

# ALERT

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## CalChamber: Tax Climate Affects State Fiscal Health

Broad-based, stable and economically sound tax policies, combined with effective use of tax credits can provide the greatest benefit to California's economy and budget outlook, the California Chamber of Commerce told a Senate committee this week.

Speaking at an informational hearing of the Senate Revenue and Taxation Committee, CalChamber Policy Advocate Kyla Christoffersen highlighted the effectiveness of a number of tax credits used by business (referred to as "tax expenditures" by the committee):

- **Research and development (R&D)**

**credit.** Christoffersen said numerous studies over the last couple of years confirm the R&D credit can spur investments and jobs. Critical for California to consider, she noted, is a recent study of California high technology firms that found R&D was the activity most likely to be sent offshore, with cost reduction being the most important of several motivating factors.

She pointed out that U.S. neighbors, Canada and Mexico, offer more generous R&D credits than the 15 percent provided by California.

In Canada, a flat 20 percent is available  
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## Early Signups Save Fees for Legislative Summit Registrants

Online registration is available now for the 21st annual California Business Legislative Summit sponsored by the California Chamber of Commerce.

The opening day of the Summit, scheduled for May 20-21 in Sacramento, will feature remarks by George Stephanopoulos, chief Washington correspondent for ABC News and former senior adviser to President Bill Clinton.

Attendees who register on or before April 18 can save 25 percent on the two-day registration fee.

### Summit Agenda

The CalChamber Summit provides business and local chamber of commerce leaders a forum to meet with peers and state policy experts and to focus on issues facing California businesses.

The agenda will feature a morning introduction from CalChamber President Allan Zaremborg, as well as discussions with noted experts on key policy issues and time to visit with state legislators.

The Summit aims to prepare attendees to be active in the policy-making process and to present the business perspective on issues affecting businesses' bottom lines.

State legislators are invited to join their constituents at the Summit luncheon, which also features presentations

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## CalChamber Public Affairs Council Hears from State Insurance Commissioner



Timothy J. McCallion (left), chair of the California Chamber of Commerce Public Affairs Council, talks with state Insurance Commissioner Steve Poizner following the commissioner's luncheon talk with the council. See story, more photos on Page 5.

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### Probationary Periods Effective Tool; Misconceptions Common



**Ellen Savage**  
Senior Helpline  
Consultant

*My company uses a 90-day probationary period to protect ourselves from wrongful termination lawsuits if we need to fire a new employee. However, I've heard this might contradict our "at-will" policy. Should we keep using a probationary period?*

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Probationary periods, better termed "introductory periods," can be an effective tool for you to evaluate performance and limit benefits eligibility for new hires. However, the following misconceptions about introductory periods are common:

#### Misconception #1

***Introductory periods contradict at-will employment.***

You may have heard that employment should be at-will from the first day, and that having an introductory period implies secure or guaranteed employment once the period is successfully completed.

However, the California Supreme Court recently clarified, in *Dore v. Arnold Worldwide Inc.*, that simply having an introductory period does not contradict an employer's at-will policy. As long as it is made clear that employment is at-will throughout the duration of employment, having an introductory period is fine.

#### Misconception #2

***An employee can be let go for any reason during the introductory period.***

You might terminate an employee during an introductory period, telling the employee "it just didn't work out." Many employers assume they are protected from wrongful termination or other lawsuits during any period they've defined as introductory. However, employees are protected from being fired for *illegal reasons* from the first moment they come to work for you.

An employee terminated during the introductory period might claim the

termination was due to discrimination based on race, sex, national origin or any of the other classes protected by law. Other claims might include wrongful termination in retaliation for reporting sexual harassment or for filing a workers' compensation claim.

Terminating an employee during an introductory period provides no legal protection against these claims. Therefore, you should always document a legitimate, non-discriminatory reason for terminating an employee, even within the introductory period.

#### Misconception #3

***Once the introductory period is over, it's a lot harder to fire the employee.***

Introductory periods by themselves do not provide any particular legal protection to employers. Employment should clearly be at-will, both during the introductory period and for the entire duration of employment. Some keys to protecting yourself from legal claims

*See Probationary: Page 4*

## Seminars/Trade Shows

For more information on the seminars listed below, visit [www.calchamber.com/events](http://www.calchamber.com/events).

#### Business Resources

The Green California Summit. Green Technology. April 7-9, Sacramento. (323) 936-7125.

#### International Trade

Energy Efficiency Symposium (Green Building). German-American Chamber of Commerce, California Branch. March 4, San Francisco. (415) 248-1240.

Philippine Agriculture Agenda 2008. Philippines Trade Commission for the Western Region. March 6, San Francisco. (510) 272-7331.

Danish American Business Summit 2008. March 6-7, Los Angeles (UCLA campus).

#### Labor Law

Lawful Terminations 201 Live Web Seminar. CalChamber. March 19. (800) 331-8877.

## CalChamber Calendar

*CalChamber Fundraising Committee:*

March 13, La Jolla

*Water Committee:*

March 13, La Jolla

*Board of Directors:*

March 13-14, La Jolla

*Climate Change Committee:*

March 14, La Jolla



# CalChamber Asks State Commission to Support Sunrise Powerlink Line



The Sunrise Powerlink transmission line is an important addition to the state's electricity grid, the California Chamber of Commerce told the California Public Utilities Commission

(CPUC) on February 25.

In addition to dramatically improving the reliability of the state's electric transmission grid, the Sunrise Powerlink will create greater access to clean energy from renewable sources such as solar, wind and geothermal, CalChamber Policy Advocate Amisha Patel told the CPUC at its San Diego meeting.

## New Transmission Line

The Sunrise Powerlink is a new electric transmission line proposed by San Diego Gas and Electric to be built between the Imperial Valley and San Diego. This 120-mile line will carry 500,000 volts of electricity — capable of serving the electricity needs of more than 650,000 customers — and will ensure a safe and reliable energy supply for the state's second largest city.

The CalChamber has spoken in support of the Sunrise Powerlink before the U.S. Department of Energy in May 2007, the California State Park and Recreation Commission in February 2007 and the California Independent System Operator (ISO) Board of Governors in August 2006.

Forecasts show that by 2010, the San Diego region will demand more power than can be generated locally or imported over existing transmission lines.

"San Diego is one of the weakest links in the state's energy grid. Not only do the region's overburdened transmission lines create a bottleneck in the state's energy grid, but the aging and unreliable infrastructure is incapable of transmitting enough power to keep the lights on during times of peak demand," said Patel.

## Meeting Demand

Until recently, no new power plants had been built in the San Diego region for nearly 50 years. The last new transmission line similar to the Sunrise Powerlink was constructed in 1983. Since that time, the demand for energy has doubled — straining existing infrastructure to the limit.

"To meet California's ambitious Renewables Portfolio Standard, San Diego Gas & Electric must have sufficient transmission capacity to link to renewable energy sources in the Imperial Valley and feed that new generation into the network," Patel said.

Also, with the signing of AB 32 (Núñez; D-Los Angeles) last year and the state's greenhouse gas reduction goals, projects such as the Sunrise Powerlink have become even more necessary for California.

"The CPUC's preferred method of addressing San Diego's energy needs with in-basin, fossil-fueled generation runs contrary to the state's aggressive global warming mandates," Patel said.

## Call for Action

Patel applauded the CPUC's approval of several large transmission projects in the last year, and stressed the critical need for the Sunrise Powerlink to be approved also.

Five CPUC commissioners will consider all the evidence and formally vote on the Sunrise Powerlink later this year.

**Staff Contact: Amisha Patel**

# CalChamber Comments on Potential 'Green' Building Standards

The California Chamber of Commerce, along with several other business, trade and building associations, recently submitted comments on proposed amendments to the California Buildings Standards Code that would create a set of statewide "green" building standards.

The CalChamber is supportive of a statewide standard for "green" building codes and believes the ongoing Building Standards Commission (BSC) process is the most effective, efficient and pragmatic way to make such a standard a reality.

The BSC has served as the lead oversight agency for all building standards adopted in California for the last 30 years. Given that mandatory "green" building standards ultimately must be incorporated into all six of the main state codes — building, fire, plumbing, mechanical, electrical and energy — the

CalChamber believes that vetting through the advisory committee process and then by the full commission is the only way to produce a "green" building code that is safe, economical and in sync with other sections of the code.

## Protecting Small Business

The CalChamber understands that cost efficiencies on "green" technology will have a point of diminishing return and wants to assure that the statewide standard advances the goals of creating resource-efficient buildings, while not being overly prescriptive and restrictive so as to ultimately make constructing new buildings feasible only for the largest of companies.

In its comments, the CalChamber expressed concern about creating a situation where building costs are increased to the point that some companies may choose not

to invest in new commercial development and/or in a manner that would significantly drive up lease costs. Lack of affordable commercial space would do the most damage to small/independent businesses that count on finding rents within their means in desirable locations to thrive.

## Future Risks

Although many of these proposed codes are currently "optional" for the commercial sector, the CalChamber must assume that anything adopted now will become mandatory later. If most of the items in these proposed codes become mandatory, businesses across the board may well be faced with increased costs for real estate and construction, and a builder's flexibility may be limited in a manner not intended by the committee.

**Staff Contact: John Hooper**



## Early Signups Save Fees for Legislative Summit Registrants

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recognizing outstanding advocacy on behalf of small businesses and by local chambers of commerce; the HR Partner of the Year Award; and local chambers that have supported the CalChamber's candidate political action committee, CalChamberPAC.

### Sacramento Host Committee

Following the close of the Summit the evening of May 20, Summit attendees have an opportunity to mingle with their peers and other leaders from business, agriculture, education and the military,

as well as administration officials and legislators, at the Sacramento Host Reception.

The reception welcomes out-of-town guests to the Sacramento Host Breakfast on May 21. Summit attendees have the opportunity to attend the invitation-only breakfast, which marks its 82nd anniversary this year.

Sacramento business leaders host the annual reception and breakfast to spotlight California's role in national and international commerce. The goal of both events is to provide California leaders an opportunity to exchange

views, establish and renew friendships and create statewide atmospheres of good will and understanding at the informal setting of a common table.

### Early Bird Savings

Attendees who register for the Summit on or before April 18 save 25 percent on the two-day fee, paying \$220 per person. After April 18, the two-day fee increases to \$275.

Other registration options are available. For more information or to register, visit [www.calchamber.com/legsummit08](http://www.calchamber.com/legsummit08).  
**Staff Contact: Alicia Smith**

## Probationary Periods Effective Tool; Misconceptions Common

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stemming from introductory periods are:

- Have clear statements that employment is at-will in all employment documents, such as employee handbooks, offer letters, performance reviews, etc.

- Don't indicate that once an employee "passes probation," he/she becomes a "permanent employee." Those terms directly contradict the concept of at-will employment.

- Train managers so they know not to create oral contracts of employment by saying things such as "We're glad you're on board for the long haul" or "As long as you do a good job, you'll have a job with us."

### Misconception #4

**Introductory periods protect employers from unemployment insurance (UI) claims.**

Employees are eligible for UI ben-

efits even if they are terminated during an introductory period. To calculate an employee's UI benefit, the state looks at a "base period" of one year, starting anywhere from three to six months before the termination (depending on what month the claim begins in).

Only employers who paid wages to the employee in the base period have charges made to their reserve account for that claim.

You would not be a base period employer for an employee who worked for you for less than three months. However, your UI reserve account may be charged if that same employee takes another job and quits or is fired during the period

#### If a claim begins in:

#### The base period is the 12 months ending the previous:

January, February, March.....	September 30
April, May, June.....	December 31
July, August, September.....	March 31
October, November, December.....	June 30

when you are the base period employer.

*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).*

**Mark Your  
Calendars**



**California Business  
Legislative Summit**  
May 20-21, 2008

# State Commissioner: Rapid Global Changes Affect Future of Job Creation in California

California's long-term health and prosperity depends on how the state deals with the rapid changes that have transformed the global economy, Insurance Commissioner Steve Poizner said February 21 at the California Chamber of Commerce Public Affairs Council conference.

The commissioner said that his belief in the free market system is what inspired his move from the private sector, after 20 years in business, into politics in an effort to help California's economy.

"In 1999, the California economy was the sixth largest in the world," Poizner pointed out. "By 2003, we had fallen to seventh and by last year we were eight and declining. We are rapidly losing market share in the global economy at a consistent and rapid clip."

Poizner stated that California has gone from first to worst in several categories, noting that 50 percent of California's fourth graders cannot read or pass basic proficiency tests.

Looking to transportation issues, Poizner remarked that the state's highway transportation system was built 25 years ago for 25 million people. California's

current population is approaching 37 million and will top 50 million by 2025. "Just yesterday, Californians lost 500,000 hours stuck in traffic, which costs the state \$20 billion in lost productivity," he said.

Poizner reminded the council that venture capital is the lifeblood of the startup community and a vital part of California's economy. "Fifty percent of the Silicon Valley's venture capital was invested outside of California for the very first time in history," he said.

## Global Economy

"The whole global economy has totally changed," Poizner said. "Look at what has happened in the last 20 years — the fall of Communism, the rise of the Internet, economic linearization in China, massive over-investment in telecommunications and fiber around the globe, insourcing, outsourcing, offshoring, all happening in a very short period of time to cause this fundamental economic transformation."

To help explain how these rapid changes affect California's job creation, Poizner pointed to the state's three biggest competitors — China, India and Russia.

"If you add up all of those people who live in those three countries, the total comes to three billion people," Poizner remarked. "If you assume that 90 percent of them are uneducated farmers, you're left with 300 million highly educated, aggressive business people, scientists, engineers and entrepreneurs, who for the first time in our history can stay put and compete with us head-to-head by simply plugging in. This brings change, rapid change. In fact, you get exponential change."

## 2009 Agenda

Looking to continue his success of the last year, Poizner outlined next year's agenda for the Department of Insurance. He vowed that he would continue to reduce the cost of insurance for everyone in California by aggressively attacking insurance fraud and also work hard to preserve the workers' compensation reforms. Poizner pointed out that workers' compensation premiums are now about \$20 billion per year, as opposed to \$32 billion during the peak of the crisis.

## CalChamber Council Reviews Results of Presidential Primary



Analyzing the results of the February presidential primary elections is the focus of a panel discussion at the Post-Presidential Primary Conference of the California Chamber of Commerce Public Affairs Council. Moderator of the discussion is council member and morning keynote speaker Kenneth L. Khachigian (left), former speech writer for President Ronald Reagan and a member of the CalChamber Board of Directors. Panelists are (from left): Eric Beach of the Giuliani for President campaign; Duane Dichiara of the Romney for President campaign; John Peschong of the McCain for President campaign; and Roger Salazar, Acosta/Salazar LLC. The conference sponsor was Boeing.

## Governor Signs Bill Package Aimed at Fiscal Crisis

The Legislature passed, and Governor Arnold Schwarzenegger signed, a \$1 billion package of bills intended to address California's \$14.5 billion fiscal crisis.

On January 10, the Governor declared a fiscal emergency and called the Legislature into a special session in accordance with the terms of Proposition 58.

As required by Proposition 58, Governor Schwarzenegger proposed his plan for addressing the fiscal emergency. The Governor's proposal filled more than 900 pages of solutions that turned the projected current year deficit into an \$864 million reserve and provided more than \$8.7 billion in cash solutions to ensure the state can pay its bills throughout the rest of the current year, and the budget year.

In total, the current plan turns the current year shortfall of \$3.3 billion into a reserve of more than \$1 billion, about \$178 million higher than what the Governor projected in his proposal. In addition, the plan takes the budget year problem of \$14.5 billion down to about \$7.4 billion.

The plan also provides more than \$8.6 billion in cash solutions to ensure the state continues to pay its bills.

### Key Budget Proposals

Some key elements of the proposal are as follows.

- In health, the plan reduces Medi-Cal rates by 10 percent, but puts off the cut until July 1 to enable further evaluation, and perhaps a chance to be restored in the regular budget process.

- In social services, the plan delays the Supplemental Security Income (SSI) Cost of Living Allowance (COLA) by four months, but does not take it away for the year.

- In education, the plan saves more than \$500 million in the current year by reverting and capturing unspent prior and current year funds.

- In resources, the plan does not approve any cuts that would lead to the closure of state parks.

- For the cash crisis, the plan provides more than \$8.6 billion in

cash solutions, but makes changes to the Governor's proposals that minimize the negative impacts of the solutions on local governments and school districts.

### Bipartisan Effort

In a statement, Governor Schwarzenegger said, "The Legislature should be commended for working together — both Republicans and Democrats — to make difficult decisions and take this first step toward fixing our state budget. Now that we have proven we are capable of working together to make these difficult but necessary cuts, we must keep going and immediately tackle the next step in solving our fiscal issues: the necessary cuts to our 2008-09 budget."

Achieving bipartisan support for the spending cuts allows the Legislature to, in effect, leave the Governor's fiscal emergency declaration active. This action will allow the Legislature to revisit the budget and make additional cuts at any time if the state's fiscal picture deteriorates.

**Staff Contact: Jeanne Cain**

## CalChamber: Tax Climate Affects State Fiscal Health

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for large companies, with 35 percent on the first \$1 million investment. Small firms can receive a 35 percent credit.

Mexico offers a 30 percent R&D credit for all R&D expenses and equipment used to conduct R&D.

- **Enterprise zones.** Christoffersen cited studies showing the effectiveness of the program in encouraging business investments within distressed communities in the state, thereby creating jobs.

An August 2006 study commissioned by the California Housing and Community Development Department found enterprise zones experienced lower poverty rates, plus higher household incomes, salaries and median rents.

Another 2006 study by an economist with the University of California, Davis, confirmed that employment in state enterprise zones grew at almost double the rate of the rest of the state and that tax collections generated by enterprise zones exceeded their cost. The study described California's enterprise zone program as "probably the most successful in the nation" — adding nearly 300,000 jobs to

California from 1992-2002.

The study emphasized that the cost of the California enterprise zone program is not high in comparison to the returns. For example, Alabama offered Mercedes \$253 million in incentives to locate one plant in its state and create 1,500 jobs at an average cost of \$168,000 each, unlikely to be recovered by the state.

By contrast, California's enterprise zone program costs "only slightly more than this one recruitment effort, and yet it is a key part in a massive statewide job expansion involving tens of thousands of jobs per year," according to the study.

### Job/Investment Growth Critical

The most important criteria to consider in evaluating tax credits and competing demands for resources is job growth and investment, Christoffersen told the committee. Stimulating the economy, she noted, is the only way California can generate the tax revenues it needs to run the state over the long term.

California needs to ensure that its jobs and businesses are expanding at least as fast — ideally faster — as the expansion of

the state's needs, such as infrastructure, education and social services.

In today's marketplace, the reality is that workers and operations are highly mobile, Christoffersen pointed out. Businesses today have a lot of options in choosing where they want to locate or expand.

In the CalChamber's informal 2007 tax survey of its members, 83 percent of those responding, which included a variety of large and small employers, indicated that in deciding whether to locate or expand jobs or operations in California, the current tax climate is somewhat unattractive or not attractive at all.

What businesses want is simple, Christoffersen said — to be able to run their businesses cost-effectively. Predictability and stability of tax policies are essential so businesses are able to plan and make long-term investment decisions.

The state's overarching goal should not be to get more tax revenues from California workers and companies, but rather to attract more workers and companies into California to generate tax revenues.

**Staff Contact: Kyla Christoffersen**



# Hong Kong Commissioner Discusses Economy, Trade with CalChamber

Hong Kong is the “window of China and door to the world,” Hong Kong Commissioner Margaret Fong told attendees at a California Chamber of Commerce-hosted international luncheon forum on February 14.

Fong specifically discussed Hong Kong’s strong economic ties with California with the more than 80 luncheon guests. Government officials and businesspeople from California and Hong Kong, including representatives of finance, agriculture, transportation, manufacturing and technology, all were present.

## Vibrant Economy

Compared to California, Hong Kong is small, with a population of 7 million, whereas California’s population is more than 38 million people. To better illustrate her point, Fong noted that Hong Kong is only 400 square miles, easily fitting into the border of any California county. As a result, the commissioner said, “From day one, we knew we would have to reach out to the rest of the world.”

Fong identified a set of core values that has allowed the Hong Kong economy to flourish: “Hong Kong is very proud to be an open market and free trade supporter,” she said. “The best way to make the rest of the world feel welcome is to have no trade barriers, quotas or tariffs, so that when businesses come, they will feel very welcome and become a part of Hong Kong.”

Hong Kong’s values system offers a level playing field for all businesses, practicing common law, offers an educated workforce that is fluent in several languages, as well as an entrepreneurial flair, the commissioner said.

Hong Kong is a special administrative region (SAR) of the People’s Republic of China, Fong explained.

On July 1, 1997, Hong Kong ceased to be a colony after more than 150 years of British rule, becoming a part of the People’s Republic of China. Hong Kong is able to continue to operate because Hong Kong is a “very special part of Mainland China,” Fong said.

Hong Kong practices the belief of “one country, two systems,” and still retains full and separate membership with the World



Hong Kong Commissioner Margaret Fong presents California Chamber of Commerce President Allan Zaremberg with a paperweight using a stylized orchid representing the spirit, strength and resilience of the people of Hong Kong following her remarks at a CalChamber International Luncheon Forum.

Trade Organization and Asia-Pacific Economic Cooperation.

## California-Hong Kong Relationship

California and Hong Kong’s financial stability is strongly interconnected. Fong called Hong Kong and California “natural partners.”

Hong Kong has a very stable and convertible Hong Kong dollar, which is pegged to the U.S. dollar, Fong said.

“When the U.S. dollar goes up, the Hong Kong dollar goes up. In fact, where the U.S. dollar is right now, you are in for a bargain. One U.S. dollar is 7.8 Hong Kong dollars, so whatever you can spend here, you can be eight times more efficient in Hong Kong,” she said.

“You must be thinking about visiting us tomorrow,” the commissioner teased.

Hong Kong continues to be California’s eighth largest export market. California accounts for more than 27 percent of all U.S. exports to Hong Kong. California’s exports to Hong Kong are driven by computers and electronic products, which account for 65 percent of all California exports to Hong Kong. Key exports to Hong Kong showing growth in 2006 include chemicals and crop production.

In 2006, California’s exports to Hong

Kong totaled more than \$4.8 billion.

Hong Kong is the second largest recipient for foreign direct investment (FDI) in Asia after Mainland China, and is the seventh largest recipient of FDI in the world.

Fong reeled off these statistics: On a per capita basis, Hong Kong imports twice as much as Mexico, three times as much as Australia, four times as much as South Korea, five times as much as Japan and six times as much as the European Union. Fong highly recommended that businesses wishing to sell goods in Hong Kong do so because “we are small, but we love to consume, just like Americans.”

## Trading Partner Portal

On February 14, the CalChamber launched a web portal for information about Hong Kong. The portal is one of a new series of online international portals featuring California’s top trading partners.

The new Hong Kong portal links to key country contacts, including business resources and cultural and educational references. Also available for easy reference are trade statistics and information on foreign direct investment in California.

The trading partner portal for Hong Kong is in the international section of the CalChamber website at [www.calchamber.com/international](http://www.calchamber.com/international).

Staff Contact: Susanne Stirling

## Don't Go from Termination to Litigation. Our experts show you how to say 'You're fired' with minimal risk.

**Lawful Terminations 201** will give you expert guidance, practical knowledge and step-by-step procedures to help you terminate an employee while reducing the potential for wrongful termination claims. Our experts will present you with the most current legal information, as well as take your specific termination questions to help you create or reinforce your company's performance management program. You will learn:

- What at-will status in California means to you as an employer
- What steps you can take to avoid terminating an employee
- How to investigate employee misconduct
- How to properly document disciplinary actions
- How to make a case to support a termination decision

### Lawful Terminations 201 Live Web Seminar

Wednesday,  
March 19  
10 a.m. (PST)  
90 minutes

Registration  
starts at \$120

To register, visit [www.calbizcentral.com/lt](http://www.calbizcentral.com/lt) or call (800) 331-8877.



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