D) | Y | N | Y | | | | | Y | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | 1 | 12 | 0 | |
| Harman, T. (R) | N | Y | Y | | | | | — | | ● | ● | N | N | N | N | N | N | N | N | N | N | N | 12 | 0 | 1 | |
| Hernandez, E. (D) | Y | — | Y | | | | | ● | | Y | Y | Y | Y | Y | Y | Y | Y | N | Y | Y | Y | Y | 3 | 9 | 1 | |
| Huff, B. (R) | N | Y | Y | | | | | ● | | N | N | N | N | N | N | N | N | N | N | N | N | N | 13 | 0 | 0 | |
| Kehoe, C. (D) | Y | Y | Y | | | | | Y | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | 2 | 11 | 0 | |
| LaMalfa, D. (R) | N | Y | Y | | | | | N | | N | N | N | N | N | N | N | N | N | N | N | N | N | 13 | 0 | 0 | |
| Leno, M. (D) | Y | N | Y | | | | | Y | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | 1 | 12 | 0 | |
| Lieu, T. (D) | Y | Y | Y | | | | | Y | | Y | Y | Y | ● | Y | ● | Y | ● | Y | Y | Y | Y | Y | 4 | 9 | 0 | |
| Liu, C. (D) | Y | Y | Y | | | | | Y | | Y | Y | ● | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | 3 | 10 | 0 | |
| Lowenthal, A. (D) | Y | — | Y | | | | | Y | | Y | Y | ● | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | 2 | 10 | 1 | |
| Negrete McLeod, G. (D) | Y | — | Y | | | | | ● | | Y | Y | Y | Y | Y | Y | Y | — | N | Y | N | Y | Y | 4 | 7 | 2 | |
| Padilla, A. (D) | Y | Y | Y | | | | | Y | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | ● | 3 | 10 | 0 | |
| Pavley, F. (D) | Y | — | Y | | | | | Y | | Y | Y | N | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | 2 | 10 | 1 | |
| Price, C. (D) | ● | — | Y | | | | | Y | | Y | Y | Y | Y | Y | Y | Y | Y | N | Y | Y | Y | Y | 3 | 9 | 1 | |
| Rubio, M. (D) | ● | Y | Y | | | | | Y | | Y | Y | N | Y | ● | ● | ● | ● | ● | Y | Y | ● | ● | 8 | 5 | 0 | |
| Runner, S. (R) | N | Y | Y | | | | | — | | ● | ● | N | N | N | N | N | N | N | N | N | — | N | 11 | 0 | 2 | |
| Simitian, J. (D) | Y | — | Y | | | | | Y | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | 1 | 11 | 1 | |
| Steinberg, D. (D) | Y | Y | Y | | | | | Y | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | 2 | 11 | 0 | |
| Strickland, T. (R) | N | Y | — | | | | | N | | ● | ● | N | N | N | N | N | N | N | N | N | N | N | 12 | 0 | 1 | |
| Vargas, J. (D) | Y | Y | Y | | | | | Y | | Y | Y | Y | Y | Y | Y | Y | Y | ● | Y | Y | Y | Y | 3 | 10 | 0 | |
| Walters, M. (R) | N | Y | Y | | | | | N | | N | N | N | — | N | N | N | N | N | N | N | — | N | 11 | 0 | 2 | |
| Wolk, L. (D) | Y | Y | Y | | | | | Y | | Y | Y | N | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | 3 | 10 | 0 | |
| Wright, R. (D) | ● | Y | Y | | | | | ● | | Y | Y | ● | ● | Y | Y | Y | N | N | N | Y | ● | ● | 9 | 4 | 0 | |
| Wyland, M. (R) | N | Y | Y | | | | | N | | ● | ● | N | N | N | N | N | N | N | N | N | N | N | 13 | 0 | 0 | |
| Yee, L. (D) | Y | N | Y | | | | | Y | | ● | ● | Y | Y | Y | Y | Y | N | N | Y | Y | Y | Y | 3 | 10 | 0 | |

2011 Assembly Vote Record

| | Economic Development | | Environmental Regulation | | Health Care | | Labor and Employment | | Litigation | | Taxation | | In Accord with CalChamber | Not in Accord with CalChamber | Not Voting or Absent | | | | | |
|--------------------|------------------------------|-------------------------------------|---------------------------------|--------------------------|-----------------------------------|------------------------------|-----------------------|------------------------|-----------------------------------|-------------------------|--------------------------------------|--------------------------------|----------------------------|-------------------------------|-------------------------------|------------------------------------|--------------------------------|----|----|---|
| | AB 880 Expedited CEQA Review | SB 469 Stifles Economic Development | SB 475 Infrastructure Financing | SB 617 Regulatory Reform | AB 246 Water Quality: Enforcement | AB 1319 Consumer Product Ban | AB 52 Rate Regulation | SB 946 Increased Costs | AB 350 Employee Retention Mandate | AB 889 Domestic Workers | AB 1155 Erodes Workers' Comp Reforms | SB 459 Independent Contractors | AB 559 Judicial Discretion | AB 1062 Dispute Resolution | SB 364 Tax Credit Uncertainty | SB 535 Climate Change Tax Increase | SBX1 23 Multiple Tax Increases | | | |
| Achadjian, K. (R) | Y | N | Y | N | N | N | ● | N | N | N | N | N | N | N | N | | | 14 | 0 | 0 |
| Alejo, L. (D) | Y | Y | Y | — | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | ● | | | 3 | 10 | 1 |
| Allen, M. (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 |
| Ammiano, T. (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 |
| Atkins, T. (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 |
| Beall, J. (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 |
| Berryhill, B. (R) | Y | N | — | — | N | N | ● | N | N | N | N | N | N | N | N | | | 13 | 0 | 1 |
| Block, M. (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 |
| Blumenfeld, R. (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 |
| Bonilla, S. (D) | Y | — | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | — | | | 2 | 10 | 2 |
| Bradford, S. (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 |
| Brownley, J. (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 |
| Buchanan, J. (D) | Y | Y | Y | N | Y | ● | Y | ● | Y | Y | Y | ● | ● | ● | ● | | | 8 | 6 | 0 |
| Butler, B. (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 |
| Calderon, C. (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | ● | Y | Y | | | 3 | 11 | 0 |
| Campos, N. (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | ● | | | 3 | 11 | 0 |
| Carter, W. (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | ● | Y | Y | Y | Y | Y | | | 3 | 11 | 0 |
| Cedillo, G. (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | — | — | Y | Y | | | 2 | 10 | 2 |
| Chesbro, W. (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 |
| Conway, C. (R) | Y | N | N | N | N | N | N | N | N | N | N | N | N | N | N | | | 13 | 1 | 0 |
| Cook, P. (R) | Y | N | Y | N | N | N | ● | N | N | N | N | N | N | N | N | | | 14 | 0 | 0 |
| Davis, M. (D) | Y | — | Y | Y | Y | Y | Y | Y | Y | Y | Y | — | — | — | — | | | 2 | 8 | 4 |
| Dickinson, R. (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 |
| Donnelly, T. (R) | Y | N | N | N | N | N | N | N | N | N | N | N | N | N | N | | | 13 | 1 | 0 |
| Eng, M. (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 |
| Feuer, M. (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 |
| Fletcher, N. (R) | Y | N | Y | N | N | N | N | N | N | N | N | N | N | N | N | | | 14 | 0 | 0 |
| Fong, P. (D) | N | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 1 | 13 | 0 |
| Fuentes, F. (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 |
| Furutani, W. (D) | Y | ● | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 3 | 11 | 0 |
| Gaines, Beth (R) | Y | N | N | N | N | N | N | N | N | N | N | N | N | N | N | | | 13 | 1 | 0 |
| Galgiani, C. (D) | Y | ● | Y | ● | ● | ● | Y | Y | Y | ● | Y | ● | N | ● | ● | | | 10 | 4 | 0 |
| Garrick, M. (R) | Y | N | — | N | N | N | N | N | N | N | N | N | N | N | N | | | 13 | 0 | 1 |
| Gatto, M. (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 |
| Gordon, R. (D) | Y | Y | Y | Y | Y | Y | Y | N | Y | Y | Y | Y | Y | ● | ● | | | 4 | 10 | 0 |
| Gorell, J. (R) | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | | | * | * | * |
| Grove, S. (R) | Y | N | N | N | N | N | N | N | N | N | N | N | N | N | N | | | 13 | 1 | 0 |
| Hagman, C. (R) | Y | N | Y | N | N | N | ● | N | N | N | N | N | N | N | N | | | 14 | 0 | 0 |
| Halderman, L. (R) | Y | N | N | N | N | N | N | N | N | N | N | N | N | N | N | | | 13 | 1 | 0 |
| Hall, I. (D) | Y | Y | Y | Y | Y | — | Y | Y | — | Y | Y | Y | ● | Y | Y | | | 3 | 9 | 2 |

*On active duty military deployment.

2011 Assembly Vote Record

| | Economic Development | AB 880 Expedited CEQA Review | SB 469 Stifles Economic Development | SB 475 Infrastructure Financing | SB 617 Regulatory Reform | Environmental Regulation | AB 246 Water Quality: Enforcement | AB 1319 Consumer Product Ban | Health Care | AB 52 Rate Regulation | SB 946 Increased Costs | Labor and Employment | AB 350 Employee Retention Mandate | AB 889 Domestic Workers | AB 1155 Erodes Workers' Comp Reforms | SB 459 Independent Contractors | Litigation | AB 559 Judicial Discretion | AB 1062 Dispute Resolution | Taxation | SB 364 Tax Credit Uncertainty | SB 535 Climate Change Tax Increases | SBX1 23 Multiple Tax Increases | In Accord with CalChamber | Not in Accord with CalChamber | Not Voting or Absent |
|--------------------|-----------------------------|-------------------------------------|--|--|---------------------------------|---------------------------------|--|-------------------------------------|--------------------|------------------------------|-------------------------------|-----------------------------|--|--------------------------------|---|---------------------------------------|-------------------|-----------------------------------|-----------------------------------|-----------------|--------------------------------------|--|---------------------------------------|----------------------------------|--------------------------------------|-----------------------------|
| Harkey, D. (R) | Y | N | | | N | N | N | N | N | ● | | N | N | N | N | N | N | N | N | N | | | 13 | 1 | 0 | |
| Hayashi, M. (D) | Y | Y | | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 | |
| Hernández, R. (D) | Y | Y | | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 | |
| Hill, J. (D) | Y | Y | | | Y | Y | Y | Y | Y | Y | Y | N | Y | Y | Y | Y | Y | Y | Y | Y | | | 3 | 11 | 0 | |
| Huber, A. (D) | Y | N | | | Y | N | Y | | ● | Y | | N | N | Y | Y | | Y | N | N | N | | | 9 | 5 | 0 | |
| Hueso, B. (D) | Y | Y | | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 | |
| Huffman, J. (D) | Y | Y | | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 | |
| Jeffries, K. (R) | Y | N | | | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | | | 13 | 1 | 0 | |
| Jones, B. (R) | Y | N | | | N | N | N | N | N | N | N | N | N | N | N | N | — | — | N | N | | | 11 | 1 | 2 | |
| Knight, S. (R) | Y | N | | | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | | | 13 | 1 | 0 | |
| Lara, R. (D) | Y | Y | | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 | |
| Logue, D. (R) | Y | N | | | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | | | 13 | 1 | 0 | |
| Lowenthal, B. (D) | Y | Y | | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 | |
| Ma, F. (D) | Y | Y | | | Y | ● | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 3 | 11 | 0 | |
| Mansoor, A. (R) | Y | N | | | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | | | 13 | 1 | 0 | |
| Mendoza, T. (D) | Y | Y | | | Y | Y | — | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 11 | 1 | |
| Miller, J. (R) | Y | N | | | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | | | 13 | 1 | 0 | |
| Mitchell, H. (D) | Y | Y | | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | ● | Y | Y | | | 3 | 11 | 0 | |
| Monning, B. (D) | Y | Y | | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 | |
| Morrell, M. (R) | Y | N | | | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | | | 13 | 1 | 0 | |
| Nestande, B. (R) | Y | N | | | Y | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | | | 14 | 0 | 0 | |
| Nielsen, J. (R) | Y | N | | | Y | N | N | N | N | N | N | N | N | N | ● | N | N | N | N | N | | | 14 | 0 | 0 | |
| Norby, C. (R) | Y | N | | | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | | | 13 | 1 | 0 | |
| Olsen, K. (R) | Y | N | | | N | N | N | N | ● | N | N | N | N | N | N | N | N | N | N | N | | | 13 | 1 | 0 | |
| Pan, R. (D) | Y | Y | | | Y | Y | Y | N | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 3 | 11 | 0 | |
| Perea, H. (D) | Y | ● | | | Y | Y | Y | ● | Y | N | Y | Y | Y | Y | ● | N | Y | Y | Y | Y | | | 7 | 7 | 0 | |
| Pérez, J. (D) | Y | Y | | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 | |
| Pérez, V.M. (D) | Y | Y | | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | ● | Y | | | 3 | 11 | 0 | |
| Portantino, A. (D) | Y | Y | | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 | |
| Silva, J. (R) | Y | N | | | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | | | 13 | 1 | 0 | |
| Skinner, N. (D) | Y | Y | | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 | |
| Smyth, C. (R) | Y | N | | | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | | | 13 | 1 | 0 | |
| Solorio, J. (D) | Y | Y | | | Y | ● | ● | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | ● | Y | Y | | | 5 | 9 | 0 | |
| Swanson, S. (D) | Y | Y | | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 | |
| Torres, N. (D) | Y | Y | | | Y | Y | Y | Y | Y | ● | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 3 | 11 | 0 | |
| Valadao, D. (R) | Y | N | | | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | | | 13 | 1 | 0 | |
| Wagner, D. (R) | Y | N | | | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | | | 13 | 1 | 0 | |
| Wieckowski, B. (D) | Y | Y | | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | ● | Y | | | 3 | 11 | 0 | |
| Williams, D. (D) | Y | Y | | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 | |
| Yamada, M. (D) | N | Y | | | Y | Y | Y | Y | Y | Y | Y | ● | Y | Y | Y | Y | Y | Y | Y | Y | | | 2 | 12 | 0 | |

In Senate Environmental Quality Committee.

Failed Passage in Assembly Local Government..

In Assembly Revenue and Taxation at Close of Special Session.

CalChamber Best Business Votes

Legislators are listed in descending order according to how often they voted in accord with the California Chamber of Commerce position (first number) versus how often their votes were not in accord with the CalChamber's position (second number) in 2011. Total votes may not match the vote record because the tally for not voting or absent is not included in this list.

| | | | |
|-----------------------------|-------------------------|-------------------------|-------------------------------|
| 80% or more with CalChamber | 60%-79% with CalChamber | 40%-59% with CalChamber | Less than 40% with CalChamber |
|-----------------------------|-------------------------|-------------------------|-------------------------------|

Senate

| | |
|----------------------------|------|
| Anderson, Joel (R) | 13-0 |
| Blakeslee, Sam (R) | 13-0 |
| Cannella, Anthony (R) | 13-0 |
| Dutton, Bob (R) | 13-0 |
| Emmerson, Bill (R) | 13-0 |
| Fuller, Jean (R) | 13-0 |
| Huff, Bob (R) | 13-0 |
| LaMalfa, Doug (R) | 13-0 |
| Wyland, Mark (R) | 13-0 |
| Berryhill, Tom (R) | 12-0 |
| Harman, Tom (R) | 12-0 |
| Strickland, Tony (R) | 12-0 |
| Gaines, Ted (R) | 12-1 |
| Runner, Sharon (R) | 11-0 |
| Walters, Mimi (R) | 11-0 |
| Correa, Lou (D) | 9-4 |
| Wright, Roderick (D) | 9-4 |
| Rubio, Michael (D) | 8-5 |
| Calderon, Ron (D) | 6-7 |
| Negrete McLeod, Gloria (D) | 4-7 |
| Lieu, Ted (D) | 4-9 |
| Hernandez, Ed (D) | 3-9 |
| Price, Curren (D) | 3-9 |
| Liu, Carol (D) | 3-10 |
| Padilla, Alex (D) | 3-10 |
| Vargas, Juan (D) | 3-10 |
| Wolk, Lois (D) | 3-10 |
| Yee, Leland (D) | 3-10 |
| Lowenthal, Alan (D) | 2-10 |
| Pavley, Fran (D) | 2-10 |
| Kehoe, Christine (D) | 2-11 |
| Steinberg, Darrell (D) | 2-11 |
| Alquist, Elaine (D) | 1-10 |
| Corbett, Ellen (D) | 1-11 |
| de León, Kevin (D) | 1-11 |
| Evans, Noreen (D) | 1-11 |
| Simitian, Joe (D) | 1-11 |
| DeSaulnier, Mark (D) | 1-12 |
| Hancock, Loni (D) | 1-12 |
| Leno, Mark (D) | 1-12 |

Assembly

| | |
|--------------------------|------|
| Achadjian, Katcho (R) | 14-0 |
| Cook, Paul (R) | 14-0 |
| Fletcher, Nathan (R) | 14-0 |
| Hagman, Curt (R) | 14-0 |
| Nestande, Brian (R) | 14-0 |
| Nielsen, Jim (R) | 14-0 |
| Berryhill, Bill (R) | 13-0 |
| Garrick, Martin (R) | 13-0 |
| Conway, Connie (R) | 13-1 |
| Donnelly, Tim (R) | 13-1 |
| Gaines, Beth (R) | 13-1 |
| Grove, Shannon (R) | 13-1 |
| Halderman, Linda (R) | 13-1 |
| Harkey, Diane (R) | 13-1 |
| Jeffries, Kevin (R) | 13-1 |
| Knight, Steve (R) | 13-1 |
| Logue, Dan (R) | 13-1 |
| Mansoor, Allan (R) | 13-1 |
| Miller, Jeff (R) | 13-1 |
| Morrell, Mike (R) | 13-1 |
| Norby, Chris (R) | 13-1 |
| Olsen, Kristin (R) | 13-1 |
| Silva, Jim (R) | 13-1 |
| Smyth, Cameron (R) | 13-1 |
| Valadao, David (R) | 13-1 |
| Wagner, Donald (R) | 13-1 |
| Jones, Brian (R) | 11-1 |
| Galgiani, Cathleen (D) | 10-4 |
| Huber, Alyson (D) | 9-5 |
| Buchanan, Joan (D) | 8-6 |
| Perea, Henry (D) | 7-7 |
| Solorio, Jose (D) | 5-9 |
| Gordon, Rich (D) | 4-10 |
| Hall, Isadore (D) | 3-9 |
| Alejo, Luis (D) | 3-10 |
| Calderon, Charles (D) | 3-11 |
| Campos, Nora (D) | 3-11 |
| Carter, Wilmer Amina (D) | 3-11 |
| Furutani, Warren (D) | 3-11 |
| Hill, Jerry (D) | 3-11 |
| Ma, Fiona (D) | 3-11 |
| Mitchell, Holly (D) | 3-11 |
| Pan, Richard (D) | 3-11 |

| | |
|-------------------------|------|
| Pérez, V. Manuel (D) | 3-11 |
| Torres, Norma (D) | 3-11 |
| Wieckowski, Bob (D) | 3-11 |
| Davis, Mike (D) | 2-8 |
| Bonilla, Susan (D) | 2-10 |
| Cedillo, Gilbert (D) | 2-10 |
| Mendoza, Tony (D) | 2-11 |
| Allen, Michael (D) | 2-12 |
| Ammiano, Tom (D) | 2-12 |
| Atkins, Toni (D) | 2-12 |
| Beall, Jim (D) | 2-12 |
| Block, Marty (D) | 2-12 |
| Blumenfield, Bob (D) | 2-12 |
| Bradford, Steven (D) | 2-12 |
| Brownley, Julia (D) | 2-12 |
| Butler, Betsy (D) | 2-12 |
| Chesbro, Wes (D) | 2-12 |
| Dickinson, Roger (D) | 2-12 |
| Eng, Mike (D) | 2-12 |
| Feuer, Mike (D) | 2-12 |
| Fuentes, Felipe (D) | 2-12 |
| Gatto, Mike (D) | 2-12 |
| Hayashi, Mary (D) | 2-12 |
| Hernández, Roger (D) | 2-12 |
| Hueso, Ben (D) | 2-12 |
| Huffman, Jared (D) | 2-12 |
| Lara, Ricardo (D) | 2-12 |
| Lowenthal, Bonnie (D) | 2-12 |
| Monning, Bill (D) | 2-12 |
| Pérez, John A. (D) | 2-12 |
| Portantino, Anthony (D) | 2-12 |
| Skinner, Nancy (D) | 2-12 |
| Swanson, Sandré (D) | 2-12 |
| Williams, Das (D) | 2-12 |
| Yamada, Mariko (D) | 2-12 |
| Fong, Paul (D) | 1-13 |

Assembly Member Jeff Gorell on active duty military deployment.

CalChamber: Proposed CalPERS Policy Will Stifle Business Political Activity

A proposed new corporate governance policy for the California Public Employees Retirement System (CalPERS) has the potential to harm the system's investments, the California Chamber of Commerce has warned.

CalChamber Policy Advocate Jennifer Barrera told the CalPERS Investment Policy Subcommittee on October 17 that the proposed change "will create an unfair playing field for publicly held corporations in the political arena and place them at a competitive disadvantage, which could ultimately harm CalPERS investments in those companies."

The new corporate governance policy was proposed by California Treasurer Bill Lockyer to "create the framework by which CalPERS executes its proxy voting responsibilities."

The new proposed policy amounts to "forcing publicly held corporations to show their competitors and political adversaries their political investment strategy, without receiving the same information in return," Barrera said.

CalChamber Leads Coalition

The CalChamber is leading a coalition to oppose the change to the corporate governance principles, specifically the section dealing with charitable and political contributions.

In a letter to CalPERS, the coalition noted that the new section "is an unfair and discriminatory mandate on corporate boards of directors, designed to chill the ability of businesses to defend themselves from political attacks by competitors, overzealous regulators, labor unions or no-growth advocates."

If the publicly traded companies are unable to defend themselves against the political attacks of their adversaries, the proposal will have massive unintended consequences for the very people CalPERS is obligated to protect and support.

A similar proposal is being considered by the California Teachers Retirement System.



Photo by Megan Wood

CalChamber Policy Advocate Jennifer Barrera prepares to testify to the CalPERS Investment Policy Subcommittee.

Proposed Requirements

The proposed new CalPERS policy would require corporate boards to, among other things:

- Monitor and assess significant charitable and political contributions (including trade association contributions) made by the company.
- Annually publicly disclose the board's guidelines for contribution approval as a corporate contributions policy. The board should annually disclose the amounts and recipients of significant monetary and non-monetary contributions made by the company during the prior year, including spending "for political or charitable activities provided to or through a third party to influence elections of candidates or ballot measures or governmental action."

CalPERS is the nation's largest public retirement system, with an investment portfolio topping \$230 billion.

The system is overseen by a board comprised mostly of elected employee

representatives and statewide elected officials or their designees.

Invalid Premise

The CalChamber has pointed out that the premise of Lockyer's proposal—that corporate value is negatively correlated with corporate political transparency—is not true.

Professor Lawrence Ribstein of the University of Illinois notes that the negative correlation "may be because firms hurt most by government regulation must engage in more political activity."

Professor Roger Coffin of the University of Delaware has found that companies "that signed the 'anti-Citizens United pledge' in the aftermath of the decision did not see a material increase in firm value. Nor did the value of several industry-specific indexes go down. This represents good news for shareholders and the companies themselves."

Staff Contact: Jennifer Barrera

IRS Offers Voluntary Settlement Program for Independent Contractor Use



The Internal Revenue Service (IRS) has launched a program to provide some employers partial relief from the federal employment taxes and penalties that normally result from

misclassifying workers, or a class/group of workers, as independent contractors or other non-employees.

The program allows employers to get into compliance by making a “minimal” payment covering past payroll tax obligations, rather than being subjected to a potential audit. According to the IRS, employers accepted into the program will pay an amount effectively equaling slightly more than 1% of the wages paid to the reclassified worker for the past year. No interest or penalties will be owed, and the employers will not be audited on payroll taxes related to these workers for prior years.

Properly classifying workers can be difficult because different agencies apply different tests to determine whether the worker is an independent contractor. Improperly classifying a worker as an independent contractor can lead to substantial financial damages for the employer, including back taxes, penalties and interest.

The IRS states that it finds wrongful classification in up to 90% of firms audited, and estimates the employment taxes not collected because of misclassification at \$35 billion per year. The IRS, in conjunction with the U.S. Department of Labor (DOL), has increased efforts to stop worker misclassification, and the agencies have agreed to share information relating to worker classification issues.

This last year, the IRS announced a three-year plan to increase audits of independent contractors. The DOL also stepped up enforcement efforts, asking for \$15.223 million and 107 employees so it can conduct an additional 3,250 misclassification investigations in 2012.

To be eligible for the voluntary settlement program, the company must:

- Have consistently treated workers in the past as non-employees;
- Have filed all required 1099 tax forms for the workers for the previous three years;
- Not be under an IRS audit;
- Not be under an audit by DOL or any state agency relating to the proper classification of these workers.

Given this increased enforcement, companies may want to consider the new settlement initiative to address potential federal tax liability. Reclassifying workers may have other consequences, however.

For example, wages and penalties

could be owed for wage-and-hour violations resulting from the misclassification, such as missed meal and rest periods or overtime. Thus, employers should seek legal counsel before deciding to enter into the new IRS settlement program.

CalChamber Independent Contractor Webinar

The California Chamber of Commerce is making available a webinar to teach businesses how to determine if someone is an independent contractor.

In the webinar, the CalChamber’s employment law experts discuss the legal definition of “independent contractor” and common mistakes that employers make when classifying workers as independent contractors.

CalChamber preferred and executive members receive a 20% discount.

For more information or to register, call (800) 331-8877 or go to www.calchamberstore.com/icstatus.

CalChamber Urges Court to Clarify Legality of Rounding Timecard Entries

From Page 1

The issue of rounding time entries is a matter of widespread concern to California employers. The CalChamber regularly receives inquiries from its members concerning the rounding of time entries. Clarifying this issue will be very helpful to California employers and help prevent litigation.

After extensive research, the CalChamber concluded that the California Labor Code does not prohibit rounding and no California appellate decision has held that rounding is illegal.

Class Action Lawsuits

Nevertheless, some class action

lawsuits already have been filed in California by plaintiffs alleging that rounding is illegal and seeking damages and penalties under the Private Attorneys General Act (PAGA).

The CalChamber is concerned that the trial court decision in the See’s case may lead to the filing of many more class action lawsuits attacking rounding practices that employers have believed were completely lawful.

Many employers will feel they have no choice but to stop their practice of rounding time to avoid the risk of class litigation, which often leads to large settlements due to the costs of defending these cases, the CalChamber states in the letter.

Employers Need Certainty

The filing of class actions alleging novel legal theories and designed to result in large settlements is bad for the California economy and encourages businesses to leave the state, the CalChamber tells the court.

The CalChamber believes it would be best for this issue to be resolved now so California businesses will have certainty regarding this important timekeeping issue.

Staff Contact: Erika Frank

Opposition from CalChamber, Coalition Stops Unworkable Storm Water Rules

The executive director of the State Water Resources Control Board recently announced that the board will take back controversial proposed storm water runoff regulations for review because the requirements are not functional.

Executive Director Thomas Howard said the board has agreed to revisit the regulations and significantly amend them, with plans to rerelease them in the next three to four months.

Concerns

Ever since the proposed industrial regulations were first released in January, and the municipal regulations in July, the California Chamber of Commerce and members of a coalition of business, taxpayers and local governments had expressed concerns about the high cost and jobs impact of the proposed changes in how cities and businesses manage storm water runoff (see August 5 *Alert*).

Most recently, coalition representatives explained to the Senate Select Committee on California Job Creation and Retention

on October 6 that the hundreds of millions of dollars in added costs for businesses and municipalities would yield no proven environmental benefits.

Coalition

The CalChamber is on the steering committee for the coalition, united under the name WATER (Workable Approach to Environmental Regulation).

The CalChamber and coalition actively opposed the new proposed requirements because they would have boosted costs as much as ten-fold for any facility required to have a storm water permit and expanded the types of facilities that must obtain the permits.

If adopted, the changes could have increased costs by tens of thousands of dollars for small businesses and schools to hundreds of millions of dollars for large facilities, the CalChamber had pointed out.

The CalChamber submitted comments to the state water board objecting to the process used in drafting the regulations

and pointing out that the new rules go beyond what the U.S. Environmental Protection Agency mandates.

The water board needs to adopt a more transparent public process and complete a thorough and realistic analysis of water quality benefits balanced against costs to permit holders, the CalChamber stated.

“There is no justification for California to exceed federal Clean Water Act requirements,” says CalChamber Policy Advocate Valerie Nera. “Economic recovery has a fragile hold in the state. The aggressive draft storm water permit proposals add another burdensome layer of regulation that will harm the state’s business and employer community, taxpayers and local governments at a time when they can least afford it. Further, there is no proof that these new regulations will improve water quality.”

CalChamber comment letters on the proposed storm water regulations provide further detail on the problems with the now-withdrawn draft requirements. The letters are available at www.calchamber.com.

Staff Contact: Valerie Nera

Air Resources Board

From Page 1

businesses and consumers at a time when they can least afford it.”

CalChamber Action

The CalChamber has been an active voice representing the interests of nearly 15,000 California employers throughout the process of AB 32 implementation.

A full copy of CalChamber’s September 27, 2011 letter to CARB, its August 11, 2011 letter and all comments submitted to CARB can be found at www.calchamber.com.

Staff Contact: Brenda M. Coleman

California Supreme Court Denies Challenges to Senate, Congressional Redistricting Maps

The California Supreme Court on October 26 unanimously rejected legal challenges to the state’s new Senate and congressional redistricting maps.

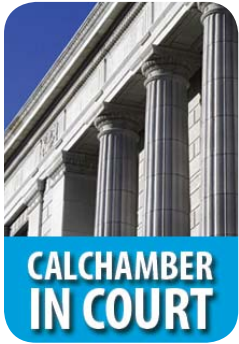
Petitioners in two lawsuits had challenged the validity of the maps and asked the state high court for an emergency halt to the use of the maps certified by the Citizens Redistricting Commission on August 15. The court rejected the request.

Still pending is an effort by Senate

Republicans to challenge the Citizens Redistricting Commission-drawn lines through the referendum process. Supporters have until early November to turn in 504,760 valid voter signatures to qualify the referendum for the ballot.

If the referendum qualifies, the public would vote in November 2012 and the Supreme Court will determine what the boundary lines will be for the 2012 elections.

No Review of Workers' Comp Case Could Negate Cost-Saving Reforms



The California Supreme Court has rejected the City and County of San Francisco petition for review of the earlier decision of the 1st District Court of Appeal in the *Ogilvie* case. The case involves how permanent

disability payments are calculated in the workers' compensation system.

The California Chamber of Commerce had urged the state high court to review and overturn a decision rendered last year by the 1st District Court of Appeal that created an ad hoc approach to permanent disability calculations.

That decision reintroduced the use of subjective, unquantifiable factors that the Legislature had squarely rejected when it enacted reforms in 2004.

More Litigation, Higher Costs

The CalChamber believes more

workers' compensation litigation and higher costs across the board for California businesses may result from allowing the 1st District Court decision to stand.

As a result of the Supreme Court's denial, participants in the workers' compensation system will be forced to litigate aspects of the permanent disability calculation that were thought to have been resolved in the 2004 reform legislation.

By opening up the calculation to individualized determinations based on "expert witnesses," the decision will largely obliterate the cost savings to employers that the Legislature worked so hard to achieve.

The 1st District Court's decision largely supports the contention of the Workers' Compensation Appeals Board (WCAB) that the diminished future earnings capacity adjustment in the calculation of permanent disability awards could be rebutted. But the court disagreed with the WCAB's methodology and remanded the case to the board to further develop the record on how rebuttal can occur.

CalChamber Argument

In its brief urging Supreme Court review, the 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 permanent disability. The stated purpose of the statute enacted in 2004 was to promote "consistency, uniformity and objectivity."

The CalChamber argued that the 2004 reforms accomplished that goal by defining the elements that make up the permanent disability percentage calculation in terms of objective, measurable factors, empirical evidence, and aggregate and averaged data.

In short, the CalChamber pointed out that the new system was designed to eliminate subjectivity and guess work from permanent disability calculations, thereby ensuring that similarly situated employees are treated equally, promoting fairness and consistency across the board.

President Signs Free Trade Agreements

From Page 1

a joint meeting of the U.S. Congress earlier that day, thanking the members for approving the trade agreement with Korea the night prior.

U.S. Trade Representative (USTR) Ron Kirk also released a statement announcing that the USTR already has started the work necessary to bring these agreements into force as soon as possible.

"We're eager for American businesses and workers to begin reaping the benefits of these hard-won agreements," Kirk said. "We know that more exports of Made-in-America goods and services flowing to consumers in Korea, Colombia and Panama can support tens of thousands more jobs here at home. Supporting more American jobs with responsible trade policy has always been our goal."

The California Chamber of Commerce

and a broad-based coalition have been urging congressional consideration of these agreements for almost five years.

Korea Agreement

The U.S. International Trade Commission has estimated that the reduction of tariff and non-tariff barriers to U.S.-manufactured and agricultural goods under the U.S.-Korea trade agreement would increase U.S. exports to Korea by \$10 billion–\$11 billion.

Korea is California's fifth largest exporting partner. In 2010, California exported \$8.1 billion to Korea.

Colombia and Panama

A U.S.-Colombia FTA will increase momentum toward lowering trade barriers and set a positive example for other small economies in the Western Hemisphere. In

2010, California exported more than \$409 million to Colombia, making it the state's 34th largest export market.

In 2010, the United States had a trade surplus with Panama, with exports totaling \$6.1 billion and imports slightly under \$379 million. California exports to Panama totaled \$252 million, making it California's 42nd largest export market.

More Information

More information on the FTAs can be found on the trading partner portals on the CalChamber website:

- Korea, www.calchamber.com/Korea;
 - Colombia, www.calchamber.com/Colombia;
 - Panama, www.calchamber.com/Panama.
- Staff Contact: Susanne Stirling**

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