ALERT

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CALIFORNIA CHAMBER OF COMMERCE

Federal Grants Available for Wellness Programs

As California moves toward implementation of the Affordable Care Act, wellness programs that promote healthy choices to prevent illness are in the spotlight of the latest edition of CalChamber News.

Under the law, federal grants may be available to some small businesses to offset the cost of established wellness programs, and insurance companies must provide wellness services, such as counseling and health screenings, at no extra cost to the employee.

Companies such as Safeway have made the investment and launched a workplace wellness program long ago, encouraging workers to take personal responsibility for their health.

Larree M. Renda, executive vice president for Safeway and 2010 chair of the California Chamber of Commerce Board of Directors, reports that the company's wellness program has been extremely successful for employees and the company's bottom line.

"When we survey our employees, we know they are more engaged as a result of the wellness programs that we've offered here," says Renda. "We also know they're happier in their jobs and become more productive employees."

Health Cost Savings

The results are remarkable. By encouraging health screenings, immunizations, and programs to manage weight and quit smoking, Safeway and its workforce have saved substantially on health care costs through reduced

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The state-of-the-art fitness center at Safeway company headquarters is just one component of a wellness program that has helped keep the company's health care costs nearly flat.

Health Insurance Cost Hike Pressures Continue

Discussions about the federal Affordable Care Act (ACA) enter a new phase as the California Legislature begins a special session to consider legislation to implement elements of the act due to start in 2014.

The Legislature should take this opportunity to take a close look at cost containment efforts in light of continuing cost drivers in health care coverage, along with cost drivers resulting from the ACA.

Analysts project that health care spending will increase 7.4% in 2014, according to the California Healthcare Foundation.

The likelihood of increased costs is acknowledged by Governor Edmund G. Brown Jr. in his budget proposal for 2013–14 as well.

The Governor's budget message notes that "large rate increases in the individual insurance market are likely" at the outset of implementing the ACA "due to the requirement to offer coverage to all individuals, provide a higher level of benefits, and due to a significant increase in enrollment which will increase demand for services."

Continuing Cost Drivers

Experts point to many varying factors that contribute to rising health care costs. The cost drivers on which experts tend to agree include:

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Inside

Labor Law Corner

Hours Worked Also Basis of Pay for 'Salaried' Nonexempt Employee

Dale Louton
HR Adviser

Can an employer dock the pay or debit the sick leave bank of a nonexempt salaried employee? When paying a semi-monthly "salary" to a nonexempt employee who normally works a 40-hour week, how is this recorded on the wage statement?

Employees who are nonexempt and who are told they will earn a "salary" still are subject to the provisions of the wage orders and Labor Code.

All sections of the wage orders are important, and you should pay special attention to time records, premium pay, meal periods and rest periods. Noncompliance in these areas can be very costly.

Pay for Hours Worked

You can dock the pay or debit a sick leave bank if a balance is available. However, a nonexempt "salaried" employee must be treated the same as an hourly paid employee—the employee must be paid for hours actually worked in the pay period.

California Labor Code Section 226 (a) lists certain information that must be on the wage statement. The information required by the Labor Code includes gross wages earned, which can vary, depending on the hours worked in a pay period.

For example, a salary of $3,500 per month is equivalent to $20.19 per hour ($3,500 x 12 = $42,000/2,080 hours = $20.19 per hour. The overtime rates are $30.29 per hour for time-and-a-half and $40.38 per hour for double-time.

Wage Statement

The wage statement portion of a nonexempt employee's paycheck must show the hourly rate(s) of pay and all hours worked at each rate, according to Labor Code Section 226 (a). If the employee has not worked any overtime, there will be only one rate of pay.

If the employee works any overtime, or is owed premium pay for missed meal or rest breaks, however, the number of hours and the appropriate rate of pay must be reflected on the itemized statement.

While nonexempt employees may like to think of their compensation in terms of a set amount, employers must comply with the Labor Code requirements for itemized statements, as well as pay employees for all hours actually worked in the pay period.

Pay Days

Paying employees twice a month means that employees are paid no later than the 26th of each month for all hours worked from the 1st through the 15th of the month. Employees must be paid no later than the 10th of the next month for all hours worked from the 16th through the end of the previous month.

The number of potential hours in a pay period will vary, depending on the number of work days each month.

For example, in January 2013, there were 11 potential work days in the first half of the month, and 12 in the last half. Yet in February 2013, there are 11 potential work days in the first half of the month, and only nine in the last half.

Nonexempt employees should be aware of the varying number of work hours and thus in the amount of their wages, if they are paid on a semi-monthly basis. In the alternative, nonexempt employees could be paid weekly or biweekly, and thus they would potentially receive the same amount of pay each pay period, if they work the same number of hours on a regular basis.

Consult with your legal counsel if you have concerns about your current payroll practices.

The Labor Law Helpline is a service to California Chamber of Commerce preferred and executive members. For expert explanations of labor laws and Cal/OSHA regulations, not legal counsel for specific situations, call (800) 348-2262 or submit your question at www.hrcalifornia.com.

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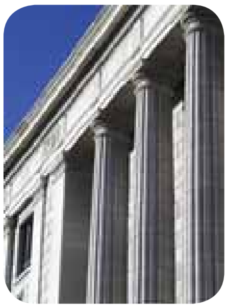
E-mail: alert@calchamber.com.
Home page: www.calchamber.com.

CalChamber Calendar

Water Resources Committee:
March 7, Santa Monica
Fundraising Committee:
March 7, Santa Monica
Board of Directors:
March 7–8, Santa Monica
International Trade Breakfast:
March 7, Santa Monica

Appeals Court Considering Whether 'Split Roll' Parcel Taxes Violate Law



The 1st District Court of Appeals is taking another look at the question of whether a parcel tax that set different rates for owners of residential and commercial property violates state law.

The court first ruled in the case of *Borikas v. Alameda Unified School District* on December 6, 2012, then granted the district's request for a rehearing on January 6, in effect negating the decision.

December Ruling

In the December decision, the court said the school district could not impose a special tax setting different rates for different types of property.

Voters in the district had approved in June 2008 Measure H, taxing residential taxpayers and commercial and industrial parcels of less than 2,000 square feet at $120 per parcel per year, while taxing commercial and industrial parcels greater than 2,000 square feet at $0.15 per square foot to a maximum of $9,500 per year.

The court said treating residential and commercial parcels differently for a qualified special tax violates a state law requiring the taxes to apply uniformly to all taxpayers of real property within the school district, except where exempted.

Split Roll

The Alameda school district's attempt to impose different tax rates on parcels based on whether they are residential or commercial/industrial is just the latest of numerous "split roll" proposals that have been advanced since voters approved Proposition 13 in 1978.

Proposition 13 capped property tax rates for both residential and commercial properties at 1% of the assessed value. It also prevented a property's assessed value from growing more than 2% a year.

Currently, the value of residential or commercial property may be reassessed at a higher rate than 2% only when there is a change of ownership or new construction. For commercial property, the term "change of ownership" means that another entity or person has acquired at least 50% of the ownership interest of the entity that owns that property.

Legislative Attacks

Past legislative attacks on Proposition 13 protections have sought to redefine the term "change of ownership" for commercial property to accelerate how often the value of the property is reassessed, thereby increasing the tax rate and potential revenue.

Legislation to redefine "change of ownership" for commercial properties failed passage in the Legislature in 2010 and 2011. The California Chamber of Commerce identified the bills as "job killers." A 2012 bill to create a split roll task force to study the impact of split roll also failed.

No Shift in Tax Burden

Although split roll proponents contend there has been a shift in the property tax burden from commercial properties to homeowner properties, the assessed value of non-homeowner property subject to Proposition 13 has grown an average of 7.5% per year, compared to 7.2% for homeowner property, according to the state Board of Equalization (BOE).

Moreover, BOE data shows that business and non-homeowner property subject to Proposition 13 accounted for more than 60% of assessed value in 2011–12 (up from 58.17% in 1979–80) compared to just under 40% for homeowner-occupied property (slightly down from 41.83% in 1979–80).

Jobs Hit

The detrimental impact of the significant tax increase from a split roll was spelled out in a March 2012 report from Pepperdine University, *An Analysis of Split Roll Property Tax Issues and Impacts.*

The report concluded that implementing a split roll proposal could result in a $6 billion tax increase on commercial property. Businesses strapped with this type of tax increase would not be able to absorb the entire cost and would have to pass some if not all of the increase on to their tenants and customers through higher prices or rent.

The report also notes that split roll would force businesses to reduce labor given their loss in revenue.

The report estimates a loss of more than 390,000 jobs within the first five years, followed by the loss of another 100,000+ jobs in each subsequent year thereafter.

These significant consequences must be considered as a part of any discussion in 2013 regarding split roll.

Staff Contact: Jennifer Barrera

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absenteeism, reduced claims and fewer doctors' visits.

"And while the rest of the world has had on average an 8 percent, 8-and-a-half percent health care cost increase on an annual basis, our costs are nearly flat," Renda says.

One example of the success of Safeway's wellness program is Eric Ward, a facilities manager with the company. Ward has taken full advantage of Safeway's wellness program. By consciously choosing fresh fruit or vegetables to snack on, keeping a regular running schedule and making consistent use of Safeway's state-of-the-art fitness center at company headquarters, he's lost more than 60 pounds.

"I have a lot more energy, I have a lot more," says Ward. "I can lead my people as opposed to manage them. I listen to them more; I'm more attentive as opposed to just being tired."

Based on a Texas case study, wellness programs can yield savings of $2.43 for every dollar spent, according to the Centers for Disease Control. On a larger scale, it's the kind of math that adds up for any business, regardless of size.

"I think wellness is not just a smart business practice for the people who benefit, but also for the employers themselves," says Dr. Sanjay Varshney, dean of the School of Business at California State University, Sacramento.

Renda sums up the benefits best, saying, "Any business that doesn't invest in its employees and wellness programs is really missing a huge opportunity."

More Information

Businesses interested in learning more about how to establish a workplace wellness program and the tangible benefits it creates should visit ***www.healthlawguideforbusiness.org***.

Established in partnership with the Bay Area Council, CalChamber, California Hispanic Chambers of Commerce, California Restaurant Association, California Small Business Development Centers, Los Angeles Area Chamber of Commerce, Pacific Business Group on Health, Silicon Valley Leadership Group, Small Business California, Small Business Majority, and The California Endowment, Health Law Guide for Business is a first-of-its kind website devoted to informing California's business community about business-specific provisions of the health care law.

As an information hub for California businesses, the media and employees, Health Law Guide for Business provides accurate information on the health care law that's most important for employers to run and operate their businesses.

HEALTH LAW GUIDE FOR BUSINESS
Health Law Guide for Business.org

CalChamber-Sponsored Seminars/Trade Shows

More information: *calchamber.com/events*.

Labor Law

Guidelines for New PDL and Disability Discrimination Rules Seminar. CalChamber. February 15, Sacramento. (800) 331-8877.

Alternatives to Hiring Employees Webinar. CalChamber. February 21. (800) 331-8877.

Leaves of Absence: Making Sense of It All. CalChamber. May 9, Sacramento. (800) 331-8877.

Business Resources

ADA Seminar: Defense Strategies and Fee Awards. Association of Defense Counsel of Northern California and Nevada. February 22, Sacramento. (916) 239-4060.

Networking/Recruiting Fair for Employers. University of California (UC), Merced. March 13: University of the Pacific, Stockton; March 14: UC Merced; March 15: Fresno State University. (209) 228-7272.

Beverly Hills Tomorrow. Beverly Hills Chamber of Commerce. April 9, Beverly Hills. (310) 248-1000.

Government Relations

Condoleezza Rice: Advancing Women's Leadership. University of the Pacific. March 21, Stockton. (209) 946-2030.

International Trade

China-Americas Trade on the Pacific Rim. Institute of the Americas. February 20, Los Angeles. (858) 453-5560.

Investing in Bulgaria. Consulate General of Bulgaria in Los Angeles. February 28, Palo Alto. (310) 756-4383.

CeBit 2013: Shareconomy. Deutsche Messe. March 5–9, Hannover, Germany.

Asia Pacific Business Outlook. U.S. Commercial Service. April 8–9, Los Angeles. (213) 740-7130.

Hannover Messe 2013: Integrated Industry. Deutsche Messe. April 8–12, Hannover, Germany.

China-U.S. Business Summit 2013. China-U.S. Business Summit Committee. April 28–30, Los Angeles. (562) 437-8885.

World Trade Week Kickoff Breakfast. Los Angeles Area Chamber. May 2, Los Angeles. (213) 580-7569.

China International Technology Fair. Shanghai International Technology Exchange Center. May 8–11, Shanghai, China.

Health Insurance Cost Hike Pressures Continue as Reform Implementation Begins

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• **Aging and Growing Population:** The Congressional Budget Office estimates that the number of people over the age of 65 will increase by about 30% over the next 10 years. Older people have more health issues and use more health care services than younger people. Furthermore, overall life expectancy is at an all-time high. As advancements in medicine and nutrition continue, the number of individuals who need care increases in tandem.

• **Increase in Chronic Disease:** The growth of such chronic conditions as diabetes, asthma and heart disease, combined with an aging population and the growing ability to treat the chronically ill, contributes to higher levels of spending. In particular, there has been tremendous focus on the rise in rates of obesity and its contribution to chronic illnesses and health care spending.

• **Advancing Medical Technology:** Some analysts state that the availability of more expensive, state-of-the-art medical technologies and drugs fuels demand for more intense, costly services even if they are not necessarily cost-effective.

• **Unnecessary Spending:** Up to 20%, perhaps more, of total health care spending is due to various forms of waste, including overtreatment, failures of care coordination, failures of care delivery, administrative complexity, pricing failures, and fraud and abuse, according to the Kaiser Family Foundation.

• **Fragmentation of Care Delivery:** The managed care model behind the health maintenance organization (HMO) has contributed to cost containment, but coverage still suffers from fragmentation in many areas. In the traditional health care coverage model, providers are paid for volume rather than patient outcomes, generating little financial incentive to coordinate with others to deliver care more efficiently.

Affordable Care Act Cost Drivers

In addition to traditional continuing cost drivers, the following provisions of the ACA are expected to contribute to health care premium increases:

• **Guarantee Issue/Community Rating/Individual Mandate:** Beginning January 1, 2014, all individual and group health plans must issue policies to all applicants, regardless of health status, pre-existing conditions or other factors, and premiums cannot vary based on the applicant's gender or medical history. The risk of adverse selection (healthy individuals dropping coverage and entering the market only when they need coverage) is a concern; adverse selection could destabilize the market and increase rates for all those who remain in the risk pool.

• **Expansion of Covered Benefits/ Essential Health Benefits Package:** All health polices in the individual and small group markets will be required to cover a broad range of mandated benefits, many of which may or may not be included in coverage today. As a result, many people will be required to "buy up" and purchase coverage that is more costly than what they currently have. Furthermore, there will be limits on out-of-pocket costs for enrollees and no lifetime benefit maximum on these essential health benefits, further pushing up the cost of coverage.

• **Health Insurance Tax:** Beginning in 2014, the ACA imposes a new sales tax on health insurance. This tax is larger than all the other industry-specific taxes in the ACA combined.

• **Age Rating:** The ACA limits how much premiums can vary based on age, which means younger adults will be particularly hard-hit by new rules. Actuaries estimate that the effect will be to increase premiums for adults under age 30 while decreasing premiums for those aged 55 and above. This sudden rate increase could drive the young and healthy out of the market, until they become sick and need coverage.

• **Medical Device Tax:** Starting January 1, 2013, a 2.3% excise tax on gross receipts in excess of $5 million for domestically sold medical devices will be imposed on manufacturers. A narrow band of products that are "generally purchased by the general public at retail for individual use" are exempt from the tax. The total tax is projected to be more than $29 billion over the next 10 years.

• **Administration of the Exchange:** California was among the first to adopt the health benefit exchange established by the ACA, approving legislation in 2010 setting up "Covered California." Covered California's plan includes an assessment fee on premiums to fund the administration and operation of the exchange. The best case scenario would be an assessment of 2% on premiums, but if enrollment figures are lower than expected, the assessment could be as high as 5%.

• **No Cost Sharing on Preventive Services:** As of August 1, 2012, the ACA requires certain preventive health services and screenings to be covered in all new health insurance plans without cost sharing. This means that, for these services, there will be no co-payment or co-insurance for the services, nor will there be out-of-pocket costs if a deductible has not been met. Eliminating cost sharing will drive up the costs of coverage to the extent that current cost sharing is eliminated. Many preventive services may already have been provided without cost sharing in some plans.

• **Cost Shift:** Due to lower provider payments for Medicare, costs could shift to private payers in order to fully cover costs. This cost shift could fuel higher prices for those with private insurance, rather than public programs.

• **Administrative Costs:** Due to various new administrative requirements, including expanded documentation, notification and recordkeeping, costs for both employers and insurance companies will increase.

In addition, a number of taxes will be imposed directly on individual taxpayers beginning January 1, 2013 (see CalChamber ***Business Issues and Legislative Guide*** Issue Summary "New Taxes Take Effect in 2013 to Fund Health Care").

Staff Contact: Marti Fisher

Multiple Issues Draw Attention for State's International Trade Community

Trade Promotion, Trans-Pacific, European Union, Export Controls, World Trade Organization

Nearly 40% of California Chamber of Commerce member companies conduct business internationally and another 14% express interest in doing so, underscoring the importance of international trade and investment for the state's economic engine.

California is one of the 10 largest economies in the world with a gross state product of more than $1.9 trillion. The state exports to approximately 225 foreign markets.

Following is an overview of international trade issues expected to be the focus of much attention in the coming year.

Trade Promotion Authority

Trade promotion authority is the process by which the Congress gives authority to the President and/or U.S. Trade Representative to negotiate to lower U.S. export barriers. Without that authority, the United States will be compelled to sit on the sidelines while other countries negotiate numerous preferential trade agreements that put U.S. companies at a competitive disadvantage.

Trade promotion authority not only opens markets and broadens opportunities for U.S. goods and firms, it will make the United States the leader in global trade.

Congress has granted trade promotion authority to every President from Franklin D. Roosevelt to George W. Bush. Since the Trade Act of 2002, the United States has completed 11 free trade agreements (FTA). Financially, this translates into the removal of billions of dollars in tariffs for U.S. exports.

Trade promotion authority expired in June 2007 and must be extended by Congress once again.

Trans-Pacific Partnership

California needs to continue to engage the Asia-Pacific, which has half the world's population and many of the state's top trading partners. On November 14, 2009, President Barack Obama announced the United States' intention to engage with the Trans-Pacific Partnership (TPP) countries to develop a regional agreement, with the objective of shaping a high-standard, broad-based regional pact helping to expand U.S. exports, saving and creating U.S. jobs.

The TPP has been under way since 2005, and includes the following countries: New Zealand, Chile, Singapore, Brunei, Australia, Malaysia, Peru, and Vietnam. Mexico and Canada were officially invited to join negotiations in June 2012. Japan's participation in the negotiations is pending, and Thailand also has expressed interest in joining the TPP.

In 2011, U.S. exports with TPP members reached $105.4 billion and California exports were more than $14 billion.

Fifteen rounds of negotiations of the TPP agreement have been held through 2012, with additional rounds scheduled for 2013, including the 16th round in March in Singapore. It is anticipated that a comprehensive and commercially significant agreement will be concluded in 2013.

U.S.-European Union

Europe and the United States are set to launch trade talks in early 2013 for a potential U.S.-European Union FTA to further the world's largest regional trading relationship.

The EU market represents more than 500 million people, and has a total gross domestic product (GDP) of $17.5 trillion. The United States has more than 310 million people and a GDP of $15.1 trillion.

Total bilateral goods trade between the European Union and United States was nearly $636.9 billion in 2011, with the United States exporting $268.5 billion worth of goods to EU member nations.

California exports to the European Union in 2011 totaled $25.9 billion. California is one of the top exporting states to Europe, with computers, electronic products and chemical manufactures as the state's leading export sectors to the region.

EU countries purchase more than 16% of all California exports. For California companies, the single market presents a stable market with huge opportunity.

Export Control Reform

The federal administration has undertaken a restructuring of the nation's export control lists through the Export Control Reform Initiative. The goal of reforming export controls is to strengthen U.S. national security by prohibiting foreign sales of sensitive technologies while simplifying or eliminating controls where they serve no real security purpose.

In August 2009, comprehensive review of export control reform ordered by the President found that the current U.S. export control system does not sufficiently reduce national security risk because its structure is overly complicated, contains too many redundancies, and tries to protect too much.

A January 2010 study by the Milken Institute and the National Association of Manufacturers found that modernizing U.S. export controls could increase exports in high-value areas. By 2019, the study predicts, these policy adjustments could enhance real GDP by $64.2 billion (0.4%), create 160,000 manufacturing jobs, and heighten total employment by 340,000.

The administration is engaged with Congress regarding proposed reforms. More work implementing the regulatory and process reforms that will create a predictable, efficient and transparent export control system are needed as soon as possible.

World Trade Organization

Created in 1994 from the earlier General Agreement on Tariffs and Trade (GATT), the World Trade Organization (WTO) is the only global international organization dealing with the rules of trade between nations. Although multilateral trade negotiations have not recently been at the forefront—giving

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2013 Issues Guide Available on Website

The California Chamber of Commerce ***2013 Business Issues and Legislative Guide*** is available now at ***www.calchamber.com/businessissues.***

This easy-to-reference publication compiles background information on policies the CalChamber has identified as **Solutions for a Strong California**.

The ***Guide*** is a good research tool about the proposals that can serve as a foundation for positioning California to take advantage of the economic recovery, boosting job creation and minimizing uncertainty for job creators and investors.

The digital edition makes it easy to print selected pages from the ***Guide***.

In addition to general discussion of major issue areas critical to the economy, the ***Guide*** includes:

- Brief summaries of issues expected to arise in 2013;
- Biographies of CalChamber policy advocates/executive team;
- Guide to the legislative process, including protocol for contacting legislators, glossary of terms;
- How to write an effective lobbying letter;
- Guide to reading a bill;
- Tips on talking with the media;
- Recap of the CalChamber candidate recruitment/development program.

CalChamber preferred and executive members currently receiving printed copies of ***Alert*** will be receiving hard copies of the ***Guide*** in the mail. Preferred and executive members not receiving ***Alert*** via mail can request a hard copy of the ***Guide*** by emailing *alert@calchamber.com.*

Additional hard copies are available for purchase through the CalChamber store, ***www.calchamberstore.com.***

Multiple Issues Draw Attention for State's International Trade Community

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way to bilateral or regional agreements, there is sustained support by the business community for a global rules-based system.

At the Fourth Ministerial Conference in Doha, Qatar, in November 2001, WTO member governments agreed to launch new negotiations and work on other issues, in particular the implementation of the present agreements. The entire package is called the Doha Development Agenda.

In December 2011, ministers acknowledged there are significantly different perspectives on the possible results that members can achieve in certain areas of the WTO. It is unlikely that all elements of the Doha Development Round can be concluded simultaneously in the near future. The ministers nevertheless reaffirmed their commitment to delivering on the Doha mandate.

A large number of ministers pointed to the growing number of regional trade agreements and stressed the need to ensure that they remain complementary to, not a substitute for, the multilateral trading system. It is hoped that substantive negotiating will continue in the Doha round in 2013.

Earlier this month, WTO Director-General Pascal Lamy said in a speech that "removing barriers to trade and cutting red tape in half, which is what a multilateral Trade Facilitation Agreement could deliver, could stimulate the $22 trillion world economy by more than $1 trillion."

CalChamber Position

The CalChamber supports expansion of international trade and investment, fair and equitable market access for California products abroad, and elimination of disincentives that impede the international competitiveness of California business.

Detailed information vital to the businesses that make California one of the largest exporting states in the nation and one of the largest economies in the world is available at ***www.calchamber.com/international.***

Staff Contact: Susanne Stirling

LIVE WEBINAR | FEBRUARY 21, 2013 | 10:00 – 11:30 A.M. PT

Alternatives to Hiring Employees

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Not every job requires a regular full-time or even a part-time employee. But you do have options for getting the work done, especially when unexpected circumstances like a leave of absence or a special project requires backfill.

Join CalChamber employment law experts Erika Frank and Susan Kemp for a live, online discussion of your hiring alternatives, including seasonal workers, employee leasing, temporary employees and student internships.

Learn what alternatives are feasible for your organization, each bringing different employer liabilities and responsibilities. We'll provide compliance guidelines, addressing wage and hour issues, consequences of misclassifying employment status and more.

REGISTER at calchamber.com/feb21webinar or call (800) 331-8877 and mention priority code REG.

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