

ALERT

VOLUME 43, NUMBER 24 • AUGUST 11, 2017



Housing Crisis at Top of Legislative Agenda



Housing

California's housing crisis is a big focus of attention at the State Capitol as studies highlight two elements of the crisis that are inextricably linked—supply and affordability.

The Department of Housing and Community Development estimates that California must build at least 180,000 units a year to keep pace with demand, not accounting for the backlog of approximately 2 million units that has accrued over the last several decades.

The supply shortage has sent home prices and rents soaring, resulting in many individuals and families being

priced out of the market and leading to overcrowding, homelessness, substandard housing conditions, and an exodus of Californians to other states.

For every \$1,000 increase in a California home, 15,000 buyers are priced out of the market, according to a recent study by the National Association of Home Builders.

Based on pending legislation, lawmakers are concentrating on things like local land use, funding affordable housing, or expedited permit processing.

Local Land Use Decisions

The Legislature will grapple to define the scope of the state's role in local land use decisions. One of the driving issues in the crisis is the reluctance of local governments to approve new housing proj-

See Housing Crisis: Page 6

CalChamber Fighting Unlimited Access to Employer Documents



OPPOSE

potentially unlimited scope of employer internal documents awaits action by the state Senate when legislators return from their summer break.

AB 978 (Limón; D-Goleta) also circumvents the rulemaking process now underway to provide employees access to their employer's Injury and Illness Prevention Program (IIPP).

In response to a public request, the California Occupational Safety and Health (Cal/OSHA) Standards Board is moving to establish in regulation a process for employees to gain access to their employer's IIPP.

The CalChamber-led coalition opposing AB 978 proposes the bill be amended to reflect in statute the regulatory action ordered by the Board to begin the rulemaking process. The scope of the new rule is to identify the appropriate methods and representatives to obtain a copy of an employer's IIPP.

The coalition supports the Board's decision to begin rulemaking on this important issue without waiting for legislation to develop a rule. Therefore, the

See CalChamber: Page 4



2017 CalChamber Public Affairs Conference



October 17-18, 2017
Loews Santa Monica Beach Hotel, Santa Monica

Inside

First CalChamber
HR Symposium: Page 3

Labor Law Corner

Vacation Accrual During Leave Depends on Policy, Nature of Leave



Ellen S. Savage
HR Adviser

Does the law require us to continue to accrue vacation for an employee while he/she is on a leave of absence?

Whether an employee accrues vacation while on a leave of absence will normally depend on two factors:

- Whether the leave is legally protected (such as pregnancy disability leave, family leave, or a reasonable accommodation under the Americans with

Disabilities Act) or simply a personal leave granted by the company but not required by law; and

- An employer's policy for vacation accrual when employees take days off that are not part of a protected leave of absence.

If the leave is simply a personal leave granted by the employer, and therefore not legally protected, the employer is not required by law to continue vacation accrual during the leave.

If the leave is legally protected, vacation accrual during the leave will depend on the employer's vacation policy. An employee on legally protected leave must be treated at least as well as other employees in terms of vacation accrual during any other paid or unpaid time off.

Examples

- **ABC Corporation's** policy is to continue accruing vacation when an employee uses paid vacation time, but not to continue to accrue during any unpaid time off.

Thus when Joe uses a week of paid vacation to go to Hawaii, he continues to accrue vacation during that week. If Suzy uses one week of protected family leave to take care of her seriously ill mother and collects paid vacation during that week, she should also continue to accrue vacation during that time.

If Joe exhausts his vacation time but is granted an unpaid week off to go on a cruise, under ABC's policy he would not accrue vacation during that unpaid week. Similarly, if Suzy exhausts her vacation

time and takes another week of family leave without pay to care for her mother, she too would not accrue vacation during that week.

- **XYZ Corporation's** policy accrues vacation based only on hours actually worked, so when employees take time off (whether paid or unpaid) they do not accrue any vacation time.

Under this policy when Joe uses a week of paid vacation to go to Hawaii, he does not accrue any vacation during that week. If Suzy uses one week of her paid vacation during protected family leave to take care of her seriously ill mother, she also would not accrue vacation during that week.

Preventing Litigation

Treating employees on a protected leave of absence at least as well as employees taking vacation time for more traditional purposes (i.e., a trip to Hawaii) can help to prevent claims that the employer discriminated against those employees for using legally protected leaves.

In addition, a well-crafted vacation policy that clearly lays out accrual rules can go a long way toward preventing litigation.

The Labor Law Helpline is a service to California Chamber of Commerce preferred and executive members. For expert explanations of labor laws and Cal/OSHA regulations, not legal counsel for specific situations, call (800) 348-2262 or submit your question at www.hrcalifornia.com.

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CalChamber-Sponsored Seminars/Trade Shows

More at www.calchamber.com/events.

Labor Law

Leaves of Absence: Making Sense of It All. CalChamber. August 18, Sacramento. (800) 331-8877.

HR Boot Camp. CalChamber. August 24, Thousand Oaks; September 6, Beverly Hills. (800) 331-8877.

Meal and Rest Break Rules. CalChamber. September 21, Webinar. (800) 331-8877.

HR Symposium. CalChamber. October 26, Los Angeles. (800) 331-8877.

Business Resources

Mobile World Congress Americas.

GSMA and CTIA. September 12-14, San Francisco. (202) 736-3200.

International Trade

International Business Roundtable:

See *CalChamber-Sponsored: Page 5*

Next Alert: August 25



Inaugural CalChamber HR Symposium Set for Full Day in Los Angeles on October 26



HR symposium

HOT TOPICS | TOP EXPERTS
NETWORKING

Thursday,
October 26, 2017

Westin Bonaventure
Hotel and Suites
Downtown Los Angeles

Five HR Sessions and
Litigation Roundtable:
8:30 a.m.–4 p.m.

HR Networking/Cocktail
Reception: 4 p.m.–6 p.m.

Register at
calchamber.com/hrsym

The California Chamber of Commerce will be presenting its first HR Symposium on October 26 in Los Angeles.

The one-day event will include five one-hour human resources sessions and a litigation roundtable followed by a networking/cocktail reception.

The line-up of top experts and key insiders will include California's assistant labor commissioner, **Eric Rood**, and CalChamber's senior policy advocate on labor and employment, **Jennifer Barrera**, as luncheon keynote speakers.

Agenda

The topic-packed agenda offers plenty of opportunities for attendees to get

engaged and delve into hot compliance issues. Sessions will include:

- When to Remain Calm and Respond: Unique Issues in Workplace Investigations;
- How to Handle Agency Audits;
- Bad Facts Make Bad Law: Missteps that Lead to Lawsuits;
- Ouch! What to Do When an Injury Occurs;
- Five Common Missteps in Managing Leaves of Absence.

Luncheon Keynotes

• **Rood** is assistant labor commissioner for the state Department of Industrial Relations (DIR), Division of Labor Standards Enforcement. Programs he oversees for State Labor Commissioner Julie Su include public works, judgment enforcement, centralized cashiering, registration services and electrician certification units. Degree in business administration with an emphasis in accounting, California State University, Chico.

• **Barrera** works with the CalChamber executive vice president in developing policy strategy. In addition to leading CalChamber advocacy on labor and employment, taxation and legal reform issues, Barrera advises CalChamber business compliance activities on interpreting changes in employment law. J.D. with high honors, California Western School of Law.

Other Presenters

• **Erika Frank**, CalChamber executive vice president, legal affairs, and general counsel. As CalChamber's subject matter expert on state and federal employment law, she oversees and contributes to CalChamber labor law and HR compliance publications; co-produces and presents webinars and seminars; and heads the Labor Law Helpline. J.D., McGeorge School of Law, University of the Pacific.

• **Lisa Buehler**, partner, Ellis Buehler Makus. Over more than 16 years conducting investigations for California employers, she has led investigations on a wide

range of sensitive issues, including sexual assault and harassment, misuse of corporate funds, and complaints protected by whistleblower protection laws. J.D., University of San Francisco School of Law.

• **Jennifer Shaw**, principal, Shaw Law Group. For more than 20 years, Shaw has provided practical advice and counsel on a broad range of employment law issues, including wage-hour compliance, reasonable accommodation/leave of absence issues, and hiring/separation processes. J.D. summa cum laude, University of San Francisco School of Law.

• **Victor M. Andersen**, partner, Finnegan, Marks, Theofel & Desmond. Since 1989, Andersen has been practicing California workers' compensation law, using his construction background to focus on complicated workers' compensation cases involving all manner of construction injuries and serious and willful claims. B.S. in finance, San Jose State University; J.D., member of Dean's List, University of Santa Clara Law School.

• **Ann M. Noel**, Esq., founder of Noel Workplace Consulting. Noel specializes in legal advice and training on California and federal employment law compliance, especially sexual harassment prevention, disability and leave laws. Through the end of 2012, she was executive officer of the California Fair Employment and Housing Commission, crafting state regulations on mandatory AB 1825 sexual harassment training, disability and pregnancy discrimination. She also was the commission's chief administrative law judge. She has written extensively about employment and housing discrimination law, including for the *CalChamber California Employer Update*.

Registration

Visit calchamber.com/hrsym for full details and to register, or call (800) 331-8877.

CalChamber Preferred and Executive members receive their 20% member discount. This symposium is approved for 8.0 HRCI recertification, SHRM professional development and MCLE credit hours.

CalChamber Fighting Unlimited Access to Employer Documents

From Page 1

coalition opposes AB 978 as drafted unless the bill is amended to reflect the rulemaking that is currently mandated by the Board under its authority to protect worker safety and health in the workplace.

Reasons for Opposition

The coalition opposes AB 978 as drafted for these reasons:

- Preempts the regulatory process currently underway to provide a process for employees to access their employer's IIPP.
- Allows unlimited organizations and individuals having no affiliation with the employer or employee (other than being designated as such) to access the employer's internal documents.
- Keeps the identity of the employee making the request hidden from the employer.
- Leaves open the question of the scope of documents to be provided.
- Creates easy opportunity for outside organizations and individuals to harass employers and "fish" for information in an unlimited manner.
- Creates burdens and unlimited costs on employers to comply.
- Circumvents established pathways for access to employer documents through legitimate means.

Purpose of IIPP

All employers are required by Cal/OSHA regulations and the California Labor Code to establish, implement and maintain an effective written IIPP.

Implementation of the program requires employers to provide information to employees at critical times about working safely through communication and training. Specific safety instructions and safety practices are not part of the IIPP.

Unlimited Representatives

AB 978 allows not only an employee to obtain a copy of the IIPP, but also any number of individuals and organizations unaffiliated with the employer or the employee to be designated to request and receive a copy of the IIPP.

Furthermore, employees are not limited to their authorized union representative for this purpose, nor are they limited to just one representative.

Scope of Request Too Broad

Under AB 978, a request for the IIPP

also would require the employer to provide "all required attachments," a term that is not currently in statute or regulation, leaving it open to interpretation. It is the author's intent for the term "attachments" to include all the employer's internal records related to implementation of the program.

Currently, these records are available exclusively to either Cal/OSHA in an enforcement action or to plaintiffs in a legal action. During Cal/OSHA enforcement actions, the records available are limited to the matter at hand so as to limit disruption to the workplace. When requested during legal proceedings, the records are limited in scope by the laws governing Cal/OSHA investigations or litigation discovery laws. No such limiting provisions are included in AB 978.

It is concerning that an outside advocacy organization would be allowed to request and receive more employer internal operational documents and records where no violation or legal proceedings are involved than an attorney in legal proceedings, and more than Cal/OSHA is entitled to in an investigation of a safety violation.

Keeps Identity Hidden

The bill does not require the identity of the employee to be disclosed to the employer. Although the language allows the employer to take reasonable steps to verify the identity of the employee or the representative, the requester isn't required to respond, leaving the employer to wonder if in fact the individual making the request is a current employee.

This provision leaves the door open to harassment of employers by multiple representatives making requests for documents for unnamed or nonexistent employees.

Costly Burden on Employers

Employers would be subject to an unlimited number of requests by an unlimited number of organizations for a potentially unending supply of documents. The employer would be required to pull together all the documents in question, copy them, and return them to their proper storage for each request.

Most employers will contact an attorney before responding to determine the extent of documents subject to the request, which also has a cost, plus the

costs of nuisance litigation that surely would follow many requests. Compliance costs would depend on the size of the company, the number of employees and the type of company.

For example, a construction company would have more records, such as weekly tailgate meetings, regular worksite inspections, job hazard assessments and regular training documentation. The coalition-proposed amendments seek to limit these costs.

To put this in perspective, a construction contractor employer that has 100 employees is likely to have at least 20 projects in a year, generating at least one tailgate and one inspection per week per job plus records kept for its subcontractors on each project, plus subcontractors on a construction site maintaining and providing the same records. The volume of this collection consisting of just tailgate meetings and inspection records would be around 61,200 documents—not including individual training records for each employee, jobsite communications, enforcement or discipline records or other potential "attachments" to the IIPP. One can surmise the cost of assembling and producing only 12 months of such a volume of documents would be an enormous cost to an employer.

The cost of fulfilling just one request for the IIPP and attachments (using Cal/OSHA's charge of \$0.19 per black-and-white copy that assumes labor costs included) would be \$11,628. This estimate is for one request and assumes each document is just one page; this bill does not limit the number of requests. Multiple requests will result in skyrocketing costs to employers.

Action Needed

The Cal/OSHA Standards Board is the appropriate entity to establish a safety rule to encompass the requirements of providing employees access to their employer's IIPP. The rulemaking process currently underway should be allowed to continue with the result of a rule in the California Code of Regulations.

AB 978 is awaiting a vote by the Senate when legislators return from summer recess. The CalChamber is asking members to contact their senators and urge them to **oppose AB 978**.

Staff Contact: Marti Fisher

Private Attorneys Target California Businesses for Public Nuisance Claims



Government entities' use of contingency fee arrangements with private attorneys to pursue public nuisance claims against companies has been a growing concern for California

employers since a 2010 California Supreme Court ruling.

In essence, these arrangements were authorized by the court's opinion in *County of Santa Clara v. Atlantic Richfield Company, et al.*

Business concerns include the risk of a conflict of interest, leverage against the targeted company and the potential for corruption. (See the *California Chamber of Commerce 2017 Business Issues and Legislative Guide* summary, "[Contingency Fee Arrangements for Public Entities](#).")

Local government has largely viewed these contingency fee arrangements in a positive manner as way in which to preserve internal resources and yet still gain a potential monetary recovery. Similar to any other client, the local government does not have to put upfront any significant monetary amount to retain the

services of the private attorney. The government entity simply has to provide the private attorney with a share of any recovery.

Pending Case

This positive view, however, may be changing or blurred with recent developments. In a case pending in San Diego where the San Diego Port District (the Port) is represented by private counsel against a company that manufactures products for use in agriculture, the company filed an answer to the complaint as well as a list of numerous counterclaims against the Port. The Port will have to defend against these counterclaims.

The question, though, is who will defend against these counterclaims and how will the legal counsel be compensated for that defense?

Normally, a contingency fee arrangement covers only the work performed to pursue a case against a defendant in exchange for a share of any monetary recovery. Counterclaims generally are not within the scope of the contingency fee arrangement.

This wrinkle in the contingency fee arrangement with a local government will presumably have to be addressed through a written agreement that identifies whether the local government internal

counsel or the private attorney is responsible for defending the counterclaims.

If responsibility for the defense lies with the internal counsel, the purpose of utilizing outside counsel for such cases may diminish. If the responsibility lies with the outside counsel, the local government may have to pay hourly attorney's fees or agree to providing the outside counsel with an even larger share of any monetary recovery.

Another Consideration

Defending against counterclaims or any additional claims or cases that may arise as a result of the initial prosecution of a nuisance claim is another layer to these arrangements that government entities should consider.

As a matter of policy, the CalChamber believes that if California continues to condone the use of private attorneys to represent government entities through contingency fee arrangements, there must be enhanced contractual requirements, ethical standards, and required disclosures to ensure the neutrality of the government entity is not jeopardized and that neither the taxpayers nor defendant company are unfairly disadvantaged by such arrangements.

Staff Contact: [Jennifer Barrera](#)

CalChamber-Sponsored Seminars/Trade Shows

From Page 2

Finding Quality Logistics Providers. Northern California World Trade Center. August 17, Roseville. (510) 367-7389.

2017 U.S. Business Day. Taipei Economic & Cultural Office, Los Angeles. August 29, Taipei, Keelung City, Taiwan. (213) 380-3644 ext. 103.

Perumin-Extemin: Peru Mining Show. Duquesne University Small Business Development Center. September 18-22, Lima, Peru. (412) 396-5670.

Expanding Horizons: A Workshop for Small Businesses Entering Emerging Markets. Overseas Private Investment Corporation (OPIC). September 19, Oakland. (800) 814-6548.

10th World Chambers Congress. Sydney Business Chamber, The International Chamber of Commerce, and The International Chamber of Commerce World Chambers Federation. September 19-21, Sydney, Australia.

Trade Mission to the Four Countries of the Pacific Alliance (Chile, Colombia, Mexico and Peru). U.S.-Mexico Chamber of Commerce California Regional Chapter. September 27-October 10, Santiago, Chile; Lima, Peru; Bogota, Colombia; Mexico City. (310) 922-0206.

Panama Energy Roundtable. Institute of the Americas. September 28, Panama. (858) 453-5560 ext. 103.

CalChamber Calendar

Fundraising Committee:

September 7, Beverly Hills

Board of Directors:

September 7-8, Beverly Hills

International Trade Breakfast:

September 8, Beverly Hills

Public Affairs Conference:

October 17-18, Santa Monica

Housing Crisis at Top of Legislative Agenda

From Page 1

ects due to “not in my backyard” (NIMBY) resistance.

Several bills have been introduced to hold local governments accountable for meeting their affordable housing elements. Such bills include **SB 167 (Skinner; D-Berkeley)** and **AB 678 (Bocanegra; D-Pacoima)**, both supported by the California Chamber of Commerce.

These bills require a local agency to make relevant findings if it denies a housing development, clarify provisions of the Housing Accountability Act (HAA), and impose added penalties on agencies that violate the HAA by failing to make appropriate findings.

Another CalChamber-supported bill, **AB 943 (Santiago; D-Los Angeles)**, seeks to increase the vote required to pass an ordinance that would reduce density or stop development or construction of parcels located less than one mile from a major transit stop, in an effort to limit the NIMBY effect.

AB 1397 (Low; D-Campbell) further attempts to ensure that sites contained in a local government’s housing element can realistically be developed to meet the locality’s housing needs by requiring that such sites have sufficient infrastructure available to support housing development.

Funding Affordable Housing

Another focus is funding for state subsidies to develop affordable housing. The two bills getting the most attention are:

- **SB 2 (Atkins; D-San Diego)**, which sets up a permanent source of funding for affordable housing by creating a \$75 recording fee on real estate transactions, with a \$225 ceiling; and

- **SB 3 (Beall; D-San Jose)**, a \$3 billion housing bond that would go on the 2018 ballot.

The CalChamber has not taken a position on either of these bills and it is unclear whether the administration has an appetite for a bond that would affect the general fund.

Other proposed funding methods include taxes:

- **ACA 4 (Aguilar-Curry; D-Winters)** gives local governments the authority to enact special taxes, including parcel taxes, to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure or affordable housing, or the acquisition or lease of real property for public infrastructure or affordable housing, and lowering the vote



Watch Louinda V. Lacey present a recap of the housing bills in the CalChamber Capitol Summit video on YouTube. <https://youtu.be/1YdR7CZ-5p0>

threshold to impose such new taxes from two-thirds to 55%; and

- **ACA 11 (Caballero; D-Salinas)** exposes the retail industry to increased taxes by imposing a quarter-cent sales tax increase in addition to a quarter-cent excise tax to fund affordable housing and homeless shelters, without creating greatly needed market rate housing.

Both these tax bills have been identified as job killers and have not moved through the legislative process at this juncture.

While the state places significant focus on funding, according to the Legislative Analyst’s Office report, it would have to raise upwards of \$250 billion to subsidize itself out of the housing crisis—a feat that cannot be accomplished.

Permit Processing

Several bills aim to streamline permit processing, which is much needed to stimulate development; however, the bills’ limitations or prevailing wage requirements make them unlikely to have much impact on the ground. Other bills attempt to relax rules for granny flats (accessory dwelling units) and home additions.

Fortunately, three “wrong way” bills have been taken out of the equation.

- Two prevailing wage bills were amended to remove opposition. Before amendments, former job killer **AB 199 (Chu; D-San Jose)** would have imposed prevailing wage on all development projects (private and public), and **SB 418 (Hernandez; D-West Covina)** would have increased housing costs and discouraged development by imposing prevailing wage on more projects through defining a public subsidy as *de minimis* only if it is both less than \$275,000 and less than 2% of the total project cost.

- The third bill, job killer **SB 224 (Jackson; D-Santa Barbara)**, was held on suspense in the Senate Appropriations Committee. SB 224 would create significant uncertainty for developers by requiring the Office of Planning and Research (OPR) to amend the *California Environmental Quality Act (CEQA) Guidelines* to redefine the baseline that may be used in the CEQA

analysis and directing OPR, in drafting the *Guidelines*, to limit consideration of modifications to the environment at the project site caused by illegal, unpermitted, or emergency activities within the baseline conditions. If prior illegal, unpermitted, or emergency activities are excluded in a project’s baseline, it may require projects to mitigate not only the impacts of the project itself, but also the impacts of other historical activities for which the applicant has no legal liability and over which it had no control.

Other Possibilities

Three potential key factors in addressing the housing crisis that do not appear to be getting much attention are the potential for Proposition 13 property tax and CEQA reform, and revival of some version of California’s redevelopment agencies.

Although there is no silver bullet to tackle the housing crisis, the Legislature will need to consider all available and possible avenues to increase supply to address the state’s housing crisis—the stimulation of actual construction being of the utmost importance.

Staff Contact: Louinda V. Lacey

New Form I-9 Includes Change in When It Must Be Completed



has published a revised version of *Form I-9, Employment Eligibility Verification*. The new version bears a revision date of 07/17/17 N.

By September 18, 2017, employers must use only this new version (rev. 07/17/17 N). Until then, employers can continue using Form I-9 with a revision date of 11/14/16 N or use this new version.

The Instructions for Form I-9 and the Form I-9 Supplement also have been updated.

Timing Change

One change relates to the timing of when the Form I-9 must be completed. Previously, the form and instructions stated that the employee must complete Section 1 “by the end of the first day of employment [emphasis added].”

Now, the USCIS has removed “the

end” from the phrase, and the employee must complete Section 1 “by the first day of employment.”

According to the revised *Handbook for Employers: Guidance for Completing Form I-9*, the employee must complete Section 1 “at the time of hire (by the first day of their employment for pay).” Remember, employers cannot ask an individual to complete Section 1 before he/she has accepted a job offer.

Other Revisions

According to the USCIS, revisions also include:

- A change to the name of the Office of Special Counsel for Immigration-Related Unfair Employment Practices to its new name, Immigrant and Employee Rights Section.
- Revisions related to the list of acceptable documents on Form I-9.
- Added the Consular Report of Birth Abroad (Form FS-240) to List C.
- Combined all the certifications of report of birth issued by the Department of State (Form FS-545, Form DS-1350

and Form FS-240) into selection C #2 in List C.

- Renumbered all List C documents except the Social Security card. For example, the employment authorization document issued by the Department of Homeland Security on List C changed from List C #8 to List C #7.

The USCIS also included these changes in the revised *Handbook for Employers: Guidance for Completing Form I-9 (M-274)*, which also was improved for ease of navigation.

Employers must continue following existing storage and retention rules for any previously completed Form I-9.

Available on HRCalifornia

The California Chamber of Commerce has added the new [Form I-9 English](#) and [Spanish](#) versions to the *HRCalifornia* website, along with the Instructions for [Form I-9](#) (and [Spanish](#)) and the [Form I-9 Supplement](#). All these forms are available for free.

Staff Contact: [Gail Cecchetti Whaley](#)

Reminder: Law Requires Electronic Filing/Payment of Payroll Taxes

The California Chamber of Commerce is reminding employers with 10 or more employees that they are required to electronically submit employment tax returns, wage reports, and payroll tax deposits to the Employment Development Department (EDD).

The requirement began January 1, 2017 for employers with 10 or more employees. All remaining employers are required to begin reporting and paying electronically with their 2018 payroll or as soon as they report having 10 or more employees, whichever happens first.

Unemployment Insurance

AB 1245 (Cooley; D-Rancho Cordova, Statutes of 2015) requires electronic reporting for unemployment insurance (UI) reports submitted to the EDD. It also requires employers to remit contributions for unemployment insurance taxes by electronic funds transfer.

Any employer required under existing law to electronically submit wage reports and/or electronic funds transfer to the EDD remains subject to those requirements. The EDD encourages employers

to enroll in e-Services for Business to meet the requirement.

For more information about the mandate, visit: www.edd.ca.gov/EfileMandate.

e-Services for Business

Employers can use [e-Services for Business](#) to comply with the e-file and e-pay mandate. e-Services for Business is a fast, easy, and secure way to manage employer payroll tax accounts online. With e-Services for Business, employers can:

- Register for an employer payroll tax account number.
- File employment tax returns and wage reports.
- Make payroll tax deposits and pay other liabilities.
- View and update account information.

Waiver

This mandate contains a waiver provision for employers who are unable to electronically submit employment tax returns, wage reports, and payroll tax deposits.

To request a waiver, employers must complete and submit the E-file and E-pay

Mandate Waiver Request (DE 1245W).

- Download the [DE 1245W](#) from the EDD website.

- Contact the Taxpayer Assistance Center at (888) 745-3886.

- Visit the nearest [Employment Tax Office](#).

- Waiver requests can be submitted by mail to: Employment Development Department, Document and Information Management Center, P.O. Box 989779, West Sacramento, CA 95798-9779; or fax (916) 255-1181.

Employers will be notified by mail if their waiver is approved or denied. An approved waiver will be valid for one year. Upon the expiration of the approval period, an employer must start to electronically file and pay, or submit a new waiver request to avoid a noncompliance penalty.

Penalties

The e-file and e-pay mandate does not apply to employment tax returns, wage reports or payroll tax deposits submitted for periods before the effective date of the mandate. To avoid penalties, enroll in [e-Services for Business](#).

Sexual Harassment in the News

With sexual harassment in the news and shaking up Silicon Valley, it's a cautionary tale for staying in compliance. If you wait until conduct is unlawful, even toward job applicants, independent contractors and other nonemployees, you've waited too long. Education is the important first step.

Remember, 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.

Save 20% on our online California harassment prevention courses for supervisors and employees.

Preferred and Executive members save an extra 20% after their 20% member discount! Use priority code BHPA by 9/22/17.



Are you doing enough (and what California requires) to avoid a lawsuit?

PURCHASE online at calchamber.com/hptdeal or call (800) 331-8877.

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