

ALERT

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CalChamber Releases List of New Employment Laws



The California Chamber of Commerce has released a list of new employment laws scheduled to take effect in 2015 or earlier that will have an impact on businesses in California.

Some of the new laws for 2015, such as mandatory paid sick leave, make significant changes to California's legal landscape. Other new laws make changes to different parts of existing law or may affect only employers in specified industries, such as farming.

Unless specified, the following list of new legislation goes into effect on January 1, 2015.

More details are available in a free CalChamber white paper, available at www.calchamber.com/newlaws2015.

Leaves of Absence

- **Mandatory Paid Sick Leave.** [AB 1522](#), the Healthy Workplaces, Healthy Families Act of 2014, requires employers to provide paid sick leave to any employee who worked in California for 30 days. The effective date for employers to begin providing the paid sick leave benefit is July 1, 2015.

The law contains many different nuances, such as detailed recordkeeping and notice requirements, including a new poster requirement. The law also contains penalties for noncompliance.

More information in the [HRCalifornia white paper](#).

- **Time Off for Emergency Duty: Expanded Category.** [AB 2536](#) adds new personnel to the list of employees eligible for protected time off for emergency duty.

Employee Protections

- **Protections for Unpaid Interns and**
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Local Chamber Communications Expert Joins CalChamber Team



[Russell Lahodny](#)

Russell Lahodny, a senior chamber communications executive, has joined the California Chamber of Commerce as vice president of local chamber relations.

Before joining the CalChamber staff, Lahodny had been senior vice president, communications for the Anaheim Chamber of Commerce since 2010. He will serve as an information resource for and CalChamber liaison with local chambers of commerce.

"Strong local chambers of commerce are an integral part of the CalChamber effort to keep the California business community strong," said Dave Kilby, CalChamber executive vice president of corporate affairs. "Russell's communication strengths will be a great asset in our continuing program to provide chambers with the resources they need to help their members succeed."

At the Anaheim Chamber, Lahodny maintained the quality and consistency of the chamber's messaging to its members and the business community. He created and oversaw all Anaheim Chamber communication tools, including a member newspaper, weekly e-newsletters, press releases, marketing materials, and website design. He also oversaw the Anaheim Chamber's legislative actions and coordi-

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Workers' Comp: State Costs Highest By Far

The biennial study by the Oregon Department of Business and Consumer Services has confirmed that California employers pay the highest workers' compensation costs in the nation—by a wide margin.

California has consistently ranked among the most expensive states in this workers' compensation rate study for more than a decade; however, California has not been tagged with the No. 1 spot since 2004.

The study revealed that California employers pay 188% more in workers' compensation costs than the national

median and 33% more than the second most expensive state (Connecticut).

Reasons for High Costs

Some of the reasons for California's high workers' compensation rates include:

- California has among the highest medical costs per workers' compensation claim in the nation, and higher-than-average costs per claim for cash benefits. Since 2005, average costs per claim have increased by \$30,000.

- California's rate of work injury claims per 1,000 workers is 46% higher
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Labor Law Corner

Holiday Pay for Exempt Employees Depends on Employer's Policy



Gary Hermann
HR Adviser

Does an exempt employee have to be paid for a holiday for which the employer closes?

Perhaps.

California law does not require an employer to pay anything for holidays,

when the employer is closed. Anything paid beyond an employee's regular rate for work on a holiday is not required by law and is governed only by an employer's policy.

The salary basis test for an exempt employee requires that the employee must receive payment of his/her salary for any day that the employee otherwise makes him/herself available to work and the employer chooses for the exempt employee not to work.

In the case of a holiday closure, it is the employer's choice for the exempt employee not to work, and therefore the employee is due his/her prorated salary for that day.

This would not be the case for closures of a full workweek or more.

Employers should be aware, however, that if there is a deduction from the employee's salary for a week, which reduces the employee's salary below the minimum requirements of the law, the exempt status of that employee may be jeopardized for that pay period.

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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Labor Law

HR Boot Camp. CalChamber. December 3, San Francisco; January 8, 2015, Fresno; January 27, 2015, San Jose; February 26, 2015, Redding; March 4, 2015, Los Angeles. (800) 331-8877.

2015 Employment Law Update. CalChamber. January 7, Sacramento; January 9, Fresno; January 13, Los Angeles; January 14, Long Beach; January 15, Costa Mesa; January 16, San Diego; January 21, Emeryville; January 28, San Jose.

Business Resources

Visit California's Outlook Forum 2015. Visit California. February 23-24, Greater Palm Springs. (916) 444-0410.

International Trade

11th Annual Global California Conference. Monterey Bay International Trade Association. December 3, Santa Cruz. (831) 335-4780.

Defense Trade Essentials. U.S. Department of Commerce. December 9, Los Angeles. (310) 235-7203.

Explore Exporting. Northern California Center for International Trade Development. December 9, Sacramento. (916) 563-3200.

U.S.-India Smart Grid Workshop. U.S. Trade Development Agency. December 9, San Francisco. (202) 213-8964.

Discover Sustainable Solutions. U.S. Commercial Service. February 9-11, 2015, Santa Clara.

SelectUSA Investment Summit. Select USA. March 23-24, 2015, National Harbor, Maryland. (202) 482-6800.

CalChamber Calendar

Business Services Committee:
December 4, San Francisco

Education Committee:

December 4, San Francisco

CalChamber Fundraising Committee:

December 4, San Francisco

Water Committee:

December 4, San Francisco

Board of Directors:

December 4-5, San Francisco

International Trade Breakfast:

December 5, San Francisco

Annual Meeting:

December 5, San Francisco

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Threat of Product Shipment Delays Looms as Port Worker Contract Talks Continue

The impact of the West Coast port disruption is becoming increasingly dire as the holiday season quickly approaches. The dispute centers on ongoing contract negotiations between the Pacific Maritime Association (PMA) and the International Longshore and Warehouse Union (ILWU).

Negotiations began in May with a six-year contract expiring in July.

White House Petition

The California Chamber of Commerce joined the U.S. Chamber and other business groups this week in signing a petition on the White House website urging President Barack Obama to get involved to end the dispute.

The petition is available at <http://petitions.whitehouse.gov>.

CalChamber also signed a multi-association letter to the President with manufacturers, farmers, wholesalers, retailers, importers, and transportation and logistics providers to express deep concern about ongoing interruptions at West Coast port terminal operations and to seek help to ensure the situation does not escalate to a complete shutdown of West Coast ports.

Port Activity

About 70% of containerized cargo moves through ports in California, Oregon and Washington.

Cargo congestion has built up at the two busiest U.S. container ports in Southern California in advance of peak cargo season. Management has accused the union of organizing work slowdowns while labor officials cite other factors contributing to delays, such as a shortage of unloading equipment and unusually high cargo traffic at the Los Angeles and Long Beach docks.

Since October 31, a work slowdown by ILWU members in the ports of Tacoma and Seattle has had an impact on the harvest season for Washington state apples, potatoes, Christmas trees and other perishable produce.

More recently, longshoremen on several shifts have walked off the job in Oakland. In the critical ports of Los Angeles and Long Beach, there is growing congestion. Retailers point out that



The Port of Oakland is the fifth busiest container port in the United States.

there are toys on those docks that need to be in homes for December gift exchanges.

The ILWU represents 20,000 West Coast full- and part-time dockworkers.

Jobs Impact

Port activity at ILWU marine terminals supported near 3.7 million California jobs in 2013, and contributed \$742.8 billion to the state's economy, about 37% of gross state product, according to a study prepared for PMA and released in April.

The principal business of the PMA is to negotiate and administer maritime labor agreements with the ILWU. This includes a coast-wide contract covering longshore, clerk and foreman workers at 29 ports along the West Coast, from Southern California to the Pacific Northwest.

Calls to Resolve Contract

PMA spokesman Wade Gates has called upon the ILWU to agree to a temporary contract extension while the two sides continue to work on a new agreement. The extension and a full return to work would give everyone—from shippers to consumers—the confidence needed before the critical holiday shopping season, Gates said.

Representatives from major U.S. manufacturing and shipping trade groups have met with White House officials to ask for a federal negotiator to intervene in the months-long labor dispute that has slowed West Coast ports.

The six U.S. senators from California, Washington and Oregon sent an open

letter to both sides, asking them to resolve the contract negotiations in order to ensure the “health, safety and economic well-being of the 13,600 longshore, clerk, and foreman workers ... as well as for companies large and small, agriculture producers, ports, and international buyers around the world.”

Letter to President

The multi-association letter to the President states that the threat of a West Coast port shutdown is creating high levels of uncertainty in a fragile economic climate, which has forced many businesses to once again undertake contingency plans that come at a significant cost to jobs and the state's economic competitiveness.

The West Coast lockout 12 years ago cost the U.S. economy \$1 billion a day. It took half a year for the ports to clear the backlog and recover from this 10-day shutdown.

A shutdown now could be even more costly. A study released in June by the National Association of Manufacturers and the National Retail Federation anticipates impacts at a much greater cost in 2014—nearly \$2 billion in daily costs to the economy for a five-day interruption.

The organizations believe that both parties can reach an agreement that will ensure the continued success and competitiveness of these ports for the foreseeable future, without any shutdowns or further disruptions.

Staff Contact: [Susanne Stirling](#)

CalChamber Fall Public Affairs Conference

Lawmakers, Experts, Journalists Discuss Election Results, State Policies, Political Strategies



CalChamber President and CEO Allan Zaremborg asks Nancy McFadden, executive secretary to Governor Edmund G. Brown Jr., about the administration's priorities for the Governor's final term on the second day of the public affairs conference.



Lisa Kennedy Montgomery entertains attendees during the conference lunch break, using humorous highlights and anecdotes about her career as a radio and TV personality.



Assembly Democratic Majority Whip Chris Holden (D-Pasadena) and Assembly Republican Leader Kristin Olsen (R-Modesto) speak on the challenges and importance of crafting good state policy, and being responsive at the local level.



Capitol Press Corps journalists Seema Mehta (left), *Los Angeles Times*; John Myers, KQED News; and Carla Marinucci, *San Francisco Chronicle*, discuss general election races and the diminished presence of journalists covering California politics.

Photos by Sara Espinosa



Incoming freshman Assembly members share the challenges they faced in their respective districts. From left are: Catharine Baker (R-Dublin), Miguel Santiago (D-Los Angeles), Evan Low (D-Campbell), Jim Wood (D-Healdsburg), Autumn Burke (D-Marina del Rey), Patrick O'Donnell (D-Long Beach) and Ling-Ling Chang (R-Diamond Bar).



Sophomore Assembly members give their perspectives on the hot button issues of the past year, such as education reform, health care and environmental policies. From left are: Cheryl Brown (D-San Bernardino), Matt Dababneh (D-Encino), Scott Wilk (R-Santa Clarita), Rudy Salas (D-Bakersfield), Susan Talamantes Eggman (D-Stockton), Tom Daly (D-Anaheim) and Melissa Melendez (R-Lake Elsinore).



Offering a recap of the 2014 California campaigns and answering questions from the audience are (from left) reform activists Charles Munger Jr. and Bill Bloomfield; Rich Schlackman, RMS Associates; and Rob Stutzman, Stutzman Public Affairs.



Joining moderator Bo Harmon (left) of BiPAC, in a discussion of federal races and campaign public relations strategies are (from left): Steven Law, American Crossroads; Fred Davis, Strategic Perception; Mark Putnam, Putnam Partners, LLC; and Chris Cooper, Convergence Targeted Communications.

CalChamber Releases List of New Employment Laws

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Volunteers. [AB 1443](#) adds unpaid interns and volunteers to the list of individuals protected from harassment under the Fair Employment and Housing Act (FEHA).

• **Nondiscrimination: Driver's Licenses for Undocumented Persons.** [AB 1660](#) makes it a violation of FEHA for an employer to discriminate against an individual because he/she holds or presents a driver's license issued to undocumented persons who can submit satisfactory proof of identity and California residency. These driver's licenses are scheduled to start being issued on January 1, 2015.

• **Immigration-Related Protections.** [AB 2751](#) expands the definition of an unfair immigration-related practice to include threatening to file or filing a false report or complaint with any state or federal agency. Current law extended the protection only to reports filed with the police.

• **Prohibition of Discrimination Against Public Assistance Recipients: Public Reports.** [AB 1792](#) prohibits discrimination and retaliation against employees receiving public assistance, which is defined as meaning the Medi-Cal program.

• **Harassment Prevention Training: Prevention of Abusive Conduct.** [AB 2053](#) requires employers that are subject to the mandatory sexual harassment prevention training requirement for supervisors to include a component on the prevention of "abusive conduct," beginning January 1, 2015. "Abusive conduct" is specifically defined by the new law.

• **Harassment Prevention Training: Farm Labor Contractors.** [SB 1087](#) imposes specific sexual harassment prevention training requirements on farm labor contractors, including a yearly training requirement for supervisory employees and training for nonsupervisory employees at the time of hire and every two years thereafter. The required content for the training is not as involved as [AB 1825](#) training.

Wage and Hour

Several new laws will increase employers' wage-and-hour obligations in 2015. Many of the new laws in the wage-and-hour arena deal with increasing penalties and expanding liability, instead of imposing significant new obligations on employers.

• **Increased Liability for Employers That Contract for Labor.** [AB 1897](#) imposes liability on employers who contract for labor. The purpose of the law is to hold companies accountable for wage-and-hour violations when they use staffing agencies or other labor contractors to supply workers. For more information, see the [October 24 Alert](#).

• **Rest and Recovery Periods.** [SB 1360](#) confirms that recovery periods that are taken pursuant to heat illness regulations are paid breaks and count as hours worked. [SB 1360](#) reiterates what is already in existing law in this area and was passed simply to clear up any confusion employers may have had.

• **Waiting Time Penalties.** [AB 1723](#) expands available enforcement mechanisms for assessing waiting time penalties when an employer willfully fails to timely pay wages to a resigned or discharged employee. [AB 2743](#) provides a waiting time penalty if unionized theatrical and concert venue employers violate any agreed upon timeframe for paying final wages contained in a collective bargaining agreement.

• **Protections for Complaints Under the Labor Code.** [AB 2751](#) clarifies that the \$10,000 penalty against an employer who discriminates or retaliates against an employee who complains of Labor Code violations will be awarded to the employee or employees who "suffered the violation."

• **Timeframe for Recovery of Wages: Liquidated Damages.** [AB 2074](#) states that a lawsuit seeking to recover liquidated damages for minimum wage violations can be filed any time before the expiration of the statute of limitations that applies to the underlying wage claim, which is three years.

• **Child Labor Law Violations: Increased Remedies.** [AB 2288](#) provides additional penalties for violations of California laws regarding employment of minors, including a penalty of \$25,000 to \$50,000 for "Class A" violations involving minors 12 years of age or younger.

• **Foreign Labor Contractors.** [SB 477](#) is noteworthy for employers that use foreign labor contractors to recruit foreign workers for California assignments. In part, it requires foreign labor contractors to meet registration, licensing and bonding requirements by July 1, 2016.

• **Prevailing Wages.** Bills signed include [AB 1939](#), allowing a contractor

to bring an action against "hiring parties" to recover any increased costs incurred because the work was performed on a covered public work subject to prevailing wage laws.

Background Checks

• **Criminal History Information in Public Contracts.** [AB 1650](#) requires contractors who bid on state contracts involving on-site construction-related services to certify that they will not ask applicants for on-site construction-related jobs to disclose information concerning criminal history at the time of an initial employment application.

• **Services to Minors.** [AB 1852](#) requires a business that provides specified services to minors to provide a written notice to the parent or guardian of the minor receiving those services. The written notice should address the business's policies relating to employee criminal background checks.

Workplace Safety

• **Penalties for Failure to Abate Safety Hazards.** Cal/OSHA can require an employer to abate (fix) serious workplace safety violations and also issue civil penalties. An employer can appeal the citation. [AB 1634](#), in effect, prohibits the state Occupational Safety and Health Appeals Board from modifying civil penalties for abatement or credit for abatement unless the employer has fixed the violation.

• **Email for Workplace Safety Reports.** [AB 326](#) allows employers to email their reports of a work-related serious injury, illness or death to the Division of Occupational Safety and Health.

• **Workplace Violence Prevention Plans: Hospitals.** [SB 1299](#) requires Cal/OSHA to adopt standards by January 1, 2016, that require specified types of hospitals, including general acute care hospitals or acute psychiatric hospitals, to adopt workplace violence prevention plans as part of the hospitals' injury and illness prevention plans.

Members-Only Analysis

A more in-depth analysis of the new employment laws is available to CalChamber members in the [October 16 HRCalifornia Extra](#).

CalChamber, Coalition Fight Proposal Expanding Federal Say on Water, Land Use



The California Chamber of Commerce has joined with 375 trade associations and chambers from 50 states to voice strong concerns with a proposal that will have a huge impact on

ordinary business activities by dramatically expanding federal authority over water and land uses across the country.

The U.S. Chamber-led coalition, including associations representing a wide range of industries, called for the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers to withdraw the flawed proposed rule and start over on drafting it.

By redefining what constitutes “waters of the United States” governed by the federal Clean Water Act, the proposed rule could expand federal jurisdiction over waters from 3.5 million river

and stream miles to well over 8 million river and stream miles, according to maps prepared by EPA.

The proposal also would likely result in more stringent storm water management requirements, which would affect retailers, companies with large parking lots, “big box” stores, etc.

Flawed Proposal

In comments submitted November 12, the groups state, “The proposed rule is really about the Agencies’ overreaching attempt to replace longstanding state and local control of land uses near water with centralized federal control. In light of the overwhelming evidence that the proposed rule would have a devastating impact on businesses, states, and local governments without any real benefit to water quality, the Agencies should immediately withdraw the waters of the U.S. proposal and begin again. The current proposed rule is simply too procedurally and legally flawed to repair.”

Impacts

Examples of the proposed rule’s impacts cited in the comments include:

- The rule would make most ditches into “tributaries.” Routine maintenance activities in ditches and on-site ponds and impoundments could trigger permits that can cost \$100,000 or more.

- These permitting requirements would likely trigger additional environmental reviews that would add years to the completion time for ordinary projects.

- Even if a project can get a permit, firms often will have to agree to mitigate environmental “damage” with costly restoration/mitigation projects.

Given the lack of a court order or court-issued deadline to revise the proposed rule, the agencies involved have enough time to redraft it, working with federal, state and local authorities to develop consensus-based changes that protect waters, encourage economic prosperity, and are legally defensible.

Staff Contact: Valerie Nera

Workers’ Comp: State Costs Highest By Far

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than the national median. Even as the rate in most states has declined, since 2012, California’s “claim frequency” has been increasing. The increases include a higher-than-average rate of “permanent disability” claims and an increase in claims involving cumulative trauma and those filed post-employment, particularly in the Los Angeles region.

- California’s system generally is more expensive to run because of higher-than-average litigation rates and complex administrative features.

2012 Reform/Benefit Hike

In 2012, the California Legislature reformed the workers compensation system by providing employers with new tools that are intended to reduce frictional costs, decrease litigation, stem abuses by vendors in the system, speed up the claims administration and make delivery of benefits more efficient.

The projected “savings” from these

measures were, however, put toward providing injured workers with nearly \$1 billion in benefit increases.

Currently, the “savings” in the reforms are projected to fully pay for the increased benefits, but it is unknown whether they will result in a net cost reduction to the system. It will take several more years to make a full assessment as state agencies must complete regulatory implementation and system stakeholders need to fully adjust to the new laws and regulations.

More Work Ahead

Meanwhile, employer costs have continued to increase since 2012 and the reforms are highly vulnerable to new abuse and legal rulings that run counter to the Legislature’s intent. It is clear that there is more work to be done in order to bring California’s workers’ compensation costs in line with what employers pay in other states.

Staff Contact: Jeremy Merz

Local Chamber Liaison

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nated monthly meetings featuring local elected officials.

Before relocating to Anaheim, Lahodny was vice president of communications at the Irvine Chamber of Commerce. During his seven years in Irvine, he helped the chamber earn 15 communications awards from the Western Association of Chamber Executives.

In his CalChamber position, Lahodny also will serve as vice president of the association.

Lahodny received his B.A. in communications with an emphasis in photojournalism from California State University, Fullerton, where he served as photo editor for the college newspaper, *The Daily Titan*.

Simplify your training requirement and reward supervisors with free coffee.

Regardless of company size, CalChamber recommends harassment prevention training for all supervisors and employees. Just ask any employer blindsided by a workplace harassment lawsuit—the costs are enormous. California requires companies with 50 or more employees to provide two hours of sexual harassment prevention training to all supervisors **within six months of hire or promotion**, and every two years thereafter. CalChamber's online training makes it easy to educate employees and meet your compliance requirements.



CalChamber's two-hour California harassment prevention training course for supervisors meets state requirements.



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HR Expert & Business Advocate™

P.O. BOX 1736 SACRAMENTO, CA 95812-1736
(916) 444-6670 FACSIMILE (916) 444-6685
www.calchamber.com

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