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Governor Calls for Fiscal Prudence with Budget Plan More Dollars for Rainy Day Fund; No New Taxes



Governor Edmund G. Brown Jr. this week proposed the final budget of his gubernatorial career, proposing to spend a record \$190 billion without raising taxes and setting aside \$13 billion in a rainy-

day reserve.

For the first time since 1998, it appears that a retiring governor will not pass along a budget deficit to his successor. Nonetheless, the Governor insisted that fiscal prudence must guide decisions this year, emphasizing that "we prepare for the recession, not when it comes, but years before."

The Governor noted that by the end of

the next fiscal year, the economic expansion will be the longest post-war period of uninterrupted growth. A moderate recession, according to the Department of Finance, would drop state revenues by more than \$20 billion annually.

The day after the Governor released his **budget proposal**, the California Chamber of Commerce hosted Department of Finance Director Michael Cohen at a Luncheon Forum where he provided attendees with details on the proposed budget.

Education

With respect to education, the administration proposes fully funding the Local Control Funding Formula, a finance allocation that eliminates most categorical funding programs in favor of aiming *See Governor: Page 4*



Photo by Sara Espinosa

California Finance Director Michael Cohen reviews details of the Governor's budget proposal for 2018–19 with attendees at the first CalChamber Luncheon Forum on January 11. Watch the video at *www.calchamber.com/videos*.

Amendments Remove Threat from Holdover Job Killer Bills



The California Chamber of Commerce has removed the job killer designation on several bills due to amendments since the start of the new year that

changed the focus of the legislation. The CalChamber now has **no position** on the following **former job killer bills**:

• AB 1645 (Muratsuchi; D-Torrance) Gas Price Increase—Now Study Bill. Before amendments, jeopardized the production of California-based fuel by banning the use of hydrogen fluoride and hydrofluoric acid at refineries that use more than 250 gallons and are located within two miles of a residence, notwithstanding the fact that there are significant safety regulations in place at the local, state and federal levels. Opposition and job killer status removed due to January 3 amendments. Now requires a study of hydrogen fluoride and modified hydrogen fluoride at specified refineries.

• AB 479 (Gonzalez Fletcher; D-San Diego) Targeted Tax on Alcohol—Now Workers' Compensation Bill. Before amendments, unfairly imposed an additional targeted excise tax on manufacturers, importers, and wholesalers of distilled spirits and a floor tax, that would have increased their costs and forced them to reduce in other areas, including labor. Opposition and job killer status removed due to January 3 amendments. The bill now deals with workers' com-

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Labor Law Corner Employers Can Keep Drug-Free Workplace, Despite Weed Legalization



Dana Leisinger HR Adviser

With the new law in California legalizing marijuana, what are our obligations and rights?

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Email: alert@calchamber.com. Home page: www.calchamber.com. California's new law on recreational marijuana can create some difficulties for employers. This law was enacted in 2017, but as of January 1, 2018, people in California now have the right to sell and/ or purchase marijuana.

Employees may think they can use marijuana and come in to work; however, the law is unchanged in one regard: Employers have the right to have employees who are not impaired—be it under legal or illegal drugs. As a comparison, alcohol is legal, but one cannot drink it on the job.

Drug Testing

Employers still have the right to conduct pre-employment drug testing, as well as reasonable suspicion testing if a stated policy is in place.

Testing for marijuana, however, is more problematic than for other drugs. The drug stays in the body's system far longer than other drugs or alcohol, and the results are not as precise.

Marijuana in the Workplace

There appears to be some confusion on employees' part. They may think that employers can't fire employees now that marijuana is legal, but employers still can enforce employment policies as there is nothing in the law which states that an employer has to accommodate the marijuana usage.

Other predictable problems come up, including the possibility that employees might "indulge" during their meal breaks.

It must be stressed that using marijuana while driving is just as illegal as using alcohol while driving. A new state law makes smoking marijuana while driving or riding as a passenger illegal—a move to combat a type of intoxicated driving officials fear may become more common and more dangerous.

The best practice might be to freely inform your employees of these issues. Any ambiguities need to be clarified, and employees need to be aware of the consequences of indulging while at work.

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.

CalChamber-Sponsored Seminars/Trade Shows

More at *www.calchamber.com/events*. *Labor Law*

- 2018 Employment Law Updates. Cal-Chamber. January 19, San Francisco; January 25, San Jose; January 26, Oakland. (800) 331-8877.
- HR Boot Camp. CalChamber. February 13, 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.

Leaves of Absence: Making Sense of It All. March 15, Sacramento; March 22, Pasadena; June 21, San Diego; August 10, Oakland. (800) 331-8877.

Business Resources

TECHSPO LA 2018. TECHSPO. June 13–14, Santa Monica. (800) 805-5385. *International Trade*

Morocco Tourism Investment Road Show to the U.S. National U.S.-Arab Chamber. January 22–26, Los Angeles. (213) 482-5111.

- Import Compliance Training Program. Orange County Center for International Trade Development. February 23, Santa Ana. (714) 564-5415.
- Asia Pacific Business Outlook Conference. University of Southern California Marshall School of Business. April
- 16–17, Los Angeles. (213) 740-7130. SelectUSA Investment Summit. U.S. Department of Commerce. June 20–22, Oxon Hill, MD. (800) 424-5249.

Next Alert: January 26





<u>From the HRWatchdog Blog</u> New Content on *HRCalifornia*, Fine for Underpaying Wages, and More



HRWatchdog, the California Chamber of Commerce employment law blog, regularly features CalChamber experts analyzing

federal and state legislation, important court cases and agency actions.

Blog items posted since the start of the new year include the following:

New Year, New Laws, New Content

To help you make a smooth transition to the new year, *HRWatchdog* wants you to know that *HRCalifornia* is fully updated with new content on:

• California's New Parent Leave Act;

• New Worksite Immigration Enforcement and Protections;

• New Salary History Ban;

• New Ban-the-Box Rules on Criminal Background Checks;

• New Harassment Prevention Training Requirements;

• Changes to required posters and pamphlets.

• Other 2018 employment laws and their impact on such topics as Personnel Records, Privacy, Leaves of Absence, Discrimination and many more.

A page has been set up on *HRCalifornia* for CalChamber members to get a quick guide to updates to individual employment law topics.

Also, CalChamber's employment law

experts created, updated and modified any *HRCalifornia* forms, checklists or tools affected by new laws, regulations and court rulings.

Grab some leftover holiday treats and a cup of coffee. Spend some time in the HR Library. Look for the flags to find new content on 2018 laws or important court rulings from 2017 that may require changes to your workplace policies and practices.

CalChamber has created several new forms to help California employers comply with the new laws, including a Criminal Background Screening Checklist and Notice to Employees: Government Inspection of Employment Eligibility Records.

See the *HRWatchdog* blog for links to the forms.

Pay Caregivers Less than \$3 per Hour; Be Hit with \$7 Million in Fines

The California Labor Commissioner's Office cited the operator of six adult care facilities in Los Angeles over \$7 million for failure to pay the minimum wage and other wage and hour violations. The company must pay underpaid wages and penalties to 149 former and current employees who provided care to elderly residents 24 hours a day, six days a week.

The Labor Commissioner's Office investigation uncovered that, over a three-year period, caregivers were paid less than \$3 per hour for their work. The live-in caregivers were responsible for monitoring and caring for elderly residents and hospice patients, many of them suffering from Alzheimer's or dementia. The caregivers were paid fixed amounts ranging from \$1,500 to \$1,800 per month, or \$2.40 to \$2.88 per hour.

See the *HRWatchdog* blog for more details.

Social Security Revises 2018 Taxable Wage Base

For 2018, the Social Security Administration (SSA) announced that the Social Security taxable wage base will be \$128,400. This is the maximum amount of earnings subject to Social Security tax for 2018.

Initially, the SSA announced that the wage base would increase by \$1,500 from \$127,200 to \$128,700 maximum taxable earnings. However, the agency later revised that maximum to \$128,400, an increase of \$1,200 from last year.

According to the SSA, this lower taxable maximum amount is due to corrected Forms W-2 that a national payroll service provider provided to Social Security in late October 2017.

The taxable maximum amount change took effect January 1, 2018.

CalChamber members can visit the **Standard Deductions: Taxes** in the HR Library on *HRCalifornia* for more information.

Staff Contact: Gail Cecchettini Whaley

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Beverage Container Mandate Moves to Assembly Floor



Legislation proposing a burdensome mandate on beverage containers passed the Assembly Natural Resources Committee this

week and will be considered next by the entire Assembly.

AB 319 (M. Stone; D-Scotts Valley) is

opposed by the California Chamber of Commerce and a coalition of industry groups. The bill drives up the cost of beverages and imposes impractical technology requirements by requiring that the cap of a single-use plastic beverage container be tethered or affixed to the container.

Technology Not Yet Available

The coalition letter to the committee points out that the technology to design

and utilize tethered caps for certain beverage products has not been developed for market.

Given that no pro-type is available for carbonated or hot filled drinks, the letter states, "it is impossible to determine when such a tethered cap could be in production."

In addition to having a significant impact on production and jobs in California, AB 319 also would affect thousands of companies around the globe that manufacture and distribute beverage products in California.

Recycling Impact

Current single-use bottles are 100% recyclable and move easily through the recycling chain. A tethered top would require small recyclers to change their equipment at significant expense.

Moreover, the California Department of Resources Recycling and Recovery (CalRecycle) recently updated its guidelines to advise consumers to put the caps back on the bottles when recycling, the coalition notes. CalRecycle data shows that 87% of plastic beverage containers are returned with caps on.

The letter points out that tethered lids still can be unscrewed from the bottle, and often are sealed with a removable plastic closure. A more effective approach would be to educate consumers about recycling the lids with the bottles, the letter concludes.

Key Vote

Assembly Natural Resources approved AB 319 on a 7-3 vote.

Ayes: Chau (D-Monterey Park), Eggman (D-Stockton), C. Garcia (D-Bell Gardens), Limón (D-Goleta), McCarty (D-Sacramento), Muratsuchi (D-Torrance), M. Stone (D-Scotts Valley).

Noes: Acosta (R-Santa Clarita), T. Allen (R-Huntington Beach), Flora (R-Ripon).

Governor Calls for Fiscal Prudence with Budget Plan

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supplemental funding toward poor students, English learners and children in foster care. Overall spending on public schools and community colleges will have increased by 66% in the seven years since the depths of the recession.

In the Governor's proposal, funding for the University of California will increase by about 2%, and for the California State University by 1%.

For community colleges, the budget includes an overall increase of 4% and implements legislation from last year that waives tuition for first-time, full-time students. The budget also proposes the creation of an entirely online two-year degree aimed at working Californians.

Workforce

To address the state's long-term work-

force needs, the Governor proposes providing \$200 million to support K–12 career-technical education programs that are aligned with industry skills, and additional funding for industry experts to support these programs.

The idea is to maintain a predictable, targeted and sustained funding stream to support an industry/education workforce development collaboration.

Transportation/Courts

Following up on last year's increase in transportation revenues, the administration plans to spend \$4.6 billion in the next fiscal year on various highway and bridge maintenance, rehabilitation and operational improvements.

The budget also includes funds to restart the state's construction program to complete 10 courthouses.

The state's judicial branch will be provided additional funding to support efforts by the Judicial Council to improve and modernize trial court operations.

Cap-and-Trade

The Legislature in 2017 extended the cap-and-trade program, which is designed to enable reductions in greenhouse gas emissions, through 2030.

A consequence of this extension was to stabilize the existing program and ensure a steady stream of new revenues to the state, potentially amounting to billions in new taxes for the Legislature to spend. The Governor will outline his plan for new spending later this month in his state-of-the-state address.

The full summary of the Governor's budget proposal can be found at *www.ebudget.ca.gov*.

Tools to stay in touch with your legislators.

calchambervotes.com



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ABOUT US

CalChamber is the largest broad-based business advocate, working at the state and federal levels to influence government actions affecting all California business. As a not-for-profit, we leverage our front-line knowledge of laws and regulations to provide affordable and easy-to-use compliance products and services.



2017 Major Victories

Moving Forward on an Agenda for All Californians

The California Chamber of Commerce is the voice of California businesses of all sizes, expert at promoting pro-job policies and advising employers on the practical impact of state laws and regulations in the workplace. We track more than 3,000 legislative proposals every year, speaking up when a bill will hurt employers and the economy, and working to win support for legislation that will help the jobs climate. Policymakers listen to CalChamber policy advocates, knowing that we represent more than 13,000 member businesses that together employ a fourth of the state's private workforce and reflect the diversity of the California business community.

Adding strength to our message are the thousands of individuals who use our web-based grassroots center, **www.calchambervotes.com**, to express their views to their elected representatives. Each year, website visitors use the grassroots center to send some 200,000 letters about state and federal issues affecting business operations.

See below to learn how CalChamber advocacy in 2017 helped employers. Consult the **Advocacy Return on Investment** sheet for estimates of employer savings on some of these victories.

Preventing Damage from Job Killer Bills

CalChamber policy advocates joined forces with other business groups and pro-jobs legislators to stop 25 of 27 job killer bills from becoming law as originally proposed. Below is a sampling of job killers stopped or amended before they passed the Legislature. More information at **www.calchamber.com/jobkillers**.

- **Government-run health care:** Stopped plan for single-payer, multibillion-dollar health care system with unspecified funding plan (SB 562).
- **Increased labor costs:** Blocked an effort to eliminate worker and employer flexibility with an unfair scheduling mandate (AB 5); won veto of new data collection mandate on lawful wage differentials (AB 1209).
- Affordable housing barriers: Stopped bills creating significant uncertainty for developers (SB 224) and reducing the supply of rental housing (AB 1506); secured amendments to a proposal imposing prevailing wage on all development projects (AB 199).
- **Tax increases:** Stopped bills giving local governments new authority to enact special taxes, including parcel taxes, by lowering from two-thirds to 55% the vote required for approving new taxes (ACA 4 and SCA 6); multiple tax increases on employers (SB 567); plus targeted taxes on sweetened beverages (AB 1003), opioids (AB 1512), high earners (AB 1356), contractors (AB 43), alcohol (AB 479) and retailers (ACA 11).
- **Meritless litigation:** Stopped a bill increasing potential litigation on environmental standards (SB 49); a gender pricing mandate (AB 1576); and California-only labeling for sugar-sweetened drinks (SB 300).
- **Burdensome environmental regulations:** Prevented passage of proposals threatening energy reliability (AB 127); banning expanded polystyrene foam food service containers (SB 705); and increasing permitting fees and delays (SB 774).
- **Economic development barriers:** Stopped bills jeopardizing the production of Californiabased fuel (AB 1645); and imposing additional liability for air emissions (AB 421).

Investing in Future Infrastructure

• Supported legislation signed into law that will provide long-term revenues to fix roads, freeways and bridges across California, and put more dollars toward transit and safety (SB 1).



Protecting Employers' Ability to Manage Workplace

- Led coalition that secured multiple sets of amendments that clarified language ambiguities and reduced burden on employers under existing regulations on the use of criminal history in employment decisions (AB 1008).
- Won amendments to limit employer liability and administrative burdens in legislation that otherwise put employers in a no-win situation between federal immigration enforcement and state enforcement (AB 450).
- Supported Governor's veto of proposal that would have inappropriately allowed organizations unaffiliated with the employer to gain access to a potentially unlimited scope of employer internal documents (AB 978).

Keeping Lid on Health Care Costs

- Stopped well-meaning but flawed mandates increasing health care costs (SB 349, SB 172, SB 399, AB 1601, AB 1110, SB 221, AB 1107).
- Advocated amendments to narrow the overly broad scope of required screening for blood lead levels in children to subjects whom a physician determines are at risk for lead poisoning (AB 1316).
- Won removal of language that would have limited access to care from in-home respite care provider agencies (AB 1380).

Ensuring Fair Treatment for Business Operations

• Secured amendments to provide protections for facilities in legislation that otherwise would have allowed an air district to shut down a facility for a perceived danger to public health or the environment before a hearing determined action was needed (AB 1132).

Preserving Business Options

• Led coalition that negotiated amendments to protect the ability of business to offer free gifts or trials while allowing consumers who signed up online to cancel online (SB 313).

Controlling Costs

- Won amendments to a prevailing wage bill to eliminate its negative impact on the timber industry (AB 1066).
- Backed veto of proposal that would have increased costs and likely delayed permits for hazardous waste operators (AB 1179).

Maintaining Integrity of Workers' Compensation System

• Backed Governor's veto of a bill that would have expanded the scope of workers' compensation beyond work-related injuries (AB 570).

Protecting Local Voter Say in Land Use Decisions

• Supported Governor's veto of a bill that would have eliminated Californians' local initiative power to pursue changes in land use (AB 890).

Defending Employers Against Unwarranted Litigation

- Blocked a proposal that would have led to increased litigation by interfering with the settlement of cases (AB 889).
- Supported signing of a bill protecting rental car companies from civil liability when they help law enforcement find missing children by permitting the company to access the GPS information in a vehicle subject to an AMBER alert (SB 466).

Easing Government Burdens

- Supported signing of a bill to help small business navigate state regulations by increasing ability to contact small business liaisons in each agency (AB 657).
- Backed signing of legislation that streamlines licensing for drivers in transportation network companies (SB 182).
- Supported signing of urgency bill that streamlines regulations for autonomous vehicles (SB 145).

Safeguarding Ability to Pursue Technological Innovations

• Stopped onerous, duplicative mandates on manufacturers/ retailers of devices that connect to the internet (SB 327); drastic restrictions on internet providers (AB 375); and a bill that risks stunting growth of unmanned aircraft systems (SB 347).

Continuing Move to a Better-Prepared Workforce

• Supported bill signed into law that will help California reduce the skills gap by authorizing a competitive grant program to help individuals who face multiple barriers to employment (AB 1111).

Keeping Global Communication Lines Open

- Continued to nourish a strong international network as part of delegations to Canada, California's second largest export partner, and Israel, a growing partner for U.S. and California trade and investment.
- Promoted two-way information exchanges via luncheons and other gatherings on trade with the Americas and Great Britain; provided web-based portals compiling statistics and other resources about major California trade/investment partners; distributed weekly *Trade Update* e-newsletter digest of the latest news and information about trade policy.



U.S., South Korea Begin Negotiations on Modifying Free Trade Agreement



The Trump administration started negotiations last week on amendments and modifications to the

U.S.-Korea Free Trade Agreement (KORUS FTA) with South Korea.

Background

At the direction of President Donald J. Trump, U.S. Trade Representative Robert Lighthizer initiated talks last July to consider matters affecting the operation of the KORUS FTA, including amendments and modifications to resolve several problems regarding market access in Korea for U.S. exports.

The KORUS FTA was signed in June 2007 and approved by the U.S. Congress and South Korean government in 2011.

The U.S. business and agriculture community have received reports that the administration is concerned about the agreement, due to the imbalance of trade figures. These figures, however, are based on macroeconomic issues and not the trade agreement.

CalChamber Position

The California Chamber of Commerce reaffirmed support for the trade agreement in a letter sent on September 5, 2017 to members of the Trump administration, including the secretary of commerce and the U.S. trade representative. Defending the KORUS FTA is a priority issue for the CalChamber and businesses across the country. The U.S. business community views the KORUS FTA as a strong agreement, and urges the administration to focus on more effective enforcement to solve issues as Korea's economy improves.

The provisions of the trade agreement have been beneficial for U.S. industries, agricultural enterprises, farmers, ranchers, energy companies and automakers. Any renegotiation of the KORUS FTA must recognize the gains achieved, and ensure that U.S. trade with South Korea remains strong and without interruption.

The CalChamber now urges a quick and efficient process that does not hinder ongoing trade and investment between the United States and South Korea, who must be kept united in the same end-goal of a successful renegotiation.

The KORUS FTA sends a strong signal that the United States intends to remain heavily engaged in the region for a long time to come in business, economics, security and international politics.

The trade agreement strengthens the 65-year-old alliance between the United States and South Korea, while reinforcing the economic and political reforms South Korea continues to make.

Trade Overview

Korea is a significant market for U.S. small and medium-sized companies, which make up a majority of U.S. busi-

CalChamber SAVE THE DATE • MAY 23-24, 2018 CAPITOL SUMMIT & SACRAMENTO HOST BREAKFAST nesses exporting to Korea. Korea is a \$1.37 trillion economy and its commercial relationship with the United States is largely complementary. In 2016, two-way trade between the two countries exceeded \$112.2 billion. In 2016, U.S. goods exports to Korea were \$42.26 billion.

Korea is California's seventh largest export destination. California is the top exporting state to Korea, making up nearly 20% of U.S. exports. In 2016, California exported more than \$8.2 billion to Korea. Top products from California to Korea included nonelectrical machinery, computers and electronics, transportation equipment, and food manufactures.

Korea currently enjoys broad access to the U.S. market and the United States is one of Korea's larger exporting markets, importing 12.3% of Korea's worldwide exported goods, according to the CIA *World Factbook*.

More Information

For more information, visit *advocacy. calchamber.com/south-korea*. Staff Contact: Susanne T. Stirling

Amendments Remove Threat from Holdover Job Killer Bills

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pensation permanent disability apportionment for breast cancer.

• AB 1576 (Levine; D-San Rafael) Gender Pricing Mandate-Now About modeling. Before amendments unfairly exposed companies to costly, frivolous litigation with an automatic \$4,000 in statutory damages for alleged gender pricing discrimination based upon different consumer prices for female versus male products that businesses will be forced to settle to avoid costs or spend significant legal fees demonstrating those differences are based upon objective, non-gender related specific factors. Gutted and amended to a different subject area (modeling agencies) on January 8. Opposition and job killer status removed.

CALIFORMIA CHAMBER OF COMMERCE Ъ́н

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If you're not up to date on new employer obligations for the new year, don't miss our annual live webinar on January 30. Learn how recent state and federal court cases, new laws and regulatory changes apply

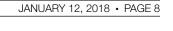
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