

# ALERT

VOLUME 43, NUMBER 30 • OCTOBER 20, 2017



## Busy Year for Employers Produces Wins for Future



The 2017 legislative year was a busy one for the California Chamber of Commerce and other employer advocates.

Nevertheless, CalChamber policy advocates, together with members, allied associations and local chambers of commerce, stopped many harmful proposals, won amendments to remove damaging provisions in other proposals, and helped pass bills to invest in the state's future.

In 2017, the CalChamber tracked 214 California bills, stopping 91 (including 25 job killers), securing amendments to 31 (16 of which were signed into law) and backing 16 bills that were signed into law.

### Job Killers

Strong advocacy by the CalChamber, members, local chambers of commerce and allied employers prevented all but three job killer bills from passing the Legislature.

On his last day to act on legislation, the Governor vetoed **AB 1209 (Gonzalez Fletcher; D-San Diego)**, which would have imposed a new data collection mandate on California employers and exposed them to public criticism and costly litigation.

CalChamber identified AB 1209 as a job killer because it would have: created a false impression of wage discrimination or unequal pay where none exists, therefore subjecting employers to unfair public criticism; exposed employers to significant litigation costs to defend against meritless claims; and imposed costs on the Secretary of State to collect and post the data.

AB 1209 required employers with 500 or more employees in California to collect data on the difference in mean and median salaries paid to men and women in the same job title or classification and submit the information to the Secretary of State. The state then would have posted the company's salary information—with the company name attached—on a publicly accessible website.

The Governor stated in his **veto message** he is worried that the ambiguity in AB 1209 "could be exploited to encourage more litigation than pay equity."

### Session Highlights

Following are highlights from the entire legislative session. For a list of all bills sent to the Governor this year, see the **Final Status Report** on Major Business Bills, pages 7–14 of this **Alert**.

#### Labor and Employment

As usual, labor matters were among the hardest fought issues on the CalChamber agenda. The 2018 new laws will include:

*See Busy Year: Page 6*

## Governor Rejects Unlimited Access to Employer Documents



Governor Edmund G. Brown Jr. has vetoed a bill that would have allowed organizations unaffiliated with the

employer to access an undefined and potentially unlimited scope of employer internal documents within 10 business days upon request.

The California Chamber of Commerce **opposed AB 978 (Limón; D-Goleta)** because it also circumvented the rulemaking process now underway to provide employees access to their employer's Injury and Illness Prevention Program (IIPP).

Governor Brown agreed with CalChamber's arguments, writing in his veto message that AB 978 is "unnecessary and duplicative of an existing regulatory proposal that is already underway at the Occupational Safety and Health Standards Board. The Standards Board advisory committee process is better suited to determine how to properly implement requirements of this kind."

The CalChamber-led coalition supported the Board's decision to begin rulemaking on this important issue without waiting for legislation to develop a rule. Therefore, the coalition opposed AB 978 and proposed amendments to reflect the rulemaking mandated by the Board under its authority to protect worker

*See Governor Rejects: Page 6*

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### Inside

**Final Status Report:**  
**Pages 7-14**

## Labor Law Corner

# Second Meal Period in Alternative Schedule Depends on Hours Worked



**Barbara Wilber**  
HR Adviser

*Our employees elected an alternative workweek schedule of 4/10 hour days. There are two schedules with different beginning and ending times. One group works a straight 10-hour schedule. The other group works 10.5 hours from the start time to the ending time. Both have a 30-minute meal period. Is the 10.5 hour group entitled to a second meal period at 10 hours?*

No, a second meal period is required only when an employee actually works beyond 10 hours. On the 10.5-hour schedule, the employees are taking a 30-minute meal period, resulting in a total of 10 hours worked. Off-duty meal periods are not counted as hours worked.

Of course, on those occasions when an employee actually works more than 10 hours, the second meal period would be required unless the employees waive their second meal period pursuant to Labor Code Section 512 (a).

Regarding what you call a straight 10-hour schedule, the employees are working only 9.5 hours. For example, if the employees appear for work at 7 a.m., take a 30-minute off-duty meal period at 11 a.m., and leave at 5 p.m., the total hours worked are 9.5 hours.

## Alternative Workweek Rules

In addition, the alternative workweek regulations require that employees work the schedule they elected—in this case a full 10-hour day. The rules further address overtime issues.

The following excerpt from Section 3 of the Industrial Welfare Commission (IWC) order clarifies that time-and-one-half is owed when an employee works fewer hours than the agreement established:

*“(3) If an employer, whose employees have adopted an alternative workweek agreement permitted by this order requires an employee to work fewer hours than those that are regularly scheduled by the agreement, the employer shall pay the employee overtime compensation at a rate of one and one-half (1-1/2) times the*

*See Second Meal Period: Page 4*

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*Ann S. Amioka*

Ann S. Amioka  
Vice President, Communications  
September 15, 2017



CalChamber members can find more information on [Emergency Action Plans](#) on [HRCalifornia](#). Cal/OSHA offers resources on workplace safety in the wildfire regions at [www.dfsr.ca.gov](http://www.dfsr.ca.gov).  
Staff Contact: Gail Cecchetti Whaley

## Second Meal Period in Alternative Schedule Depends on Hours Worked

From Page 2

*employee's regular rate of pay for all hours worked in excess of eight (8) hours, and double the employee's regular rate of pay for all hours worked in excess of 12 hours for the day the employee is required to work the reduced hours."*

Alternative workweek schedules are allowed in most of the IWC orders and in Labor Code Section 511.

Be sure to review the IWC order covering your business because the regulations may vary.

### Further Guidance

Refer to your legal counsel for help establishing alternative workweek schedules.

The California Chamber of Commerce website at [HRCalifornia.com](http://HRCalifornia.com) contains

detailed guidance and a checklist to help you navigate these complicated regulations.

*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).*

## Annual Meeting

In compliance with Article VII of the bylaws, notice is hereby given that the annual meeting of the members of the California Chamber of Commerce, a mutual benefit corporation operating under the laws of the State of California, will be held on Friday, December 8, 2017, at 9 a.m. in Salon III at the Ritz-Carlton, 600 Stockton Street, San Francisco, California, for the transaction of whatever business may be necessary.

## CalChamber Calendar

### Education Committee:

December 7, San Francisco

### Water Committee:

December 7, San Francisco

### Board of Directors:

December 7–8, San Francisco

### International Trade Breakfast:

December 8, San Francisco

### Annual Meeting:

December 8, San Francisco

## CalChamber-Sponsored Seminars/Trade Shows

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

### Labor Law

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

HR Boot Camp. CalChamber. December 6, San Francisco; February 13, 2018, Modesto; February 28, San Diego; April 11, Oakland; April 26, Costa Mesa; June 5, Santa Clara; August 21, Sacramento; September 5, Long Beach. (800) 331-8877.

### International Trade

GetGlobal Conference 2017. GetGlobal. October 25, Los Angeles.

International Consulate Summit. East Bay Economic Development Alliance. October 26, Oakland.

Natural Products Export Showcase Meeting. U.S. Department of Commerce and the CalAsian Chamber of Commerce. November 8, San Dimas. (909) 592-8888.

Women in International Trade Global

Trade Awards Gala. Women in International Trade-Los Angeles. November 9, Long Beach. (213) 545-6479.

U.S.-India-Israel Business Forum.

U.S.-India Business Council and U.S.-Israel Business Initiative.

November 13, Redwood City.

Exporting Best Practices. California Centers for International Trade Development. November 14, Clovis. (559) 324-6401.

K-Global at Silicon Valley 2017. Korea Trade-Investment Promotion Agency and National IT Industry Promotion Agency. November 15–16, Santa Clara. (408) 432-5051.

Next Alert: November 3

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# Public Affairs Gathering First Day Focuses on Voter Attitudes, 2018 Elections, Housing

## 2017 CalChamber Public Affairs Conference

Chamber of Commerce Public Affairs

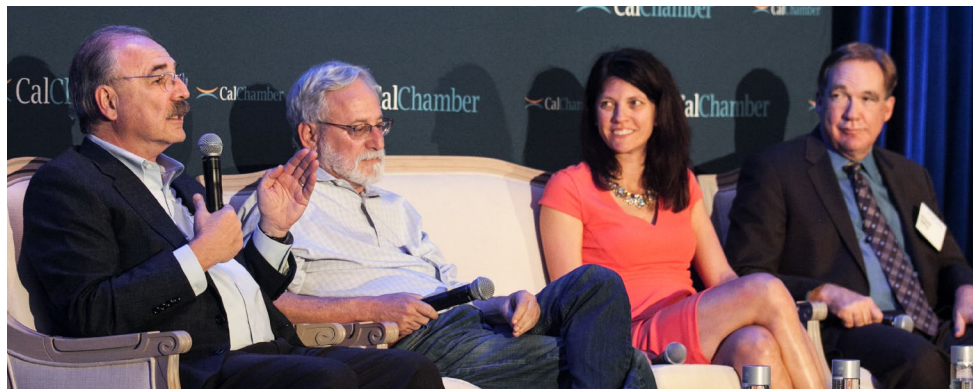
Below are a sampling of photos from the first day of the 2017 California

Conference this week in Santa Monica. More photos and coverage will appear at [www.calchamber.com/publicaffairs](http://www.calchamber.com/publicaffairs). See #PAConference17 for tweets posted during the October 17–18 gathering.

Special thanks to major sponsor Google; gold sponsors Kaiser Permanente, PepsiCo and The Walt Disney Company; and silver sponsors BNSF Railway and Boeing.



Robert Green, PSB Research, presents the CalChamber annual survey of California voter attitudes.



(From left) Darry Sragow, Dentons; Richard Schlackman, RMS Associates; Christy Wilson, Wilson Public Affairs; and Richard Temple, McNally Temple, comment on voter demographics and other factors that will affect the 2018 elections, including the races for Governor and U.S. Senate.



(From left) CalChamber Policy Advocate Louinda V. Lacey, moderator, listens as Democratic Assemblymen Tom Daly, Miguel Santiago, Tim Grayson and Raul Bocanegra discuss home building issues. A second panel with Republican Assemblymen Marc Steinorth and Brian Dahle, plus Democratic Assembly Members Anna Caballero and Matt Dababneh continues the housing dilemma discussion.

## Busy Year for Employers Produces Wins for Future

*From Page 1*

- Legislation mandating that small businesses with as few as 20 employees provide 12 weeks of parental baby bonding leave to employees (SB 63; Jackson; D-Santa Barbara). If an employee takes this leave, the new law prohibits an employer from refusing to maintain and pay for health care coverage. Employers can be sued for failing to provide the leave, failing to return the employee to the same or comparable position after the leave, failing to maintain benefits while the employee is out on leave or taking adverse employment action against an employee who uses the leave. More information on SB 63 appeared in the **October 12 special Alert**.

- A new law banning employers from asking about, or considering, a job applicant's prior salary history in determining whether to hire the applicant or how much to pay the applicant. An employer can also be penalized for not providing a pay scale for the position upon demand (AB 168; Eggman; D-Stockton).

- Ban-the-box legislation prohibiting employers with five or more employees from asking about criminal history information on job applications and from inquiring about, or considering, conviction history information at any time before a conditional offer of employment has been made (AB 1008; McCarty; D-Sacramento).

- The Immigrant Worker Protection Act that shields workers from immigration enforcement while on the job. The

legislation prohibits employers from providing federal immigration enforcement agents access to a business without a warrant and requires employers to notify employees of Form I-9 inspections performed by federal immigration enforcement officials (AB 450; Chiu; D-San Francisco).

### **Transportation and Infrastructure**

Legislation signed earlier this year with CalChamber support will provide long-term revenues to fix roads, freeways and bridges across California and put more dollars toward transit and safety (SB 1; Beall; D-San Jose). The fuel tax hikes will go into effect on November 1.

### **Climate Change**

Also signed earlier this year was CalChamber-backed legislation to reduce costs of complying with the state's climate change program. AB 398 (E. Garcia; D-Coachella) provides regulatory certainty for California businesses, helps maintain a healthy economy and provides the least costly path to achieving California's climate goals by extending the cap-and-trade program to 2030 by providing market mechanisms rather than government command-and-control.

A related constitutional amendment, ACA 1 (Mayes; R-Yucca Valley), will—if approved by voters—set up a legislative “check-up” of the cap-and-trade program in 2024, including a review of spending and the effectiveness of the program in reducing greenhouse gas emissions.

### **Health Care**

A proposal to create a new single-

payer health care system, SB 562 (Lara; D-Bell Gardens), stalled this year after facing opposition from the CalChamber and others who highlighted problems with a government-run, multibillion-dollar system financed by an unspecified and undeveloped “revenue plan.” The issue is likely to be revived in 2018.

### **Housing**

Several CalChamber-supported bills were part of a package of legislation signed by the Governor to ease the housing crisis. The CalChamber-backed bills either hold local governments accountable for meeting the housing elements of their plans or aim to combat the “not in my backyard” (NIMBY) resistance that can stall needed housing projects. The bills are AB 678 (Bocanegra; D-Pacoma), SB 167 (Skinner; D-Berkeley) and AB 1515 (Daly; D-Anaheim).

## Compliance Help

CalChamber employment law experts will cover the new employment laws for 2018 in the November 2 issue of the HRCali-fornia Extra newsletter and in the annual new laws white paper, coming in November. A November webinar on the new parental leave law (SB 63) also is planned.

## Governor Rejects Unlimited Access to Employer Documents

*From Page 1*

safety and health in the workplace.

The coalition opposed AB 978 as sent to the Governor for these reasons:

- Preempted the regulatory process currently underway to provide a process for employees to access their employer's IIPP.

- Allowed 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.

- Kept the identity of the employee making the request hidden from the employer.

- Left open the question of the scope of documents to be provided.

- Created easy opportunity for outside organizations and individuals to harass

employers and “fish” for information in an unlimited manner.

- Created burdens and unlimited costs on employers to comply.

- Circumvented established pathways for access to employer documents through legitimate means.

**Staff Contact: Marti Fisher**

# Final Status Report on Major Business Bills

The following list summarizes the final status of California Chamber of Commerce priority bills that were sent to the Governor this year.

The CalChamber will publish a record

of legislators' votes on key bills affecting the California business climate on November 3. Generally, the bills selected for the vote record have appeared in one of the status reports.

Bills signed by the Governor will become law on January 1, 2018. Urgency, budget-related and tax levy measures go into effect immediately upon being signed.

Subject—CalChamber Position	Status
<b>Agriculture, Food and Natural Resources</b>	
<b>Marketing.</b> AB 841 (Weber; D-San Diego) Before amendments, limited businesses' ability to partner with schools on projects and programs that are mutually beneficial by prohibiting student incentive programs that contain certain food products. Opposition removed due to August 23, 2017 amendments. Neutral.	Signed—Chapter 843
<b>Land Conveyances.</b> SB 50 (B. Allen; D-Santa Monica) Before amendments, jeopardized multiple uses of land such as grazing or recreation by making federal land sales contingent on State Lands Commission terms. Opposition removed due to June 29, 2017 amendments. Neutral.	Signed—Chapter 535
<b>Air Quality</b>	
<b>Abatement Orders.</b> AB 1132 (C. Garcia; D-Bell Gardens) Before amendments, allowed a local air district to immediately shut down operations of a facility for a perceived imminent or substantial endangerment to public health or the environment while awaiting a hearing. Opposition removed due to June 5, 2017 amendments. No Position.	Signed—Chapter 171
<b>Burdensome Regulations.</b> AB 1647 (Muratsuchi; D-Torrance) Before amendments, created requirements for refineries that operate in California to install air monitoring systems along the fence line of the refineries' property as well as in surrounding communities. Concerns removed due to June 8, 2017 amendments. No Position	Signed—Chapter 589
<b>Banking/Finance</b>	
<b>Energy Financing.</b> AB 1284 (Dababneh; D-Encino) Protects lenders and consumers by providing oversight and guidelines for solicitors offering financing for the PACE program which helps property owners upgrade energy retrofits to current standards. Support.	Signed 10/4/17—Chapter 475 (Urgency)
<b>Budget</b>	
<b>Board of Equalization Reform.</b> AB 102 (Committee on Budget) Unnecessarily rushes substantive and significant reforms to the Board of Equalization and creates two new agencies, including an Office of Tax Appeals that allows unelected bureaucrats to determine major tax policy issues, through the budget process instead of allowing such policy to be deliberated through the normal schedule of the legislative process. Oppose.	Signed 6/27/17—Chapter 16 (Budget)
<b>Thwarts Innovation.</b> AB 134 (Committee on Budget) Places burdensome anti-technology language on Greenhouse Gas Reduction Fund expenditures. Oppose Unless Amended.	Signed 9/16/17—Chapter 254 (Budget)

Subject—CalChamber Position	Status
<b>Stifles Innovation.</b> SB 103 (Committee on Budget and Fiscal Review) Stifles innovation by placing restrictions and prohibitions on the use or development of automated technology at the ports. Oppose.	Signed 7/21/17—Chapter 95 (Budget)
<b>California Environmental Quality Act (CEQA)</b>	
<b>Extension of Streamlining Benefits under CEQA.</b> AB 246 (Santiago; D-Los Angeles) Extends the streamlining benefits under the California Environmental Quality Act for environmental leadership development projects meeting specific criteria for an additional two years. Support.	Signed—Chapter 522
<b>Climate Change</b>	
<b>Reduces Compliance Costs.</b> AB 398 (E. Garcia; D-Coachella) Provides regulatory certainty for California businesses, helps maintain a healthy economy and provides the least costly path to achieving our climate goals by extending cap-and-trade to 2030 by providing market mechanisms rather than government command-and-control. Support.	Signed 7/25/17—Chapter 135 (Urgency)
<b>Legislative Oversight.</b> ACA 1 (Mayes; R-Yucca Valley) Increases transparency and accountability by establishing a legislative “check-up” of the cap-and-trade program in 2024, providing an opportunity to review 1) expenditures from the fund since 2020, 2) the commitment to regulatory and tax reforms enacted in AB 398, and 3) the effectiveness of the overall state program in reducing greenhouse gases (GHGs) and minimizing the effect on the California economy. Support.	Signed—Chapter 105
<b>Transportation and Housing Barrier.</b> SB 150 (B. Allen; D-Santa Monica) Before amendments, would have made it more difficult and more expensive to build roads, homes and transit by dictating a cookie cutter approach to how regions achieve emissions reduction targets through their Regional Transit Plans. Opposition removed due to June 21, 2017 amendments. No Position.	Signed—Chapter 646
<b>Economic Development</b>	
<b>Capital Investment Incentive.</b> AB 755 (E. Garcia; D-Coachella) Extends for one year, until January 1, 2019, the sunset of the Capital Investment Incentive Program, thereby providing local governments with an opportunity to attract large manufacturing facilities to invest in their communities and to encourage industries such as high technology, energy, environmental, and others to locate and invest in California. Support.	Signed—Chapter 709
<b>Education</b>	
<b>Extends Workforce Development.</b> AB 669 (Berman; D-Palo Alto) Before amendments, helped improve alignment of the state’s workforce needs and education resources by extending the Economic and Workforce Development program (set to expire in 2018) within the California Community Colleges system. Gutted and amended June 26, 2017 to a different subject area. Job creator label and support position removed. No Position/ <b>Former Job Creator.</b>	Signed—Chapter 472
<b>Workforce Development.</b> AB 1111 (E. Garcia; D-Coachella) Increases California’s skilled workforce by authorizing a competitive grant program to assist individuals who face multiple barriers to employment and provide them with remedial education and work readiness skills to prepare them for training, educational, apprenticeship or employment opportunities. Support.	Signed—Chapter 824

Subject—CalChamber Position	Status
<p><b>Jeopardizes State Workforce Goals.</b> SB 574 (Lara; D-Bell Gardens) Unnecessarily impedes the ability of the University of California (UC) to use its restricted state funding in the most efficient manner possible to continue expanding enrollment without compromising on the quality of the education it provides or substantially increasing the state’s General Fund contribution by placing unreasonable restrictions on when the UC may contract for services. Oppose.</p>	Vetoed
<b>Energy</b>	
<p><b>Increased Energy Costs.</b> SB 338 (Skinner; D-Berkeley) Before amendments, increased the cost of energy for ratepayers by creating new policies for procurement under the integrated resources planning process. Opposition removed due to July 10, 2017 amendments. No Position.</p>	Signed—Chapter 389
<p><b>Reduces Permitting Barriers.</b> AB 546 (Chiu; D-San Francisco) Reduces barriers and increases cost-effectiveness for energy storage permitting by allowing online submission for permit applications and allowing local governments to develop an energy storage handbook. Support.</p>	Signed—Chapter 380
<b>Environmental Regulation</b>	
<p><b>Increases Costs to and Creates Uncertainty for Hazardous Waste Permit Operators.</b> AB 245 (Quirk; D-Hayward) Before amendments, imposed unnecessary new costs on hazardous waste permit operators by requiring a public hearing be held within 90 days of the submittal of a hazardous waste permit renewal application, notwithstanding the multiple existing opportunities for public review; and created uncertainty regarding the application of ambiguous language relating to the adequacy of financial assurances to be reviewed every five years. Opposition removed due to September 1, 2017 amendments. No Position.</p>	Signed—Chapter 499
<p><b>Increased Costs and Likely Processing Delays for Hazardous Waste Permit Operators.</b> AB 1179 (Kalra; D-San Jose) Prematurely and unnecessarily imposes new costs on hazardous waste permit operators and will likely result in further delays in permit processing by arbitrarily setting inspection frequencies for certain facilities and directing the Department of Toxic Substances Control (DTSC) to adopt regulations setting inspection frequencies for all facilities, notwithstanding the fact that DTSC is currently reforming its enforcement program at the regulatory level. Oppose.</p>	Vetoed
<p><b>Burdensome Disclosure Requirements.</b> AB 1328 (Limón; D-Goleta) Before amendments, increased costs by imposing burdensome chemical disclosure and monitoring requirements on oil and gas operators, and requiring that such information be provided to the State Water Resources Control Board. Opposition removed due to September 6, 2017 amendments. No Position.</p>	Signed—Chapter 758
<p><b>Burdensome Regulations.</b> AB 1646 (Muratsuchi; D-Torrance) Before amendments, required additional burdensome regulations to refineries by mandating they install audible alarm systems as well as an emergency alert system for residents, schools, public facilities, hospitals and residential care homes for an unspecified distance around a petroleum refinery to be determined by the relevant local unified program agency. Opposition removed due to September 1, 2017 amendments. No Position.</p>	Signed—Chapter 588
<p><b>Creates Unworkable Hazardous Waste Permitting Process.</b> AB 248 (Reyes; D-Grand Terrace) Before amendments, undermined the iterative permit application process by requiring premature submittal of permit renewal application paperwork and created uncertainty by failing to identify the consequences to the regulated community in the event the Department of Toxic Substances Control fails to take action on the permit renewal application within a specified timeframe, even if the permit applicant acted diligently and in good faith throughout the permit application process. Opposition removed due to May 26, 2017 amendments. No Position.</p>	Vetoed

Subject—CalChamber Position	Status
<p><b>Prematurely Increases Penalties on Hazardous Waste Permit Operators.</b> AB 249 (Gomez; D-Los Angeles) Before amendments, prematurely increased penalties on hazardous waste permit operators by imposing the federal per-day penalty of \$37,500, notwithstanding the fact that comprehensive reform of the Department of Toxic Substances Control permitting, enforcement and fiscal management is under review and consideration. Gutted and amended to a different subject area June 20, 2017. Opposition removed. No Position.</p>	Signed 10/7/17—Chapter 546 (Urgency)
<b>Government Contracting</b>	
<p><b>Prevailing Wages.</b> AB 1066 (Aguiar-Curry; D-Winters) Before amendments, increased costs for tree removal by imposing prevailing wages, placing upward cost pressure for lumber producers, potentially resulting in a negative impact on competitiveness. Opposition removed due to June 29, 2017 amendments. No Position.</p>	Signed—Chapter 616
<b>Health</b>	
<p><b>Health Care Mandate.</b> AB 1316 (Quirk; D-Hayward) Before amendments, would have driven up health care premiums and costs by mandating health care plans and insurers to cover blood lead poisoning screening for all children, even those not at risk for lead poisoning. Opposition removed due to May 2, 2017 amendments. No Position.</p>	Signed—Chapter 507
<p><b>Prescription Drug Coupons.</b> AB 265 (Wood; D-Healdsburg) Before amendments, raised consumer awareness regarding drug pricing and helped curb rising drug costs by prohibiting drug manufacturers, when a lower-cost therapeutically equivalent or interchangeable drug is available, from offering coupons or discounts to consumers to reduce consumer out-of-pocket insurance expenses, which in the long term increase health care premiums and costs for all health care purchasers, including employers, by driving consumers to higher-cost brand name drugs. Support position removed due to amendments. No Position.</p>	Signed—Chapter 611
<b>Housing and Land Use</b>	
<p><b>Outlaws Certain Local Land Use Initiatives.</b> AB 890 (Medina; D-Riverside) Eliminates Californians' local initiative power to pursue changes in land use by giving exclusive authority to city councils and county board of supervisors to adopt or amend land use plans, change specified land use or zoning designations, or allow more intensive land uses within existing land use or zoning designations. Oppose.</p>	Vetoed
<p><b>Promotes Local Agencies' Compliance with Housing Accountability Act.</b> AB 678 (Bocanegra; D-Pacoima) Seeks to ensure that local agencies comply with the provisions of the Act by requiring a local agency to make relevant findings if it denies a project, clarifying provisions of the Act, and imposing penalties on agencies that violate the Act. Support.</p>	Signed—Chapter 373
<p><b>Stimulates Additional Housing Production.</b> AB 1515 (Daly; D-Anaheim) Encourages housing project approvals by specifying that a housing development is deemed consistent with local plans and ordinances if there is substantial evidence such that a reasonable person could conclude that the project is consistent. Support.</p>	Signed—Chapter 378
<p><b>Accountability of Local Agencies for Housing Development Project Decisions.</b> SB 167 (Skinner; D-Berkeley) Promotes accountability for decisions and approval of projects by imposing additional requirements on local agencies when disapproving or conditionally approving a project and imposing penalties for violation of the Act. Support.</p>	Signed—Chapter 368

Subject—CalChamber Position	Status
<b>Prevailing Wage on All Development Projects.</b> AB 199 (Chu; D-San Jose) Before amendments, increased housing costs and discouraged development by imposing prevailing wage on all development projects (private and public). Opposition and job killer tag removed due to April 6, 2017 amendments. No Position/ <b>Former Job Killer.</b>	Signed—Chapter 610
<b>Erodes Housing Affordability.</b> AB 1505 (Bloom; D-Santa Monica) Before amendments, increased the cost and reduced the supply of housing by authorizing local governments as condition of development to impose a costly and inflexible price-controlled inclusionary housing requirement and, in doing so, legislatively repealed an established court decision upholding developers’ ability to set initial rental rates for new dwelling units. Opposition removed due to May 1, 2017 amendments. Neutral.	Signed—Chapter 376
<b>Expands Prevailing Wage.</b> SB 418 (Hernandez; D-West Covina) Before amendments, increased housing costs and discouraged development by imposing prevailing wage on more projects through defining a public subsidy as <i>de minimis</i> only if it is both less than \$275,000 and less than 2% of the total project cost. Opposition removed due to June 20, 2017 amendments. No Position.	Signed—Chapter 393
<b>Immigration</b>	
<b>Employer Liability.</b> AB 450 (Chiu; D-San Francisco) Before amendments, placed employers in a no-win situation between federal immigration enforcement and state enforcement by punishing employers—rather than providing tools and resources for employees when federal immigration enforcement appears at their workplace regardless of whether a violation of law has been committed by the employer. Opposition removed due to September 8, 2017 amendments. No Position.	Signed—Chapter 492
<b>Industrial Safety and Health</b>	
<b>Access to Employer Records.</b> AB 978 (Limón; D-Goleta) Inappropriately allows organizations unaffiliated with the employer to access an undefined and potentially unlimited scope of employer internal documents and circumvents the rulemaking process now underway to provide for access by employees to their employer’s Injury and Illness Prevention Program (IIPP). Oppose Unless Amended.	Vetoed
<b>Labor and Employment</b>	
<b>Public Shaming of Employers.</b> AB 1209 (Gonzalez Fletcher; D-San Diego) Imposes new data collection mandate on California employers to collect and report data to the Secretary of State regarding the difference in mean and median salaries of men and women in the same job title and job description, determine which employees perform “substantially similar” work, and then have that report posted on a publicly accessible website, where such employers will receive undue scrutiny and criticism for wage disparity that is not unlawful and justified by a bona fide factor. Oppose/ <b>Job Killer.</b>	Vetoed
<b>Imposes New Maternity and Paternity Leave Mandate.</b> SB 63 (Jackson; D-Santa Barbara) Unduly burdens and increases costs of small employers with as few as 20 employees by requiring 12 weeks of protected employee leave for child bonding and exposes them to the threat of costly litigation. Oppose/ <b>Job Killer.</b>	Signed—Chapter 686
<b>Labor Commissioner Enhanced Authority.</b> SB 306 (Hertzberg; D-Van Nuys) Unnecessarily allows the Labor Commissioner or employee to seek injunctive relief before completing an investigation and determining retaliation has occurred, as well as exposes employers to a daily \$100 penalty, capped at \$20,000 for a posting violation. Oppose.	Signed—Chapter 460

Subject—CalChamber Position	Status
<b>Expansion of Liability.</b> AB 1701 (Thurmond; D-Richmond) Unfairly imposes liability onto a direct contractor, as defined, for the wage-and-hour violations of a subcontractor that the direct contractor did not cause. Oppose.	Signed—Chapter 804
<b>Increased Litigation.</b> AB 1008 (McCarty; D-Sacramento) Before amendments, exposed employers to increased litigation under the Fair Employment and Housing Act for utilizing relevant criminal history of an applicant in its employment decisions to maintain safety in its workplace. Opposition removed due to September 8, 2017 amendments. No Position.	Signed—Chapter 789
<b>Pregnancy Discrimination.</b> AB 569 (Gonzalez Fletcher; D-San Diego) Creates a new mandate in the Labor Code, prohibiting employers from taking any adverse employment action against an employee due to the employee's use of various medical options for reproductive health, even though the Fair Employment and Housing Act currently provides these protections to employees, thereby creating inconsistencies and confusion amongst employers with regard to interpretation and enforcement of these competing provisions. Oppose.	Vetoed
<b>Exposure to Litigation.</b> AB 168 (Eggman; D-Stockton) Exposes employers to costly litigation for inquiring into an applicant's prior salary or failing to provide a pay scale upon demand, even though the employee has not suffered any harm or wage loss as a result of the violation. Oppose.	Signed—Chapter 688
<b>Legal Reform and Protection</b>	
<b>Discrimination Against Arbitration Agreements.</b> SB 33 (Dodd; D-Napa) Unfairly discriminates against arbitration agreements contained in consumer contracts for goods or services with a financial institution, which is likely preempted by the Federal Arbitration Act and will lead to confusion and unnecessary litigation. Oppose/ <b>Job Killer</b> .	Signed—Chapter 480
<b>Reduction of Evidentiary Standards for Elder Abuse.</b> AB 859 (Eggman; D-Stockton) Increases unnecessary litigation for alleged elder abuse by allowing the opportunity for a plaintiff to reduce the evidentiary standard from clear and convincing evidence to preponderance of evidence if evidence is lost or destroyed. Oppose.	Vetoed
<b>ADA Reform.</b> AB 1148 (Steinorth; R-Rancho Cucamonga) Aligns statute to the intent of legislation last year by clarifying the definition of "commercial property" regarding notices concerning construction-related accessibility standards and Certified Access Specialist (CASp) inspections that must be included in a lease agreement. Support.	Signed 7/21/17— Chapter 87 (Urgency)
<b>Privacy and Technology</b>	
<b>Automatic Renewal and Continuous Services.</b> SB 313 (Hertzberg; D-Van Nuys) Protects the ability of business to offer free gifts or trials while allowing consumers who signed up online to cancel online. Negotiated amendments removed opposition. No Position.	Signed—Chapter 356
<b>Licensee Private Information.</b> AB 1513 (Kalra; D-San Jose) Inappropriately makes the contact information for all home healthcare licensees available to labor organizations for the stated purpose of unionizing. Oppose.	Vetoed

Subject—CalChamber Position	Status
<b>Rental Car Liability.</b> SB 466 (Bates; R-Laguna Niguel) Protects rental car companies from civil liability when they assist law enforcement in finding missing children by permitting the company to access the GPS information in a vehicle that is subject to an AMBER alert. Support.	Signed—Chapter 163
<b>Product Regulation</b>	
<b>State-Only Labeling.</b> SB 258 (Lara; D-Bell Gardens) Imposes a state-only labeling requirement on manufacturers of cleaning products that expands ingredient disclosure requirements on-label and online, and requires employers to provide to employees the information disclosed online by manufacturers through certain California occupational safety and health procedures. Concerns.	Signed—Chapter 830
<b>Greater Transparency in Proposition 65 Cases.</b> AB 1583 (Chau; D-Monterey Park) Promotes transparency and fairness by allowing the alleged Proposition 65 violator to obtain the factual basis for the Certificate of Merit through normal civil discovery procedures. Support.	Signed—Chapter 510
<b>Public Employees' Retirement System</b>	
<b>Investment Report.</b> AB 20 (Kalra; D-San Jose) Broadly targets businesses and inappropriately discourages certain investments by requiring the boards of the California Public Employees' Retirement System (CalPERS) and the California State Teachers' Retirement System (CalSTRS) to develop a report on companies associated with the Dakota Access Pipeline. Oppose.	Signed—Chapter 575
<b>Regulatory Reform</b>	
<b>Small Business.</b> AB 657 (Cunningham; R-Templeton) Helps small business navigate state regulations by increasing ability to contact small business liaisons in each agency. Support.	Signed—Chapter 81
<b>Taxation</b>	
<b>Property Tax Assessment.</b> AB 652 (Flora; R-Ripon) Eliminates confusion by clarifying that property is not provided a base year value for purposes of assessment until construction is complete. Support.	Signed 7/21/17—Chapter 80 (Tax Levy)
<b>Offers in Compromise.</b> AB 525 (Aguiar-Curry; D-Winters) Provides an avenue for taxpayers to resolve certain tax liabilities by extending the sunset date to allow the Board of Equalization to continue to enter into offers to compromise on tax liability. Support.	Signed—Chapter 272
<b>Relief from Penalties.</b> SB 11 (Gaines; R-El Dorado Hills) Protects against inappropriate assessment of penalties for a late tax payment for sales-and-use tax to the Board of Equalization (BOE) when the failure to make a payment was due to the BOE's website. Support.	Vetoed
<b>Telecommunications</b>	
<b>5G Wireless Rollout.</b> SB 649 (Hueso; D-San Diego) Maintains California's leading edge of new technology by providing more uniform permit cost and procedure for 5G small cell installation in public rights of way. Support.	Vetoed

Subject—CalChamber Position	Status
<b>Tourism</b>	
<b>U.S.-China Tourism Year.</b> ACR 50 (Chu; D-San Jose) Encourages continued travel between China and the United States that is expected to result in \$5 billion to the California economy from Chinese visitors. Support.	Resolution Chapter 198
<b>Transportation and Infrastructure</b>	
<b>Transportation Funding Package.</b> SB 1 (Beall; D-San Jose) Improves California's transportation system by providing long-term revenues to fix roads, freeways and bridges across California and put more dollars toward transit and safety. Support.	Signed 4/28/17—Chapter 5 (Urgency)
<b>Streamlines Licensing.</b> SB 182 (Bradford; D-Gardena) Eases burdens on transportation network companies by allowing drivers to obtain a single business license to operate in the state. Support.	Signed—Chapter 769
<b>Streamlines Regulations.</b> SB 145 (Hill; D-San Mateo) Streamlines regulations for autonomous vehicles by eliminating the additional burdensome step of the Department of Motor Vehicles requirement to notify the Legislature upon receipt of an application seeking approval to operate an autonomous vehicle. Support.	Signed 10/12/17—Chapter 725 (Urgency)
<b>Provides Clarity.</b> AB 1222 (Quirk; D-Hayward) Provides clarity for businesses who use two-way wireless communications devices that are essential to performing job duties by updating the definition of “electronic wireless communication device.” Support.	Signed—Chapter 297
<b>Water Supply and Quality</b>	
<b>Land Use.</b> SB 252 (Dodd; D-Napa) Before amendments, curtailed landowners' use of private property by imposing more restrictions on well permits. Opposition removed due to July 17, 2017 amendments. Neutral.	Signed—Chapter 538
<b>Water Rights.</b> AB 313 (Gray; D-Merced) Provides a fair dispute resolution process for water rights complaints by removing the authority from the State Water Board to the Office of Administrative Hearings. Currently, the State Board is the permitting agency as well as the appellate body. Support.	Vetoed
<b>Water Efficiency.</b> SB 564 (McGuire; D-Healdsburg) Reduces water use by providing a funding mechanism for property owners to purchase water efficient equipment and drought tolerant landscaping. Support.	Signed—Chapter 430
<b>Workers' Compensation</b>	
<b>Terrorism/Workplace Violence.</b> AB 44 (Reyes; D-Grand Terrace) Before amendments, exempted from utilization review medical treatment for employees or first responders who are injured as a result of an action of terrorism or violence in the workplace. Opposition removed due to April 20, 2017 amendments. Neutral.	Signed—Chapter 736
<b>Apportionment to Pre-existing Disability.</b> AB 570 (Gonzalez Fletcher; D-San Diego) Violates the fundamental agreement between worker and employers by requiring employers to compensate injured workers for disability that has not, with medical certainty, resulted from a workplace injury. Oppose.	Vetoed

# Fourth Round of NAFTA Talks Concludes; CalChamber Urges Letters to U.S. Senators



The fourth round of talks to renegotiate and modernize the North American Free Trade Agreement

(NAFTA) concluded in Arlington, Virginia on Tuesday, October 17.

The California Chamber of Commerce urges a quick and efficient process, and one that does not hinder ongoing trade and investment among the three NAFTA members, who must be kept united in the same end-goal of a successful renegotiation.

With the Mexican Presidential election and U.S. mid-term elections in 2018, it was originally hoped the negotiations would be concluded this year. Now, negotiators are looking to extend the remaining rounds through the first quarter of 2018.

In response to the pending conversation of withdrawal from the agreement, the business community states that such an action would result in higher tariffs, loss of jobs, and fewer consumer choices, along with increased prices.

Withdrawing from NAFTA also would make it much less likely that trading partners would want to participate in future trade agreements with the current administration. Meanwhile, other nations continue to pursue free trade agreements around the world that exclude the United States.

## Fourth Round Conclusion

U.S. Trade Representative Robert Lighthizer welcomed back Canadian Foreign Affairs Minister Chrystia Freeland, and Mexican Secretary of the Economy Ildefonso Guajardo. During this negotiation round, which began on October 11, officials covered more than two dozen negotiation topics.

Building on the progress of NAFTA round three and the close of a chapter on small and medium-sized enterprises, the United States, Canada and Mexico have now closed the chapter on competition.

The new NAFTA competition chapter substantially updates the original NAFTA

and goes beyond anything the United States has done in previous free trade agreements. The United States, Canada and Mexico have agreed to obligations providing increased procedural fairness in competition law enforcement so that parties are given a reasonable opportunity to defend their interests and ensured of certain rights and transparency under each nation's competition laws.

## Progress

Additionally, in the **trilateral closing statement** issued on Tuesday, negotiators acknowledged progress in several other negotiating groups, including customs and trade facilitation, digital trade, good regulatory practices, and certain sectoral annexes.

Parties have now put forward substantially all initial text proposals. New proposals have created challenges and ministers discussed the significant conceptual gaps among the parties. Ministers have called upon all negotiators to explore creative ways to bridge these gaps. To that end, the parties plan on having a longer intersessional period before the next negotiating round to assess all proposals. Mexico will host the fifth round of talks in Mexico City from November 17–21.

NAFTA partners are working hard to ensure the new agreement provides a solid framework to create jobs, economic growth and opportunity for the people of North America. Ministers have reaffirmed their mandate to chief negotiators to reach an agreement in a reasonable period. Negotiators will continue intersessional engagement, as well as intensive consultations with their respective stakeholders.

## U.S. Closing Statement

In his **closing statement**, U.S. Trade Representative Lighthizer explained that the United States has two objectives for the renegotiations. First is to update the agreement “to reflect our modern economy. Obvious areas for modernization included intellectual property, digital trade, anticorruption, technical standards, financial services, and others.”

The second objective comes from the administration's goal to rebalance the trade deficit. “All parties must understand this and be reasonable if there is any chance for these negotiations to be suc-

cessful,” Lighthizer said. “I think we should all take the time between now and our next round to realistically assess what can be done to arrive at a balanced, modern agreement. And I am hopeful that if we do that, we'll have a successful conclusion to this project in due course.”

## Letter to President

CalChamber and a coalition of more than 300 state and local chambers from across the United States recently sent a **letter to President Donald Trump**, urging him to support efforts to modernize NAFTA.

NAFTA has been especially beneficial for America's farmers and ranchers. Agricultural exports to Canada and Mexico have quadrupled from \$8.9 billion in 1993 to \$38 billion in 2016, generating big benefits for rural America.

In addition, Canada and Mexico are the top two markets in the world for U.S.-made manufactured goods, with purchases of nearly half a trillion dollars last year—a sum that tops the next 10 largest markets combined. Our North American neighbors are also booming markets for U.S. services exports.

In fact, the U.S. last year recorded a trade surplus of \$11.9 billion with its NAFTA partners when manufactured goods and services are combined. Among the biggest beneficiaries of this commerce are America's small and medium-sized businesses, 125,000 of which sell their goods and services to Mexico and Canada.

## Action Needed

There will be a NAFTA Senate Lobbying Day on Tuesday, October 24 from 9 a.m. to 4 p.m. EDT organized by the business community, including the U.S. Chamber and the National Association of Manufacturers.

The CalChamber is encouraging members to **contact U.S. Senators Dianne Feinstein and Kamala Harris** in support of NAFTA to coincide with this effort.

**Staff Contact: Susanne T. Stirling**

# ALERT

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OCTOBER 20, 2017 • PAGE 16

## Mandatory Updates to Required Poster and Pamphlets for January 1

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