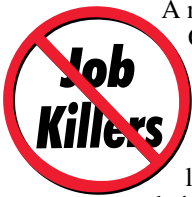


# ALERT

VOLUME 42, NUMBER 4 • FEBRUARY 5, 2016



## Chamber Opposition Stops 2015 Job Killer Holdovers



A number of California Chamber of Commerce-opposed job killer bills first identified in 2015 appear to be dead for this year after missing legislative deadlines or being amended.

### Missed Deadlines

- **AB 244 (Eggman; D-Stockton)** jeopardized access to credit for home mortgages and increased the challenge to attract business to California because of high housing prices by extending the homeowner's bill of rights to others, thereby opening the door to more private rights of action.

AB 244 was held in the Assembly Banking and Finance Committee on February 17, 2015, therefore missing the January 15, 2016 deadline for any committee to advance a bill introduced in that house last year.

- **AB 356 (Williams; D-Carpinteria)**

would have potentially shut down certain in-state oil production operations by redefining critical components of the Underground Injection Control program which would, in turn, have compromised oil production without providing any additional environmental and groundwater protections beyond those recently proposed by state regulators.

AB 356 was placed on the Assembly Inactive File on June 11, 2015, thereby missing the January 31, 2016 deadline to pass the house in which it was introduced in 2015.

- **AB 357 (Chiu; D-San Francisco)** would have imposed an unfair, one-size-fits-all, two-week notice scheduling mandate on certain retail and food employers that penalized these employers with "additional pay" for making changes to the schedule with less than two weeks notice, and additionally imposed a new, protected leave of absence from work for employees who are seeking public assistance.

*See CalChamber Opposition: Page 6*

## EEOC Proposes Collecting Pay Data from W-2s



In a significant departure from existing requirements, the Equal Employment Opportunity Commission (EEOC) recently announced that it is seeking to require large

employers to report pay data to the agency, including aggregate information from employee W-2s.

The EEOC is proposing to revise the federal EEO-1 report to include collecting pay data from employers with more than 100 employees. The EEOC said it is seeking the new data to assist in identifying possible pay discrimination in the workplace.

EEOC Chair Jenny Yang stated that the proposal will provide the EEOC with insight into "pay disparities across industries and occupations" and will allow the EEOC "to more effectively focus investigations, assess complaints of discrimination, and identify existing pay disparities that may warrant further examination." According to Yang, pay discrimination goes undetected due to lack of information about what people are paid.

The EEOC announced the proposal at a White House equal pay event commemorating the seventh anniversary of the federal Lilly Ledbetter Fair Pay Act.

*See EEOC Proposes: Page 6*

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## CAPITOL SUMMIT & SACRAMENTO HOST BREAKFAST

May 17-18, 2016



## Labor Law Corner

# Pregnancy Disability Leave: Returning Employee Has Right to Same Job



**Ellen S. Savage**  
HR Adviser

### *Do I have to give an employee her job back after her return from maternity leave?*

California law requires employers of five or more to provide a woman who is disabled by pregnancy up to four months off with a right to return to her job at the end of her leave. The term “maternity leave” is no longer used in California law; instead, this leave is called Pregnancy Disability Leave (PDL).

This leave covers any time off related to the pregnancy, including severe morning sickness, necessary bed rest, time off due to high blood pressure or other complications, labor, delivery, recovery, post-partum depression and even lactation problems.

As long as a woman is no longer disabled by her pregnancy and able to return to her job within the four-month leave period, she has a right to return to her same job. Return to the same job means she is entitled to the job she had before she left, including the same duties, pay, hours, location, and benefits.

### Exception

The only exception to these return rights is where the employee clearly would have lost her job even if she had not been on leave. Some examples of this might be:

- the employee’s whole department was laid off during her leave, and she clearly would have been part of the layoff; or
- the employer lays off a group of employees during her leave based on some objective criteria, such as the 10 least senior employees in the company,

and this employee was the second least senior employee.

If the employee is not returned to her job, the burden will be on the employer to show the employee would have lost her job for legitimate business reasons even if she had not been on leave.

### Additional Leave

An employee who is disabled for more than four months must be considered for additional leave under other federal and state disability accommodation laws, such as the Americans with Disabilities Act and California’s Fair Employment and Housing Act. If additional leave is granted, she may have rights to return to the same or a comparable job at the end of the additional leave.

Always consult legal counsel prior to terminating any employee on any disability leave.

*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](http://www.hrcalifornia.com).*

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## CalChamber-Sponsored Seminars/Trade Shows

More at [www.calchamber.com/events](http://www.calchamber.com/events).

### Labor Law

HR Boot Camp. CalChamber. February 25, Modesto; March 2, Los Angeles; May 10, Sacramento; June 9, Santa Clara; September 7, San Diego; September 22, Sacramento. (800) 331-8877.

Leaves of Absence. CalChamber. April 14, Sacramento; June 23, Huntington Beach; August 16, Sacramento. (800) 331-8877.

### International Trade

Annual State of the Port, Customs and Border Protection Update and Luncheon. Women in International Trade-Los Angeles. February 10, San Pedro. (213) 545-6479.

Export University Advanced Workshop Series. Export University. February 11, La Palma. (310) 732-7765.

Make-in-India Week. India Department of Industrial Policy and Promotion.

- February 13–18, Mumbai, India.
- Asia’s Best Kept Secret: The ASEAN Economic Community. U.S.-ASEAN Business Council. February 17, San Francisco. (202) 289-1911.
- Complying with U.S. Export Controls. Bureau of Industry and Security. February 17–18, San Diego. (858) 467-7036.
- Doing Business with China—Webinar. California Center for International Trade Development. (951) 571-6443.
- Executive Forum: Connecting the Asia-Pacific. National Center for APEC. February 25, San Francisco. (206) 441-9022.

*See CalChamber-Sponsored: Page 4*

Next Alert: February 26



# Paid Sick Leave Law Questions Continue to Trouble Employers Wanting to Comply



Paid Sick Leave

Every January, California Chamber of Commerce employment law experts travel up and down the state educating California employers about new employment laws

affecting the workplace.

The CalChamber *Employment Law Updates* seminars provide an opportunity for employers to learn about new workplace requirements and share questions or challenges they've experienced complying with existing laws or understanding new laws.

## Top Subject

Over a one-month span, CalChamber experts conducted nine seminars, speaking with hundreds of employers throughout the state. One topic that dominated every seminar was questions surrounding California's mandatory paid sick leave law, which took effect last year and required employers to provide paid sick leave (PSL) to their employees beginning July 1, 2015.

With the July 1, 2015 date on the horizon, most employers spent the beginning half of last year focused on making sure they had in place a sick leave or paid time off (PTO) policy that provided time off to their employees. Employers were either creating new and compliant policies or examining existing ones to ensure no changes were required.

Today, employers are looking back at their policies, wondering whether those policies are best suited for their workplace. More important, many employers are realizing that the law requires much more than simply providing days off to an employee.

As a result, some employers are contemplating adding another paid sick leave policy as a means of not only complying with the new law, but also allowing the employer to continue providing more than the minimum amount of sick leave time, but without the additional strings and restrictions that come with

California's sick leave law.

The paid sick leave questions asked at the CalChamber seminars often were related to misconceptions or misunderstandings about the law's minimum requirements and how the law's protections apply to more generous sick leave and PTO policies, as well as how to control misuse of paid sick leave.

More specifically, employers wanted to know: at what point can an employer ask for a doctor's note as a condition of taking or returning from paid sick leave?

Because we received so many questions about policies in place or newly created policies, below are a few key points to highlight as employers continue to comply with the law.

## Key Question

***Does the mandatory sick leave law apply to the entire sick leave or PTO policy—even to time that exceeds the statutory minimums?***

California's paid sick leave law provides minimum requirements that employers may either follow to the letter of the law or expand upon—an example being a policy that allows an employee to use and accrue more than the statutory minimum.

Whether an employer wants to offer only the minimum amount or wishes to offer more, the entire paid sick leave or PTO policy must comply with all aspects of the law.

1) **The law does not automatically limit employee use** to three days or 24 hours and cap accrual at 48 hours in a given year. The employer must establish these limitations by policy.

Absent a cap on accrual and limit on use, an employee will accrue either at the statutory rate of 1 hour for 30 hours worked or at a more generous rate and may use the time as accrued—even beyond three days or 24 hours.

Some employers had policies that limited use and capped accrual at five days or 40 hours. Although the limit on use exceeded the statutory minimum, the cap on accrual did not, and the employer's policy was not in compliance with the law.

2) **Recordkeeping requirements** apply to all time contained in a sick leave plan. The law requires employers to keep

records documenting the hours worked and the paid sick days accrued and used by the employee for at least three years. This requirement applies to all sick leave time provided—including time that is beyond the statutory minimum if the plan goes beyond the statute's minimum requirements.

3) **California's paid sick leave law also specifies when and how** an employee is paid for taking a "sick day." The "sick day" must be paid no later than the payday of the next regular payroll period after the sick leave was taken. The method of calculating the pay depends upon whether the employee is exempt or nonexempt.

For an exempt employee, paid sick time is calculated in the same manner as wages are calculated for other forms of paid leave time.

For nonexempt employees, paid sick leave is calculated either in the same manner as the "regular rate of pay" for the workweek in which the employee uses paid sick time or by "dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay period of the prior 90 days of employment."

Employers should take notice that paying a nonexempt employee for a sick day involves either calculating the employee's "regular rate of pay" or performing a 90-day look back. These two methods are not the same as the employee's "base rate."

Accordingly, employees taking a "sick day" may receive more in pay for being

*See Paid Sick Leave: Page 4*

## CalChamber Calendar

### *Water Committee:*

March 3, Dana Point

### *Education Committee:*

March 3, Dana Point

### *Fundraising Committee:*

March 3, Dana Point

### *Board of Directors:*

March 3-4, Dana Point

### *International Breakfast:*

March 4, Dana Point

### *Capitol Summit/Host Breakfast:*

May 17-18, Sacramento

## Paid Sick Leave Law Questions Continue to Trouble Employers

*From Page 3*

sick than they would receive for being out on vacation for a day. Moreover, the method of calculating pay applies to all sick time in a compliant sick leave or PTO policy.

Again, if your plan provides more time than the statutory minimum, then there will be more days within which this “sick pay” calculation will apply.

### Doctor’s Note

***When can we ask an employee to provide us with a doctor’s note for taking a sick day?***

If there was one paid sick leave question that dominated, it was about requiring a doctor’s note as a condition of either taking a paid sick day or returning from one. Many employers maintained policies that required doctor’s notes after three days of unexcused absences. Once sick leave became mandatory, many employers still tried to enforce those policies for a variety of reasons, one being to ensure employees weren’t “faking it” and otherwise taking advantage of a new paid leave.

Unless a medical certification is required pursuant to another leave law, no provision in the paid sick leave law specifically allows (or prohibits) an employer to ask for a doctor’s note as a condition of taking or returning from being sick. Instead, the law states that an employee must be able to take a sick day when a verbal or written request for the time off is communicated to the employer.

If the need for leave is foreseeable, the employee must provide reasonable advance notice. If the need is not foreseeable, then notice must be provided as “soon as practicable.”

Labor Code Section 247.5 also provides that an employer is not obliged to inquire into or record the purposes for which an employee uses sick leave.

In addition, an employer is prohibited from denying an employee the right to use accrued sick days. The employer also is prohibited from discharging or threatening to discharge, demote, suspend, or in any manner discriminate against an employee for using or attempting to use accrued sick days.

The Labor Commissioner’s office has stated in seminars and other outlets that requiring a doctor’s note may run afoul of the law’s protections against interfering with or otherwise discriminating against an employee seeking to use a sick day. Moreover, an employer who denies leave because an employee failed to provide details about the leave can end up facing a claim for violating the PSL law.

So when is it safe to ask for a doctor’s note? That depends upon the length of your sick leave policy and whether the employee has exhausted protected leave.

For example, if your paid sick leave policy uses an accrual method that also limits use to 24 hours or three days a year, then requiring a doctor’s note after the 24 hours or three days is used may be permissible since there is no more protected time. On the other hand, if you did not limit use to 24 hours or three days, you may run into trouble if you ask for a doctor’s note since the entire amount of the employee’s accrued paid sick leave is protected.

The key question is whether the employee is using time that is protected by the paid sick leave law. Whether a doctor’s note is permissible will depend upon whether the employee used protected time for the missed day of work and whether

any protected time is left in the sick leave or PTO bank. This, of course, is the Labor Commissioner’s opinion. While she has the authority to enforce the law, she does not have the authority to create it. Therefore, employers who wish to maintain a policy requiring a doctor’s note after a specified number of sick days should consult with legal counsel.

### Two Policies

***Is it possible to offer two policies—one that is compliant with the sick leave law and the other that is not?***

Many employers are looking at their policies wondering whether to change existing ones or even to carve out a separate PSL policy.

For those seeking to change an existing sick leave or PTO policy, make sure your changed policy still complies with the law’s requirements on accrual and use.

For those employers offering “richer” or more generous paid sick leave or PTO policies, creating or adding a separate “Healthy Workplaces, Healthy Families Act” policy may be the ticket to managing all the requirements and protections that go along with the new law.

In other words, an employer may offer the following: 1) PTO and 2) Healthy Workplaces, Healthy Families Act sick leave policy.

The existing PTO would operate separately and apart from the requirements of the Healthy Workplaces, Healthy Families Act sick leave policy.

Similarly, an employer could establish two sick leave policies, one of which is compliant with the law and the other which is simply a bank of time an employee may use if they are sick. Finally, employers should remember that the Healthy Workplaces, Healthy Families Act sick leave policy can either be a lump-sum policy or accrual base. For many employers, the lump-sum method may prove to be the most easy to provide and administer.

### More Information

Employers continuing to grapple with the paid sick leave law can find help at *HRCalifornia* or contact the Labor Law Helpline, a service for CalChamber preferred and executive members.

**Staff Contact: Erika Frank**

## CalChamber-Sponsored Seminars/Trade Shows

*From Page 2*

8th Celebration of the International Trade Community in Los Angeles. Consulate General of Mexico. February 26, Los Angeles. (310) 922-0206.

The Pacific Century: The Future of U.S.-Asia Economic Relations. Asia Society Northern California. February 26, San Francisco. (415) 421-8707.

GLOBE 2016 Conference & Innovation Expo. GLOBE Series. March 2–4, Vancouver, Canada.

Demystifying Exports and Imports. Port of Oakland. March 17, Oakland. (510) 273-6611.

TradeX-Trade Connect. Port of Los Angeles. March 17, Sylmar. (310) 732-7765.

12th Annual Global California Conference—The Pacific Rim Countries. Monterey Bay International Trade Association. March 24, Monterey. (831) 335-4780.

# Online Ingredient Communication Mandate Fails in Assembly; CalChamber Opposed



## OPPOSE

A new consumer product ingredient communication mandate that would have stifled innovation and imposed unnecessary burdens on businesses failed

to pass the Assembly last week.

**AB 708 (Jones-Sawyer; D-South Los Angeles)**, as amended, would have required businesses of certain consumer products, including cleaning products and automotive products, to specify on their company website a list of the 20 most prevalent ingredients in the product.

The California Chamber of Commerce **opposed** AB 708 because it failed to provide any protections for confidential business information (CBI), such as trade secrets and other intellectual property rights.

### Confidential Business Information

A CalChamber-led coalition repeatedly asked for confidential business information protection in the bill only for those substances that qualify as such under the conditions of the Freedom of Information Act (FOIA) and in compliance with California's own Uniform Trade Secrets Act (UTSA). Those conditions are:

- The business demonstrates it has taken reasonable measures to protect the confidential business information from disclosure and continues to take such measures;
- The information is not and has not been reasonably obtainable/readily reverse engineered; and
- Disclosure of the information is likely to cause substantial harm to the businesses' competitive position.

The promise of safer consumer products depends on protecting confidential business information. Without adequate protection, any significant innovation could become public knowledge to be exploited by competitors around the globe. That is among the reasons governments in developed economies have zealously protected confidential business information.

Importantly, the coalition sought

protections for confidential business information not to conceal such information from consumers, but rather to ensure that innovative products cannot be replicated by competitors through easy access to product ingredients.

### Costs of Innovation

Innovation in highly competitive industries commands millions of dollars in research and development for any given product, as well as years of effort. With stakes so high, the coalition had argued that there must be some assurance of a return on that investment where it succeeds in developing a new product that can be more sustainable and still command attention in the marketplace.

If confidential business information is not protected, the keys to any significant innovation become public knowledge immediately, open to exploitation by any competitor around the globe and undermining the possibility of securing a reasonable return on the investment that led to the innovation.

Many manufacturers depend on confidential business information protection to develop and offer products that meet consumer demands for effective and aesthetic products. Some manufacturers do not.

For example, a manufacturer may target consumers who prioritize green labeling and offer a product free of all confidential formulations. That approach serves some customers, but not all.

Many consumers want the features added by confidential formulations. That is why manufacturers in highly competitive industries may invest millions of dollars in research and development for a single product line.

AB 708's lack of protection for confidential business information would have discouraged such innovation and cost many manufacturers the necessary return on their previous investments.

### Regulators Have Access

California, the United States and governments throughout the developed economies have zealously protected confidential business information provisions precisely in recognition of their key role in stimulating innovation. Very importantly,

though, protecting confidential business information has never been sought to prevent appropriate regulatory oversight.

The confidential business information laws and regulations limit disclosure to the public (and therefore competitors), but California regulators and those throughout the developed world have always been able to access even protected confidential business information for regulatory purposes. California regulators such as the Air Resources Board, the Department of Pesticide Regulation and Department of Toxic Substances Control routinely and effectively access and utilize confidential information, with appropriate controls to prevent public disclosure.

Nothing in contemporary policies for protecting confidential business information prevents the state's regulatory authority from being guided by regulators fully knowledgeable about all relevant aspects of the chemicals and products in focus under AB 708. Protecting the underlying incentives to innovate in response to that regulation, however, absolutely requires protecting confidential business information.

### Frivolous Litigation

Beyond lacking protections for confidential business information, AB 708 would have resulted in yet additional avenues for frivolous litigation under California's unfair competition law (Business and Professions Code Section 17200). The unfair competition law has historically been and continues to be misused by a significant number of private lawyers in a variety of situations to squeeze out higher settlements and generate attorney fees without creating a corresponding public benefit.

AB 708 would have further exacerbated this problem by expanding its application.

### Key Vote

AB 708 failed to pass the Assembly 33-28 on January 28.

Ayes: Alejo (D-Salinas), Atkins (D-San Diego), Baker (R-San Ramon), Bloom (D-Santa Monica), Bonta (D-Oakland), Brown (D-San Bernardino), Chau (D-Monterey Park), Chiu (D-San Francisco), Chu (D-San Jose), Cooley (D-Ran-

*See Online Ingredient: Page 7*

## CalChamber Opposition Stops 2015 Job Killer Holdovers

From Page 1

AB 357 was placed on the Assembly Inactive File on June 4, 2015, thereby missing the January 31, 2016 deadline to pass the house in which it was introduced in 2015.

• **AB 1357 (Bloom; D-Santa Monica)** threatened jobs in beverage, retail and restaurant industries by arbitrarily and unfairly targeting certain beverages for a new tax in order to fund children's health programs.

AB 1357 failed to pass the Assembly Health Committee on May 12, 2015. It therefore missed both last year's deadline to be considered on the Assembly Floor and the January 22, 2016 deadline for bills introduced in 2015 to be sent to the Assembly Floor.

• **AB 1490 (Rendon; D-Lakewood)** would have driven up fuel prices and energy prices by imposing a de facto moratorium on well stimulation activities by halting the activity after an earthquake of a magnitude 2.0 or higher.

AB 1490 was in the Assembly Appro-

priations Committee on May 6, 2015. It missed both last year's deadline to be considered on the Assembly Floor and the January 22, 2016 deadline for bills introduced in 2015 to be sent to the Assembly Floor.

• **SB 203 (Monning; D-Carmel)** would have increased frivolous liability and exposed beverage manufacturers and food retailers to fines and penalties by mandating a state-only labeling requirement for sugar-sweetened drinks.

SB 203 failed to pass the Senate Health Committee on April 29, 2015, therefore missing the January 15, 2016 deadline for any policy committee to advance a bill introduced in that house last year.

• **SB 576 (Leno; D-San Francisco)** stifled innovation and growth in the mobile application economy and created unnecessary and costly litigation by mandating unnecessary, redundant and impractical requirements that will leave many current and future mobile applications unusable, with no benefit to the consumer.

SB 576 has been in the Senate Business,

Professions and Economic Development Committee since March 12, 2015, therefore missing the January 15, 2016 deadline for any policy committee to advance a bill introduced in that house last year.

### Amended to Remove Job Killer Status

Before the January 4, 2016 amendments, **SB 563 (Pan; D-Sacramento)** exposed injured workers to potentially inappropriate treatment, undercut the recent workers' compensation reforms and significantly increased workers' compensation costs by eliminating the Utilization Review and Independent Medical Review process for many treatment requests.

The January 4, 2016 amendments led to removal of the job killer tag. Based on those amendments and the author's commitment to adopt additional amendments that provide confidentiality protections to utilization review contracts, payment schedules and compensation agreements referenced in the bill language, the CalChamber is now **neutral** on SB 563.

## EEOC Proposes Collecting Pay Data from W-2s

From Page 1

### Background

Federal law requires all private employers with 100 or more employees to file the EEO-1 report annually. In addition, all federal government contractors and subcontractors with a contract of \$50,000 or more and with 50 or more employees must file EEO-1 reports.

Currently, the survey requires company employment data to be categorized by race/ethnicity, gender and job category.

### Proposal

Under the proposal:

• Employers, including federal contractors, with 100 or more employees would submit pay data beginning September 30, 2017.

• Employers would identify employees' total W-2 earnings for a 12-month period and would provide aggregate information on the EEO-1

• Employers would not provide indi-

vidual employee information but would instead provide information by job category and demographic group using 12 "pay bands" (salary ranges).

• Federal contractors with 50-99 employees would continue to report race, sex and ethnicity data, but would not report pay data.

Example from the EEOC: An employer would report on the EEO-1 that it employs 10 African American men who are Craft Workers in the second pay band (\$19,240-\$24,439).

The EEOC also provided a questions and answers document, a small business fact sheet and a link to the proposed EEO-1 form, accessible at [www.eeoc.gov](http://www.eeoc.gov).

### Comments Due by April 1

Comments on the proposed notice must be submitted by April 1, 2016. Comments can be submitted online at [www.regulations.gov](http://www.regulations.gov). Follow the instructions on the website for submitting comments.

Submit written comments to: Berna-

dette Wilson, Acting Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 131 M Street NE., Washington, D.C. 20507.

A public hearing on the comments also will be held at a place and time to be announced.

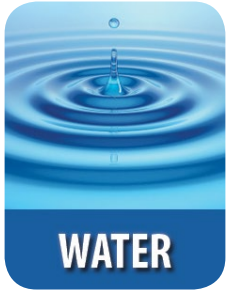
### Focus on Fair Pay

As the EEOC's proposal demonstrates, the issue of fair pay continues to be a focus at both the state and federal levels.

California's Fair Pay Act was recently amended to revise and expand previous state law protections (Labor Code Section 1197.5). The amendments, effective January 1, 2016, also reinforced provisions intended to address "pay secrecy." Employers can't prohibit employees from discussing wages.

CalChamber members can find more information about California law on the [HR Library's Fair Pay Act page](#). [Staff Contact: Gail Cecchetti Whaley](#)

# State Extends Water Restrictions



The State Water Resources Control Board (SWRCB) decided on February 2 to extend California's May 2015 Emergency Regulation restrictions on urban water use

through October 2016.

Despite recent rains and a growing snowpack, many of California's reservoirs and groundwater basins remain depleted, fueling the need for continued water conservation.

"While the recent rains and growing snowpack are wonderful to behold, we won't know until spring what effect it will have on the bottom line for California's unprecedented drought," Felicia Marcus, chair of the SWRCB, said. "Until we can tally that ledger, we have to keep conserving water every way we can. Every drop saved today is one that we may be very glad we have tomorrow."

## Emergency Regulation

Under the revised regulation, statewide water conservation is expected to exceed 20% compared to 2013 water use. The regulation responds to calls for greater consideration of certain factors that influence water use in different parts

of the state, including hotter-than-average climate, population growth, and significant investments in new local, drought resilient water sources, such as wastewater reuse and desalination.

The regulation also directs staff to report back on additional flexibility once more complete water supply information is known in April.

## Snowpack Survey

The February 2 snow survey conducted by the Department of Water Resources (DWR) shows marked improvement in the state's rainfall and Sierra Nevada snowpack water content. Statewide measurements indicate the water content in the mountains is 114% of normal for early February.

Most of the state's reservoirs, however, are holding much less than their historical averages. Among the eight reservoirs with capacities of 1 million acre-feet or more, all are currently below average storage for February 2. In fact, the only major reservoir with current storage above its historical average is Lake Folsom, at 107%.

DWR stressed in a press release that "Four and one-third years of drought have left a water deficit around the state that may be difficult to overcome in just one winter." Conservation, it stated, remains California's most reliable drought management tool.

## State Conservation

On February 2, the SWRCB also released its state water conservation update. It found that Californians have reduced water use by 25.5% since June 2015, despite a recent decline in the statewide water-savings rate.

In December, the statewide conservation rate was 18.3%, down from 20.4% in November, compared to the same months in 2013. A drop in the water conservation rate was expected during the cooler fall and winter months, when Californians use less water and there is less opportunity to save on outdoor water use compared with the hot summer months. Average statewide water use declined from 76 gallons per person per day in November to 67 gallons in December, the second lowest per-person rate since water-use reporting began in June 2014.

The SWRCB is urging Californians to keep up conservation efforts through the winter months. This includes complying with urban water supplier directives to switch to once-a-week watering schedules, and not using outdoor irrigation during and within 48 hours following a rain event.

For more information on state water regulations and conservation data, visit [www.swrcb.ca.gov](http://www.swrcb.ca.gov). For more information on DWR's snow survey, visit [www.water.ca.gov/news](http://www.water.ca.gov/news).

**Staff Contact: Valerie Nera**

# Online Ingredient Communication Mandate Fails in Assembly

From Page 5

cho Cordova), Dababneh (D-Encino), Gatto (D-Glendale), Gipson (D-Carson), Gomez (D-Los Angeles), Gonzalez (D-San Diego), Gordon (D-Menlo Park), R. Hernández (D-West Covina), Holden (D-Pasadena), Irwin (D-Thousand Oaks), Jones-Sawyer (D-South Los Angeles), Levine (D-San Rafael), Low (D-Campbell), McCarty (D-Sacramento), Mullin (D-South San Francisco), Nazarian (D-Sherman Oaks), Rendon (D-Lake-wood), Santiago (D-Los Angeles), M. Stone (D-Scotts Valley), Thurmond (D-Richmond), Ting (D-San Francisco), Weber (D-San Diego), Williams (D-Carpinteria), Wood (D-Healdsburg).

**Noes: Achadjian (R-San Luis Obispo), T. Allen (R-Huntington Beach), Bigelow (R-O'Neals), Bonilla (D-Concord), Brough (R-Dana Point), Chang (R-Diamond Bar), Chávez (R-Oceanside), Dodd (D-Napa), Frazier (D-Oakley), Gaines (R-El Dorado Hills), Gallagher (R-Yuba City), Grove (R-Bakersfield), Harper (R-Huntington Beach), Jones (R-Santee), Kim (R-Fullerton), Lackey (R-Palmdale), Linder (R-Corona), Mayes (R-Yucca Valley), Melendez (R-Lake Elsinore), Obernolte (R-Big Bear Lake), Olsen (R-Modesto), Patterson (R-Fresno), Quirk (D-Hayward), Salas (D-Bakersfield), Steinorth (R-Rancho**

**Cucamonga), Wagner (R-Irvine), Waldron (R-Escondido), Wilk (R-Santa Clarita).**

Absent/Abstaining/Not Voting: Burke (D-Inglewood), Calderon (D-Whittier), Campos (D-San Jose), Cooper (D-Elk Grove), Dahle (R-Bieber), Daly (D-Anaheim), Eggman (D-Stockton), C. Garcia (D-Bell Gardens), E. Garcia (D-Coachella), Gray (D-Merced), Hadley (R-Torrance), Lopez (D-San Fernando), Maischein (R-San Diego), Mathis (R-Visalia), Medina (D-Riverside), O'Donnell (D-Long Beach), Ridley-Thomas (D-Los Angeles), Rodriguez (D-Pomona).

**Staff Contact: Anthony Samson**

LIVE WEBINAR | THURSDAY, FEBRUARY 18, 2016 | 10:00 - 11:30 AM PT



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