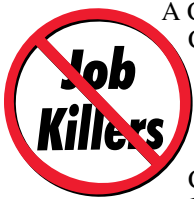


ALERT

VOLUME 41, NUMBER 24 • AUGUST 21, 2015



Anti-Arbitration Job Killer Awaiting Vote by Senate



A California Chamber of Commerce-opposed job killer bill that if enacted could significantly drive up litigation costs for all California employers as well as increase pressure

on the already-overburdened judicial system is on the Senate Floor.

AB 465 (R. Hernández; D-West Covina) precludes mandatory employment arbitration agreements, which is likely pre-empted by the Federal Arbitration Act. The bill will serve only to increase litigation costs of individual claims, representative actions and class action lawsuits against California employers of all sizes until such legislation can work through the judicial process to be challenged once again.

Increased Litigation

The CalChamber opposes AB 465 and identified it as a job killer because:

• **Existing Contract Law Already Requires All Employment Arbitration**

Agreements to Be Freely and Mutually Executed. Any contract must be knowing and voluntary or else it cannot be enforced. This standard is applicable to arbitration agreements, including those that are mandated as a condition of employment.

However, simply because an arbitration agreement is an adhesion contract, which is made as a condition of employment, does not mean the employee has not freely consented. Numerous decisions issued by the California and U.S. Supreme courts have determined that, like other adhesion contracts that are integrated into consumer product sales, an employee freely consents to the agreement.

• **Existing Law Already Mandates All Employment Arbitration Agreements to Be Conscionable.** While courts have upheld mandatory arbitration agreements as executed with free consent by the employee, the courts do recognize that an employee does not have the bargaining power to negotiate terms of the contract and, therefore, the courts have set forth

[See Anti-Arbitration: Page 6](#)

CalChamber White Paper Recaps Key Employment Law Developments



California's mandatory paid sick leave law is the story of the year. On July 1, employers had to start providing the benefit to employees. The Governor also signed "clean-up" amendments to the law that

went into effect on July 13.

But paid sick leave isn't the whole story. It's already been a busy year with several noteworthy developments that demand employers' attention.

The California Chamber of Commerce *2015 Midyear Employment Law Update* white paper recaps noteworthy employment law developments, such as important court rulings on:

- discrimination and harassment cases;
- on-call employees;
- exempt/nonexempt classification;
- leaves of absence; and
- disability accommodation and telecommuting.

Also covered are:

- AB 60 driver licenses;
- amendments to California Family Rights Act regulations; and
- new heat illness regulations that took effect May 1.

CalChamber [members](#) can download the white paper from HRCalifornia.com. A download link also is available for [nonmembers](#).

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2015 Fall Public Affairs Conference

November 3-4, 2015
The Ritz-Carlton
Marina del Rey, California



Labor Law Corner

Anti-Discrimination Section in Paid Sick Leave Law Can Affect Policies



David Leporiere
HR Adviser

My company has had a policy for years that requires employees to work the day before and the day after a holiday in order to receive pay for not working on the holiday. I'm hearing now that this policy may not be legal. Can we continue with this policy?

The new Healthy Families, Healthy Workplaces Act of 2014 (the paid sick

leave law that went into effect on July 1) has a broad anti-discrimination provision that will affect your company's policy.

California Labor Code Section 246.5(c)(1) states that "an employer shall not deny an employee the right to use accrued sick days... or in any manner discriminate against an employee for using accrued sick days...."

Enforcing a policy in a way that denies an employee additional compensation as a result of the employee using his/her accrued sick leave would be in violation of this new Labor Code section. Therefore, if one of your employees called in sick (and had accrued sick leave available) before and/or after a holiday, if you failed to pay the employee the holiday pay, you could be in violation of the anti-discrimination provisions of the paid sick leave law, unless one of the conditions below applied.

You would not violate the new law, however, if:

- the employee didn't use one of the covered reasons under the Healthy Families, Healthy Workplaces Act as his/her excuse for missing one of those days; or
- the employee did not have any sick leave available.

It would be a good practice to modify your existing holiday policy to reference the limitations to the policy resulting from the new sick leave law, so that your employees are aware of their rights under the law.

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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Financial Management for Your Business. Finagraph. September 29–30, Sacramento. (206) 922-4502.

Government Relations

Prop. 65 Annual Conference/Green Chemistry Conference. Environmental Clearinghouse LLP. September 28–29, San Francisco. (415) 391-9808.

Special rate for CalChamber members.

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HR Boot Camp. CalChamber. September 2, Laguna Beach. (800) 331-8877.

International Trade

Thai American Chamber's Night 2015. Thai American Chamber. August 26, Monterey Park. (626) 571-8222.

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Trade Winds-Africa Trade Mission. U.S. Commercial Service. September 14–21, Johannesburg, South Africa. (304) 347-5123.

Exporting Best Practices Workshop. California Center for International

Trade Development. September 15, Clovis. (559) 324-6401.

Importing into the U.S. Workshop. California Center for International Trade Development. September 15, Clovis. (559) 324-6401.

CalAsian Business Summit. CalAsian Pacific Chamber. September 17–18, Costa Mesa. (916) 446-7883.

Export Leaders Roundtable. Small Business Administration. September 17, Southern California (location to be determined). (415) 744-7730.

SBA Export Lender Roundtable. U.S. Small Business Administration. September 18, San Pedro. (415) 744-7730.

CalChamber Calendar

Water Committee:

September 3, Laguna Beach

Fundraising Committee:

September 3, Laguna Beach

Board of Directors:

September 3–4, Laguna Beach

International Breakfast:

September 4, Laguna Beach



Senate Fiscal Committee Delays Bill that Will Increase Health Care Premiums



OPPOSE

Committee suspense file on August 17, pending a review of the bill's fiscal impact.

AB 339 (Gordon; D-Menlo Park) severely restricts the ability of health insurers and pharmacy benefit managers to control health care costs on behalf of purchasers through their prescription drug benefit designs, and places strict caps on prescription drug copayments, shifting more drug costs into premiums.

AB 339 encourages utilization of expensive medications, and reduces flexibility, which will make health care less affordable for all.

While the CalChamber shares the author's concerns about patients' ability to afford necessary and potentially life-saving medications, capping out-of-pocket costs for expensive medications without addressing the underlying cost of those drugs will jeopardize the affordability of health care coverage for millions of California enrollees and purchasers.

Shifts Costs

AB 339 does nothing to lower the actual cost of prescription drugs. Instead, it caps what an enrollee can be asked to pay out-of-pocket for a month's supply of a prescription drug at \$250 for most enrollees.

This means that health care issuers would have to pay a larger share of the purchase price for affected prescription drugs and spread that additional cost out to all enrollees and purchasers in the form of higher premiums.

Cost-sharing caps also encourage inefficient utilization of the most expensive medications because the caps shield patients and their doctors from the cost of treatment, preventing them from taking cost into consideration when deciding which prescription drug is the right one to take or prescribe.

A California Chamber of Commerce-**opposed** bill that will drive up the cost of health care premiums was placed on the Senate Appropriations

If AB 339 were to pass, patients who might otherwise be treated effectively by a less expensive drug would no longer have an incentive to ask about the comparative cost of their other treatment options, nor would their doctors.

AB 339 also would compound the impact of cost-sharing caps by restricting how drugs may be placed into formulary tiers and imposing strict definitions for those tiers.

The strict rules proposed by AB 339 would give drug manufacturers more leverage during price negotiations, make drug prices even less transparent for enrollees and prescribers, and make it harder for insurers and pharmacy benefit managers to craft affordable benefit designs.

Bigger Impact in Future

AB 339 will have an even bigger impact in future years.

Three new hepatitis C medications that entered the market in late 2013 and 2014 had a huge impact on overall health care spending in 2014 due to their high price tags. Medicare alone spent \$4.5 billion on them.

While these medications can cost as much as \$1,000 per pill, there are only 3 million people in the United States with hepatitis C, and after a course of treatment with one of these drugs, most individuals are cured and do not require additional treatment.

In June, however, the federal Food and Drug Administration approved the first of two new cholesterol medications that are expected to cost between \$7,000 and \$15,000 per patient, per year.

Even though these new medications will cost much less than those used to treat hepatitis C, they could have an even larger effect on overall health care spending and premiums due to the sheer number of people who suffer from high cholesterol.

To put it in perspective, if all 3 million individuals with hepatitis C were treated at once for \$84,000 each, the total cost would be \$252 billion, but if all 120 million Americans with high cholesterol were treated for \$12,000 each, the cost with these new medications would exceed

more than \$1.4 trillion each year.

With drug costs rising generally, and new, more expensive drugs entering the market all the time to treat common, chronic conditions, health care costs and premiums are bound to rise no matter what.

But AB 339 eliminates the incentive for patients and doctors to be cost-conscious, and takes away many of the tools health insurers and pharmacy benefit managers use to curb inefficient and unnecessary spending on prescription drugs. As such, it is apt to cause prescription drug spending to rise much faster than it otherwise would, and not necessarily to the benefit of enrollees.

Affordability

Drug cost-sharing caps will affect affordability more outside of Covered California. Unlike the cost-sharing caps imposed by Covered California, which can be modified each year when the agency develops its benefit offerings for the coming year, AB 339 would enact these rules through state statute, making them harder to adjust later on.

In addition, more than 88% of individuals enrolled in Covered California's plans receive a premium subsidy, which buffers them somewhat from increases to their premium rates, but AB 339 will have an impact on premiums for millions of Californians who do not qualify for these subsidies, and their employers.

For example, the least expensive plan available through Covered California for a family of four making \$98,000, just over the eligibility threshold for a premium subsidy, costs \$781/month and has a \$4,500 individual deductible and a \$9,000 family deductible. At 9.3% of that family's gross income, the premium is hardly affordable, but AB 339 would make it even less so.

Action Needed

Contact your senator and members of Senate Appropriations and urge them to **oppose AB 339**. An easy-to-edit sample letter is available at www.calchambervotes.com.

Staff Contact: [Mira Morton](mailto:Mira.Morton@calchamber.com)

Senate Policy Committee Moves Transportation Funding Bill to Next Stop



A Senate policy committee this week passed a proposal to raise an estimated \$4.3 billion in new taxes and fees to help fund deferred maintenance on state highways and local streets

and roads.

The urgency special session bill, **SBX1 1, by Senator Jim Beall (D-San Jose)**, chair of the Senate Transportation and Infrastructure Development Committee, includes a new annual “road access charge” of \$35 per vehicle, as well as increasing the vehicle registration fee by \$35 per year plus another \$100 each for zero-emission vehicles.

The bill also proposes increasing the gasoline tax by 12 cents per gallon and the diesel fuel tax by 22 cents per gallon.

Transportation Coalition

Before the committee vote on the bill, a coalition of local government, business, labor and transportation groups, presented priorities that should be considered as part of the policy debate on the most effective way to adequately fund the state’s transportation infrastructure.

Make a significant investment in transportation infrastructure.

If California is to make a meaningful dent that demonstrates tangible benefits to taxpayers and drivers, any package should seek to raise **at least \$6 billion annually** and should remain in place for at least 10 years or until an alternative method of funding California’s transportation system is agreed upon.

Focus on maintaining and rehabilitating the current system.

Repairing California’s streets and highways involves much more than fixing potholes. It requires major road pavement overlays, fixing unsafe bridges, providing safe access for bicyclists and pedestrians, replacing storm water culverts, as well as operational improvements that necessitate, among other things, the construction of auxiliary lanes to relieve traffic congestion

choke points and fixing design deficiencies that have created unsafe merging and other traffic hazards. Efforts to supply funding for transit in addition to funding for roads should also focus on fixing the system first.

Invest a portion of diesel tax and/or cap-and-trade revenue to high-priority goods movement projects.

While the focus of a transportation funding package should be on maintaining and rehabilitating the existing system, California has a critical need to upgrade the goods movement infrastructure that is essential to our economic well-being. Establishing a framework to make appropriate investments in major goods movement arteries can lay the groundwork for greater investments in the future that also will improve air quality and reduce greenhouse gas emissions.

Raise revenues across a broad range of options.

Research by the California Alliance for Jobs and Transportation California shows that voters strongly support increased funding for transportation improvements. Voters are much more open to a package that spreads potential tax or fee increases across a broad range of options rather than just one source. Additionally, any package should move California toward an all-users pay structure in which everyone who benefits from the system contributes to maintaining it—from traditional gasoline-fueled vehicles, to hybrids, alternative fuel and electric vehicles, to commercial vehicles.

The coalition supports:

- Reasonable increases in gasoline and diesel excise taxes; and vehicle registration and vehicle license fees.
- Dedicating a portion of the cap-and-trade revenue paid by motorists at the pump to transportation projects that reduce greenhouse emissions.
- Ensuring existing transportation revenues are invested in transportation-related purposes (i.e. truck weight fees and fuel taxes for off-road vehicles that are currently being diverted into the general fund).
- User charge for electric and other nonfossil fuel-powered vehicles that currently do not contribute to road upkeep.

Equal split between state and local projects.

The coalition supports sharing revenue for roadway maintenance equally (50/50) between the state, and cities and counties. Funding to local governments should be provided directly (no intermediaries) to accelerate projects and ensure maximum accountability.

Strong accountability requirements to protect the taxpayers’ investment.

Voters and taxpayers must be assured that all transportation revenues are spent responsibly. Authorizing legislation should:

- Constitutionally protect transportation revenues for transportation infrastructure only. Time and again (Proposition 42, 2002; Proposition 1A, 2006; Proposition 22, 2010), voters have overwhelmingly supported dedicating and constitutionally protecting transportation dollars for those purposes. The coalition strongly supports protections that prohibit using transportation dollars for other purposes.

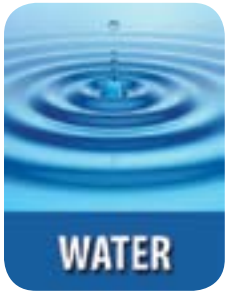
- Repay existing transportation loans and end ongoing diversions of transportation revenues, including approximately \$850 million in loans to the general fund and the annual loss of approximately \$140 million in off-highway vehicle fuel taxes.

- Establish performance and accountability criteria to ensure efficient and effective use of all funding. All tax dollars should be spent properly, and recipients of new revenues should be held accountable to the taxpayers, whether at the state or local level. Counties and cities should adopt project lists at public hearings and report annually to the State Controller’s Office regarding all transportation revenues and expenditures. Local governments also should commit to ensuring any new revenues supplement revenues currently invested in transportation projects. Both Caltrans and local governments can demonstrate and publicize the benefits associated with new transportation investments.

- Caltrans reform and oversight. To increase Caltrans effectiveness, provide stronger oversight by the state transportation commission of the programs funded by new revenues and establish an Inspec-

See Senate Policy Committee: Page 5

Economic Analysis: Farmers, Water Districts Show Resilience in Handling Drought



California agriculture is showing more resilience to the state's historic drought than many had anticipated, according to an analysis released this week.

The report from researchers at the Center for Watershed Sciences at the University of California, Davis, points out that crop fallowing and job losses have been reduced by groundwater substitution, water trading and operational flexibility.

Preserving the most valuable crops has helped offset the economic impact of the drought, according to the analysis, which still pegs direct agricultural costs of the drought at about \$1.84 billion and 10,120 jobs, including part-time jobs.

Taking multiplier effects into consideration, total agricultural output losses for 2015 will be as high as \$2.74 billion and nearly 21,000 jobs, the analysis projects.

In 2013, California's 77,900 farms and ranches received \$46.4 billion for their output, according to the website of the California Department of Food and Agriculture.

Uneven Effects

The analysis finds that the effects of

drought are distributed unevenly. In some regions with limited groundwater reserves the economic and employment impacts are very severe, while in others the increased cost of expanded groundwater use is partially offset by high crop prices.

If the drought continues to 2016 or beyond with similar intensity, it is likely "to slowly erode the state's agricultural production and employment."

The analysis predicts that California agriculture's resilience to surface water shortages is likely to continue through 2015. Being able to irrigate permanent crops with groundwater or marketed water will largely prevent the sector from more expensive fallowing of higher-valued and permanent crops.

Methodology

In estimating the economic impact of the drought, the researchers used changes in irrigation water deliveries, derived from reported deliveries and a survey of irrigation districts, to estimate farmers' responses, including additional groundwater pumping, water market purchases, and planting and fallowing decisions.

Using the changes in water availability to estimate economic impacts, the researchers said, avoided problems from ascribing all changes in aggregate economic production and employment to the drought.

The analysis notes that changes in business conditions, commodity prices

and other factors also affect agricultural revenues and employment, regardless of hydrologic conditions.

Other Conclusions

- Surface water shortages of nearly 8.7 million acre-feet will be mostly offset by increased groundwater pumping of 6 million acre-feet. Groundwater offsets almost 70% of the drought water shortage. Virtually all water shortages will be in the Central Valley.

- Net water shortages of 2.7 million acre-feet will cause roughly 542,000 acres to be idled—114,000 more acres than the 2014 drought estimate. Most idled land is in the Tulare Basin.

- The effects of continued drought through 2017 (assuming continued 2014 water supplies) will likely be 6% worse than in 2015. Gradual decline in groundwater pumping capacity and water elevations will add to the incremental costs of a prolonged drought.

- Increased groundwater overdraft will slowly deplete groundwater reserves at an incremental cost. New groundwater regulations could eventually reverse this trend and force groundwater basins toward sustainable yields. The transition will cause some increased fallowing or longer crop rotations, but will preserve California's ability to support more profitable permanent and vegetable crops through drought.

Staff Contact: [Valerie Nera](#)

Senate Policy Committee Moves Transportation Funding Bill to Next Stop

From Page 4

tor General office to provide accountability. Reduce Caltrans administrative budgets through efficiency reviews with all savings to be spent on road improvements.

- Expedite project delivery. More should be done to streamline project delivery, including but not limited to:
 - Establishing timelines for actions required by state agencies and eliminating other permit delays.
 - Increased implementation of alternative delivery systems that encourage more investment from the private sector.

- Reforms to speed project completion. **Provide consistent annual funding levels.**

Under current statute, the annual gas tax adjustment by the Board of Equalization is creating extreme fluctuations in funding levels—a \$900 million drop in this budget year alone. A transportation funding package should contain legislation that will create more consistent revenue projections and allow Caltrans and transportation agencies the certainty they need for longer term planning. While this change would not provide any new revenue to transportation, it would pro-

vide greater certainty for planning and project delivery purposes.

These priorities represent a solution to begin to address California's transportation funding shortfalls, resulting in real projects at both the state and local level. The coalition looks forward to working with the Legislature and Governor over the coming weeks as a transportation package is finalized.

The coalition has not taken a position on the pending transportation funding bills.

Staff Contact: [Jeremy Merz](#)

Task Force Finalizes Recommendations to Close Workforce Gaps



A community college task force will present its final proposals on how to prepare California's workforce for high-value jobs to the California Community Colleges Board of Governors in September.

Colleges Are at the Forefront

The task force, which is comprised of leaders from public, private and nonprofit sectors, has identified ways that California's community colleges can match workers with the credentials and skills that employers actually need.

"There are a lot of jobs out there that need to be filled that don't necessarily require a four-year degree and the community colleges are at the forefront to educate and prepare a workforce for those jobs," Allan Zarembek, president and CEO of the California Chamber of Commerce and task force member, said.

"That's a need that hasn't been met and I think this task force has taken the first step to ensure that we fill that void."

The proposals finalized by the task force include strategies for aligning student outcome and labor market data, updating community college curricula to better match workforce needs, expanding successful "career pathway" programs, and improving coordination and funding streams across the state's economic regions.

If approved, the work to implement changes could begin as early as January 2016.

Job Shortage Ahead

In regions across California, employers in key industries require workforce skills and aptitudes that are in short supply, according to a task force white paper. Companies today invest about half as much in training as they did a decade ago, and by 2025, it has been estimated

that California will be short 1 million middle-skill jobs. By 2020, more than 30% of the workforce will need to have some form of post-secondary education.

In response to these and other trends, the California Community Colleges Board of Governors commissioned the Task Force on Workforce, Job Creation, and a Strong Economy in 2014 to identify ways for the state to meet industry needs for a skilled workforce, support small business development, and attract jobs from around the country and the world.

More Information

The task force's recommendations also will be presented at two public town hall meetings in San Francisco and Los Angeles next week.

For more information on the task force, events and updates, visit doingwhatmatters.cccco.edu/StrongWorkforce.aspx.

Anti-Arbitration Job Killer Awaiting Vote by Senate

From Page 1

mandatory provisions that must be included in the arbitration agreement to make the agreement fair. Arbitration agreements that have not included these mandatory provisions have regularly been struck down as unconscionable.

• **Arbitration Does Not Favor Employers Under the "Repeat Player" Theory.** Proponents of AB 465 claim that employers obtain some favorable advantage in arbitration because they pay for the arbitration and often are a "repeat player" so the arbitration provider wants to ensure their continued business. This allegation is factually unsupported.

• **Studies Prove Employment Arbitration Is More Efficient and Provides Higher Success Rates for Employees.** According to the U.S. District Court Judicial Caseload Profiler, there were 29,312 civil cases filed in California in 2014. As of June 2014, approximately 2,132 cases had been pending in federal court in California for more than three years and the median time from filing of a civil complaint to trial in Northern California was 31 months.

Comparatively, a 2004 paper in the *Cornell Law Faculty Publication* by Theodore Eisenberg and Elizabeth Hill

found that employment arbitration was resolved within a year while litigation usually lasted more than two years; and that employee claimants win a higher proportion of arbitrations than trials.

• **AB 465 Is Broader Than AB 2617 (Weber; D-San Diego) and Includes All Employment Claims.** Proponents of AB 465 have suggested that this bill is the same as AB 2617 (Weber; D-San Diego), which was signed by Governor Edmund G. Brown Jr. last year.

This comparison is flawed. AB 2617 applied only to arbitration agreements for the resolution of hate crimes under the Unruh Civil Rights Act. AB 465 seeks to ban all pre-dispute arbitration agreements made as a condition of employment for any and all claims arising during the employment relationship.

• **AB 465 Will Force Low-Wage Employees to Overburdened Courts.** Banning pre-dispute employment arbitration agreements will force low-wage employees to overburdened courts.

Assuming an employee can find an attorney willing to pursue the case, an employee will potentially have to wait years for a resolution, as opposed to arbitration that is generally resolved in less than a year.

• **AB 465 Is Pre-Empted by Federal and State Laws.** AB 465 directly conflicts with these prior and recent rulings from both the California and U.S. Supreme courts, which have consistently stated any state law that interferes with the Federal Arbitration Act is pre-empted.

The CalChamber believes AB 465 would ultimately be found to be pre-empted as well. However, the time, cost and uncertainty created for all California employers while any legal challenge to AB 465 is pending in the judicial system would be detrimental to businesses and unnecessary.

• **AB 465 Will Create a Worse Litigation Environment and Lack of Job Creation.** California's economic recovery depends on its ability to create an environment where job creation can flourish. AB 465 will neither help California's litigation environment nor promote businesses' ability to create jobs as it will drive up California employers' litigation costs.

Action Needed

AB 465 awaits a vote by the Senate. Contact your senator and urge him/her to **oppose AB 465**.
Staff Contact: [Jennifer Barrera](mailto:Jennifer.Barrera@calchamber.com)

CalChamber Urges Reauthorization of Program for Immigrant Investors



The California Chamber of Commerce and a growing coalition of industry stakeholders will be urging

Congress to reauthorize a program to attract foreign investments and benefit the U.S. economy.

The CalChamber, Invest in the USA (IIUSA) and more than 700 industry signatories will be sending a letter to Congress urging the reauthorization of the EB-5 Regional Center Program.

The program, created in 1990, is known as EB-5 for the name of the employment-based fifth preference visa that participants receive.

EB-5 Program

Under the program, each investor is required to demonstrate that at least 10 new jobs were created or saved as a result of the EB-5 investment, which must be a minimum of \$1 million, or \$500,000 if the funds are invested in certain high-unemployment or rural areas.

Since the 2008 economic crisis, access to capital has been constricted and municipal budgets continue to face significant shortfalls. EB-5 investments have filled the funding gap, providing a new, vital source of capital for local economic development projects.

A comprehensive peer-reviewed economic study found that during fiscal year 2013, investments made through the EB-5 program contributed \$3.58 billion to U.S. gross domestic product and supported more than 41,000 U.S. jobs. These jobs were created at no cost to taxpayers.

The Congressional Budget Office has scored the program as revenue neutral, with administrative costs paid for by applicant fees.

Annually, the EB-5 Program accounts for less than 1% of the visas issued by the U.S. Throughout the process, EB-5 investors are subject to the same background checks and national security screenings as applicants in any other visa category, and their ability to eventually apply for citizenship is subject to the same criteria as other visa holders. Like any other investment vehicle, EB-5 investment funds are subject to U.S. securities and anti-fraud laws and regulations.

EB-5 Regional Center Program

In 1992, Congress enhanced the economic impact of the EB-5 program by permitting the designation of regional centers to pool EB-5 capital from multiple foreign investors for investment in economic development projects approved within a defined geographic region by the U.S. Citizenship and Immigration Services (USCIS). Today, 95% of all EB-5 capital is raised and invested by regional centers.

Regional centers maximize the program's job creation benefits by facilitating the investment of significant amounts of capital in large-scale projects—often in coordination with regional economic development agencies, which use the EB-5 funds to leverage additional capital. Regional centers use economic analysis models, including those developed by the U.S. Department of Commerce, to demonstrate that job creation targets required by law have been achieved.

For investments made through regional centers, at least 10 direct, indirect or induced jobs must be created. Existing federally designated regional centers include entities that are publicly owned and operated by state economic development agencies as well as public-private partnerships and private sector investment companies.

A regional center obtains its designation by submitting a detailed application to USCIS. The application must state the kinds of businesses that will receive capital from investors, the jobs that will be created directly or indirectly as a result of the investment, and the other positive economic impacts that will result from the investment. All investment offerings made by EB-5 Regional Centers are subject to U.S. securities laws, enforced by state securities regulators and the U.S. Securities and Exchange Commission.

Reauthorization Needed

If the program is allowed to sunset, hundreds of thousands of U.S. jobs will be lost and hundreds of projects will cease to develop or finish.

To maintain confidence in the program, Congress must pass legislation to reauthorize EB-5 before September 30, 2015 so the program can continue to create jobs and attract significant investment to the United States. The program is

essential to many state and local government economic development entities, as well as numerous industry groups and private sector project and business developers.

In 2012, the program was reauthorized by unanimous consent in the U.S. Senate and a 412-3 vote in the U.S. House of Representatives, demonstrating broad and bipartisan support.

Over the last three years since reauthorization, the program has grown in popularity as a source for funding critical economic development projects, but more importantly has continued to create U.S. jobs, all at no cost to the taxpayer. Between the 2005 and 2014 fiscal years, the program accounted for more than \$9 billion in capital investment that supported over 181,000 U.S. jobs.

Engine for Economic Growth

Additionally, the program's reauthorization has been endorsed by the U.S. Conference of Mayors, National Association of Counties, Council of Development Finance Agencies, and many state and local governments whose communities have benefited deeply from the program's economic impact firsthand. These organizations and others, both public and private, are depending on Congress' support to keep this important program a vital part of economic development in communities across the country.

Permanent authorization of the program is an essential affirmation of confidence to domestic entrepreneurs and foreign investors who are using the EB-5 program to create jobs for Americans today and are developing plans to do so in the future.

The EB-5 Immigrant Investor program is a practical U.S. job-creating program that has been extended with bipartisan support since its commencement in 1992, which has allowed for continuous job creating opportunities and essential economic development projects to get off the ground, particularly in recent years.

As Congress considers reauthorization, the coalition welcomes the opportunity to offer suggestions to make the program a more efficient, effective and secure economic development tool.

Staff Contacts: [Marti Fisher](#), [Susanne T. Stirling](#)

Protect your business and employees.



California companies with 50 or more employees are required 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 supervisor course meets state training requirements and helps your company avoid work situations that put you at risk for costly lawsuits. Regardless of company size, we recommend training for all nonsupervisory employees as well. Learners can start and stop anytime because the system tracks their progress.

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