

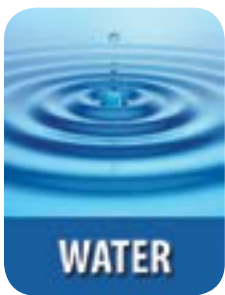
ALERT

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 **CalChamber**
CALIFORNIA CHAMBER OF COMMERCE

Light Snowpack Spotlights Need for Water Storage

Fourth Consecutive Drought Year Likely



The latest winter survey finding a “scant snowpack” and subsequent prediction that California’s drought will continue for the fourth consecutive year underline the state’s need for

water storage and conveyance facilities.

Storage allows California to capture water in wet years to convey it where needed during dry times. In addition, storage enables the state to control water flow and temperature to maintain adequate fresh water in the Sacramento-San

Joaquin Delta for farmlands and the benefit of fish species.

A dry January, normally the wettest month, plus warmer-than-average temperatures resulted in a snowpack of just 25% of the historic average for this time of year on January 29, according to the state Department of Water Resources (DWR). Near Echo Summit, about 90 miles east of Sacramento, the snow water equivalent was just 2.3 inches—12% of the long-term average at that location.

Wet Storm No Help

Although weather forecasts showed a storm front crossing the state late this week, the precipitation was expected to

See Light Snowpack: Page 4

2015 Issues Guide Available on Website



The California Chamber of Commerce **2015 Business Issues and Legislative Guide** is available now on the CalChamber website.

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

By increasing certainty and reducing competitive disadvantages for job creators and investors, the policies offer

private sector solutions for struggling Californians.

CalChamber preferred and executive members receiving printed copies of **Alert** will be receiving hard copies of the **Guide** in the mail. Preferred and executive members receiving the email **Alert** can request a hard copy by emailing alert@calchamber.com.

Additional hard copies are available for purchase (\$20 each). Mail checks to the California Chamber of Commerce, P.O. Box 1736, Sacramento, CA 95812-1736, Attn: Business Issues.

An e-book edition of the **Guide**, compatible with smartphones and tablets, as well as desktop computers with an e-book reader, can be downloaded free from www.calchamber.com/businessissues.

CalChamber Urges State to Fight Lawsuit Attacking Prop. 65 Lead Standard



The California Chamber of Commerce and a large coalition of businesses and trade associations are urging the state Office of Environmental Health Hazard Assessment (OEHA) to

“vigorously defend itself” against a recently filed lawsuit that bypassed agency protocol and went straight to the courts.

The lawsuit filed against OEHA by Mateel Environmental Justice Foundation asks the court to order OEHA to rescind the current safe harbor level for lead.

Under Proposition 65, a business need not provide a warning if exposure to lead occurs at or below the safe harbor level. Mateel argues that the warning threshold for lead should be declared illegal and inoperative despite having been published as a final rule by the agency nearly 25 years ago.

The CalChamber and coalition warn in a February 4 letter that the economic and legal impact of declaring the current lead safe harbor illegal and inoperative cannot be understated and may have broader long-term repercussions that could go far beyond the lead safe harbor issue.

Current Levels

The current safe harbor for lead—

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Labor Law Corner

Alternative Workweek Hours May Start 30 Days After Announcement



Gary Hermann
HR Adviser

Is the 30-day delay from the date of an alternative workweek vote to the institution of the schedule mandatory?

Yes, as far as an employer requiring the commencement of an alternative workweek goes.

Section 511 of the California Labor Code and Section 3 of the Industrial Welfare Commission orders establish the

process through which an alternative workweek must be adopted.

Secret Ballot Election

They provide that upon the employer proposing the alternative workweek to the employees in a readily identifiable work unit, the proposal may be adopted by a two-thirds favorable vote of the employees in the work unit in a secret ballot election.

The proposed agreement must designate a regularly scheduled alternative workweek in which the specified number of work days and work hours are recurring regularly. The actual days worked within that alternative workweek schedule need not be specified.

Before the election, the employer must disclose in writing to the affected employees the effects of the proposed agreement. The disclosure shall include meetings, with notice duly given, held at least 14 days prior to the vote.

The employer shall report the results of the secret ballot election to the Division of Labor Standards Enforcement within 30 days after the results of the vote are final.

30-Day Delay

Employees affected by a change in the work hours resulting from the adoption of an alternative workweek schedule may not be required to work those new work hours for at least 30 days after the announcement of the final results of the election. This does not prohibit employees who want to begin the alternative workweek from doing so.

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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CalChamber-Sponsored Seminars/Trade Shows

More information at www.calchamber.com/events.

Labor Law

How to Pay by the Rules in California. CalChamber. February 19, webinar. (800) 331-8877.

HR Boot Camp. CalChamber. February 26, Redding; March 4, Los Angeles; April 23, San Diego; June 10, Santa Clara. (800) 331-8877.

Business Resources

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

Responsible Sourcing Summit 2015. UL. March 3–4, West Hollywood. (310) 215-0554.

International Trade

Internet Export Marketing. Port of Los Angeles. February 11, Santa Ana. (310) 732-7765.

Economic Forecast Event. Los Angeles County Economic Development Corporation. February 18, Los Angeles. (213) 453-3909.

Grow Your Business Through Exports. Torrance Area Chamber. February 19, Torrance. (310) 540-5858.

7th Annual International Trade Celebration. Consulate General of Mexico. February 20, Los Angeles. (310) 922-0206.

Exporters for Ex-Im Fly-In. U.S. Chamber. February 24–25, Washington, D.C. (202) 659-6000.

See CalChamber-Sponsored: Page 7

**Quick Answers
to Tough
HR Questions**

 **HRCalifornia**®

Next Alert: February 27



From HRWatchdog Blog

Bizarre Excuses for Being Late to Work



Every now and then, the morning just doesn't go right and you wind up running late for work.

When asked in a new survey

from CareerBuilder how often they come in late to work, more than 23% of respondents admitted they do it at least once a month and 14% say it's a weekly occurrence for them.

Work Repercussions

Of the workers who admitted to being late for work in the past, 30% said they fibbed about the reason for their tardiness. Maybe they lied because the repercussions of lateness could be serious: 41% of employers who participated in the survey said they have actually fired an employee for being late.

Some employers are more lenient than others:

- 33% of employers who participated in the survey said they don't have a problem with the occasional late arrival, as long as it doesn't become a pattern.
- 16% said they don't need employees

to be punctual if they can still get their work done (this ties into the fact that 59% of workers who arrive late said they will stay later to make up for it).

Common Reasons for Being Late

Traffic is the most common cause of tardiness among employees (50%), followed by lack of sleep (30%) and bad weather (26%). Trying to get the kids to school or daycare is a roadblock for 1 in 10 workers (12%), while public transportation and wardrobe issues get in the way of being on time for 7% and 6% of workers, respectively.

Most Bizarre Excuses

Some workers place the blame on less conventional reasons. When asked about the most outrageous excuses employees used for being late, employers shared the following:

- I was drunk and forgot which Waffle House I parked my car next to.
- I had to wait for the judge to set my bail.
- I discovered my spouse was having an affair, so I followed him this morning to find out who he was having an affair with.

• Someone robbed the gas station I was at, and I didn't have enough gas to get to another station.

- There was a stranger sleeping in my car.
- A deer herd that was moving through town made me late.
- I'm not late. I was thinking about work on the way in.
- I dreamed that I got fired.
- I went out to my car to drive to work, and the trunk had been stolen out of it (in this case, the employee had the photo to prove it).

Harris Poll conducted the online survey on behalf of CareerBuilder among 2,192 hiring managers and HR professionals and 3,056 U.S. workers (employed fulltime, not self-employed, nongovernment) between November 4 and December 2, 2014.

HR Library

Absenteeism and tardiness are among the most frequent and difficult employee behaviors to discipline. CalChamber members can get more details on dealing with these issues from the HR Library's Absenteeism and Tardiness page on HRCalifornia.com.

CalChamber Urges State to Fight Lawsuit Attacking Prop. 65 Lead Standard

From Page 1

established by OEHHA in 1992—is the most stringent in the world at 0.5 micrograms per day, particularly due to Proposition 65's conservative 1,000-fold uncertainty factor requirement for reproductive toxicants. The safe harbor is based primarily on a federal standard and was considered carefully when adopted by OEHHA (the lead agency for implementing Proposition 65).

Mateel's lawsuit—more than two decades later—asks a court to overturn the lead agency's considered decision, thus placing California even more out of step with standards set by the federal government and other jurisdictions around the world. Mateel's argument relies on controversial and inconclusive science.

Economic/Legal Impacts

In the letter to OEHHA, CalChamber and the coalition explain that if the lead safe harbor is declared illegal, longstanding compliance determinations and prior court-approved settlements based on the existing lead warning threshold could be called into question. Some private enforcers would likely use any detectable

amount of lead, no matter how small, to support a notice letter and a lawsuit against a company.

Given Proposition 65's unique shifting of the burden of proof to the defendant, the relief Mateel seeks could open the doors to more unnecessary litigation, more burden on the overtaxed court

See CalChamber Urges State: Page 4



Light Snowpack Spotlights Need for Water Storage

From Page 1

be too warm to contribute significantly to the snowpack. In normal years, the snowpack supplies about 30% of California water needs as it melts in the spring and early summer, according to DWR.

For the beginning of a drought recov-

stations had recorded only 23.1 inches.

Storage Needs

Both surface and groundwater storage are essential for a more secure water supply. Overwhelming voter approval of Proposition 1, the California Chamber of

capacity. Shasta Lake north of Redding, the largest reservoir for California and the federal Central Valley Project, is holding just 44% of its capacity.

A map of electronic snowpack readings is available at <http://cdec.water.ca.gov/cdecapp/snowapp/sweg.action>.

Reservoir conditions are available at <http://cdec.water.ca.gov/cdecapp/resapp/getResGraphsMain.action>.

Staff Contact: Valerie Nera



Photo: Courtesy of Department of Water Resources

Lake Oroville showing the Enterprise Bridge looking from the South Fork on September 5, 2014.

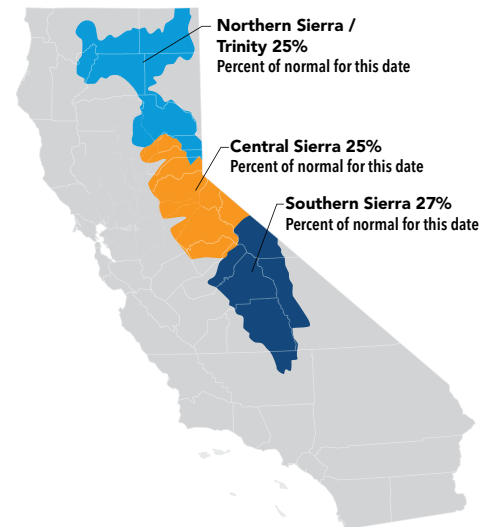
ery, DWR managers have said heavy precipitation and cooler temperatures in the next three months would be required for the snowpack to build.

State climatologist Michael Anderson has said ending the drought would require precipitation at least 150% of normal by the end of the water year in September—75 inches on DWR's eight-station index. As of the end of January, the

Commerce-supported water bond that contains funding for surface water storage, reflects Californians' concern over diminishing supplies and acknowledgment that current supplies are insufficient.

The lack of precipitation is reflected in the status of California's major water supply reservoirs. Lake Oroville in Butte County, the main reservoir for the State Water Project, is storing just 41% of its

The map shows snow water equivalents as of January 29.



Source: California Department of Water Resources

CalChamber Urges State to Fight Lawsuit Attacking Prop. 65 Lead Standard

From Page 3

system, more shifting of wealth to the coffers of the "citizen enforcers" and their counsel, and more incentives for businesses to provide unwarranted warnings, creating more consumer confusion as Proposition 65 warnings proliferate and indiscriminately cover products with trace concentrations of lead in the same manner as products containing concentrations that may actually present a meaningful health hazard.

From a policy standpoint, these results—which are virtually certain to occur if Mateel gets its way or if OEHHA accommodates Mateel in the litigation by not defending itself vigorously—go directly contrary to the Governor's calls to reduce Proposition 65 litigation and

OEHHA's calls to reduce the amount of warnings in California's stream of commerce.

Correct Procedural Steps

CalChamber and the coalition agree that Mateel, like any other interested party, has the right to ask OEHHA to re-examine the lead safe harbor.

Instead of playing by the rules by petitioning OEHHA to re-examine the safe harbor in a properly documented petition that could initiate a regulatory process if OEHHA agrees one is warranted, Mateel seeks to bypass this potential review by the agency and has gone straight to the judicial system.

Indeed, Mateel is no stranger to using the judicial system; it has filed nearly 800

notice letters and hundreds of Proposition 65 claims.

CalChamber and the coalition argue that to establish proper incentives and ground rules, OEHHA should demand that Mateel abandon its lawsuit without receiving consideration of any form in exchange.

Without a vigorous defense by OEHHA, Mateel's request for relief, if granted or resolved through a settlement, would have profound adverse economic, legal and policy implications, including the Proposition 65 litigation overload and excessive warnings that the Governor and OEHHA have said repeatedly they would like to avoid.

Staff Contact: [Anthony Samson](#)

Unwarranted Emergency Regulation Will Drive Up Health Care Costs

Last week the California Chamber of Commerce formally objected to a proposed emergency regulation that may jeopardize the quality and value of health insurance offered in the state by making mid-year changes to the rules governing health insurance policies.

The California Department of Insurance (CDI) filed the emergency regulation on provider network adequacy with the Office of Administrative Law (OAL) on January 20, and the public had five calendar days to provide comments.

Network adequacy refers to whether there are enough providers (hospitals, doctors, specialists, etc.) in the network associated with a particular health plan such that people can get in to see an in-network provider within a reasonable amount of time, without having to travel an unreasonable distance.

Depending on how CDI chooses to enforce the emergency regulation, it could expose insurers to substantial penalties because their 2015 plans are now out of compliance even though insurers acted in good faith and complied with the former regulatory requirements. The CalChamber is concerned this will unnecessarily drive up premiums for employers in 2016.

CDI argued that emergency action was necessary to prevent physical and financial harm because inadequate networks can act as a denial of care for some individuals, or force enrollees to take on debt to pay for the services of an out-of-network provider. While the department acknowledged that it was aware there might be issues with the network adequacy of some plans last year, the number and nature of complaints and stories that rolled in during the final months of 2014 made it clear that the problems were more serious than the department originally had believed.

CalChamber Concerns

It is unclear whether CDI intends to enforce these new provisions against health insurance contracts that are already in effect or that will take effect during 2015, or if CDI merely wishes to ensure these provisions are taken into account by the handful of CDI-regulated insurers that will be submitting policies to Covered California for possible inclusion on the

health care exchange in 2016.

As purchasers of insurance, CalChamber members' most immediate concern is that insurers might be subject to significant fines because current offerings do not meet the new requirements imposed by the proposed emergency regulation, even though the plans do comply with the prior regulations governing provider network adequacy. If that does happen, those costs will likely be passed on to employers in the form of higher premiums next year.

Marketplace Upheaval

Depending on how CDI chooses to implement and enforce the new rule, there could be considerable upheaval in the marketplace in 2015 and 2016. This disruption would be even worse if the permanent regulation later adopted through the formal rulemaking process differs substantially from the emergency one.

Employers are very concerned about this possible market disruption and with the possibility that their premiums in 2016 could increase if insurers are penalized for noncompliance with requirements adopted after their 2015 offerings were prepared and approved.

Although applying the proposed emergency regulation prospectively to 2016 plans would be less problematic for employers, it is unclear how use of the

emergency regulatory process actually addresses the issue CDI raised as the primary justification for use of the emergency rulemaking process.

After all, even if insurers design their 2016 policies for the Covered California exchange according to the guidelines in the proposed emergency regulation, those policies will still be out of compliance with the final regulation to the extent that it differs from the emergency one.

For these reasons, the CalChamber does not believe the use of the emergency regulatory process is appropriate in this case, and asked that OAL reject the proposed emergency regulation so that the issue of provider network adequacy could be addressed properly under the regular rulemaking procedure. Unfortunately, OAL approved the emergency regulation on January 30, and it went into effect immediately.

Next Steps

An emergency regulation remains in effect for 180 days (in this case, July 30, 2015) unless the agency submits a revised, final regulation adopted through the regular rulemaking procedure within that period, or the agency requests readoption of the emergency regulation for another 90 days. An agency may request readoption twice.

Staff Contact: [Mira Morton](#)

Stay Informed with Alert App Version 2.0

A new version of the California Chamber of Commerce **Alert** app is available for download now.

Besides a new look, Version 2.0 gives readers the ability to search story content. Still available is the ability to download a PDF of the **Alert** to read offline.

The search feature is made possible by moving the app to a new publishing platform. Therefore, readers who downloaded the previous version of the app will need to download Version 2.0 at www.calchamber.com/mobile. The previous version of the app is no longer supported and readers with that version will not receive any news updates.



Capitol Report CalChamber Voices Support for Transatlantic Partnership Agreement



The California Chamber of Commerce is urging United States and European Union leaders to advance the

largest regional trading and investment relationship in the world.

U.S. and EU leaders are in Brussels this week to negotiate the Transatlantic Trade and Investment Partnership (TTIP). Business and government leaders from the United States and the European Union also regularly participate in the Trans-Atlantic Business Dialogue to discuss priorities for eliminating trade and investment barriers across the Atlantic. In fact, this meeting between Europe and the United States marks the eighth round of trade and investment talks.

In the latest CalChamber Capitol Report, Susanne Stirling, CalChamber vice president of international affairs, explains that although these negotiations have been ongoing since 2013, with new EU officials in place, there is a sense of a fresh start for these particular negotiations, which will create new opportunities for a range of companies.

“The California Chamber of Commerce is pleased to support these negotiations in that it will create new opportunities for companies ranging from automobile manufacturers, pharmaceutical industries and medical devices,” Stirling says. “In fact, the European Union with its 28 member nations and the United States has the world’s largest trading and investing relationship in the world, and as the TTIP negotiations progress, we will hope for new, better and more jobs on both sides of the Atlantic.”

Transatlantic Trade and Investment Partnership

The trans-Atlantic economic partnership is a key driver of global economic growth, trade and prosperity, and represents the largest, most integrated and longest-standing regional economic relationship in the world. Together, the EU and the U.S. account for 11.5% of the world’s population, nearly half of global gross domestic product (GDP), 30% of global merchandise trade, and 40% of world trade in services.



Susanne Stirling, CalChamber vice president, international affairs, highlights the Transatlantic Trade and Investment Partnership. View video at www.youtube.com/calchamber.

The trans-Atlantic relationship defines the shape of the global economy as a whole; either the EU or the U.S. also is the largest trade and investment partner for almost all other countries.

According to the World Bank, the EU market represents 506.7 million people, and has a total GDP of \$17.4 trillion. The United States has more than 316.1 million people and a GDP of \$16.8 trillion.

Total bilateral goods trade between the European Union and United States was nearly \$650 billion in 2013, with the United States exporting \$262 billion worth of goods to EU member nations.

California exports to the European Union in 2013 totaled \$28.2 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 roughly 17% of all California exports. For California companies, the single market presents a stable market with huge opportunity.

Tariffs on goods traded between the U.S. and the EU average less than 3%, but even a small increase in trade could have major economic benefits. U.S. trade with Europe is much larger than with China. Although there are numerous issues such as agricultural subsidies, privacy and aircraft subsidies, obtaining agreements on issues such as uniform car

safety testing could be a huge benefit.

A free trade agreement could increase economic output and GDP in the long term, benefiting industries ranging from chemicals to automakers. EU-U.S. commercial links are unrivaled. Total U.S. annual investment in the EU is higher than in all of Asia, while EU investment in the U.S. far outstrips EU investment in India and China combined.

CalChamber Position

The CalChamber is supportive of Europe and the United States continuing trade talks to deepen the world’s largest trading relationship with a focus on trade and investment initiatives, including:

- eliminating tariffs on trans-Atlantic trade in goods;
- establishing compatible regulatory regimes in key sectors to address regulatory divergences that unnecessarily restrict trade;
- agreeing on bilateral investment;
- liberalizing cross-border trade in services, without exclusions; and
- bilateral expansion of government procurement commitments.

More Information

For more information on the importance of TTIP, visit the international website at www.calchamber.com/TTIP.
Staff Contact: [Susanne Stirling](mailto:Susanne.Stirling@calchamber.com)

CalChamber Urges Congress to Reauthorize Export-Import Bank to Boost Economy



The California Chamber of Commerce is urging members of the California congressional delegation to

support a newly introduced bill that reauthorizes the Export-Import Bank of the United States.

Without congressional action, the ability of the Ex-Im Bank to help finance the export of U.S. goods and services to international markets will expire on June 30, putting thousands of U.S. jobs at risk.

Without the bank, U.S. companies—small and large—will be at a serious disadvantage in their quest to turn export opportunities into real sales that help maintain and create U.S. jobs and contribute to a stronger national economy. The lack of financing will damage the economic recovery of both California and the nation.

The federal bill is H.R. 597, The Reform Exports and Expand the American Economy Act.

Support for Exports

With 80 years of experience, the Ex-Im Bank has supported more than \$567 billion of U.S. exports, primarily to developing markets worldwide.

In the 2013 fiscal year, Ex-Im Bank approved more than \$27 billion in total authorizations to support an estimated

\$37.4 billion in U.S. export sales and approximately 205,000 American jobs in communities across the country.

Nearly 400 California exporters were supported by the bank in 2013 alone for a total of \$5 billion in sales, according to the Ex-Im Bank.

Record of Success

The Ex-Im Bank is a self-sustaining agency that operates at no net cost to the taxpayers. Ex-Im Bank pays for itself by charging fees or interest to its customers for loans, credit insurance and loan guarantees those customers receive.

In the past fiscal year, the Ex-Im Bank has generated more than \$1 billion in excess revenue for U.S. taxpayers. Since 1990, the bank has refunded \$7 billion to the U.S. Treasury above all costs and loss reserves.

Small Business Support

Of the 800 California businesses the Ex-Im Bank assisted in the last five years, the vast majority were small businesses.

In fact, small businesses account for about 89% of Ex-Im Bank transactions. In addition, tens of thousands of small and medium-sized businesses supply

goods and services to large exporters.

In the 2014 fiscal year, the Ex-Im Bank provided more than \$5 billion in financing and insurance for U.S. small businesses.

CalChamber Position

Failure to reauthorize the Ex-Im Bank would amount to unilateral disarmament in the face of other nations' aggressive trade finance programs, putting at risk billions of dollars in U.S. exports and more than 150,000 U.S. jobs at 3,000 companies that depend on the bank to compete in global markets.

The CalChamber strongly urges Congress to consider legislation to reauthorize the Ex-Im Bank as expeditiously as possible.

Action Needed

The CalChamber is urging members to contact their representatives in Congress and urge **support** for **H.R. 597**.

An easy-to-edit sample letter is available in the grassroots action center at www.calchambervotes.com.

Staff Contact: Susanne Stirling



CalChamber-Sponsored Seminars/Trade Shows

From Page 2

Ex-Im Bank's Annual Conference.

Export-Import Bank of the United States. April 23–24, Washington, D.C. (703) 536-4992.

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

China-U.S. Business Summit. China-U.S. Business Summit Organizing Committee. April 26–28, Los Angeles. (626) 810-0820.

World Trade Week Kickoff Breakfast. Los Angeles Area Chamber. May 5,

Beverly Hills. (213) 580-7569.

SelectUSA Road Show in Mexico.

SelectUSA. May 12–14, Merida, Mexico City and Tijuana, Mexico. (202) 482-6800.

SelectUSA Greater China Road Show.

SelectUSA. May 18–29, Hong Kong, Shenzhen, Dongguan, Guangzhou, Shanghai, Shenyang and Dalian, China. (202) 482-6800.

9th World Chambers Congress. International Chamber of Commerce. June

Tools to stay in touch with your legislators.

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LIVE WEBINAR | FEBRUARY 19, 2015 | 10:00 - 11:30 A.M. PT

How to Pay by the Rules in California

California goes beyond federal law and requires more of employers when it comes to wage-and-hour laws. Properly classifying and paying employees gets complicated, so it's important to pay by the rules to avoid fines or legal trouble—especially with the increased wage-and-hour enforcement efforts of the state's Labor Commissioner.

Spend what could be the best use of your time when you attend CalChamber's 90-minute webinar on Thursday, February 19.

Cost: \$199.00 | Preferred/Executive Members: \$159.20



This webinar is mobile-optimized for viewing on tablets and smartphones.

LEARN MORE at calchamber.com/paybyrules or call (800) 331-8877.

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