CalChamber-Sponsored Bill Ends Cycle of Harassment
Passes Assembly to Senate on Unanimous Vote

A California Chamber of Commerce-sponsored job creator bill that will enable businesses to avoid hiring repeat sexual harassment offenders, ending the cycle of harassment in industries across California, unanimously passed the Assembly this week.

AB 2770 (Irwin; D-Thousand Oaks) protects an employer’s ability to warn potential employers about an individual’s harassing conduct without the threat of a defamation lawsuit when responding to a reference check.

More Protection
“It is apparent that California law is not providing enough protection to sexual harassment victims and California employers,” said CalChamber Policy Advocate Laura Curtis. “AB 2770 gives employees more protection from harassment by clarifying the victims’ and employers’ rights to curb harassment.

See Bill Protecting: Page 4

CalChamber Urging Fiscal Committees to Keep Job Killer Bills on Hold

The California Chamber of Commerce is asking legislative fiscal committees to stop a number of job killer bills from moving on in the legislative process.

Several job killers already have been placed on the suspense files of the Assembly or Senate Appropriations committees pending a review of the bills’ fiscal impact. Others await committee action.

Arbitration Discrimination
• AB 3080 (Gonzalez Fletcher; D-San Diego) Ban on Settlement Agreements and Arbitration Agreements — Significantly expands employment litigation and increases costs for employers and employees by banning settlement agreements for labor and employment claims as well as arbitration agreements made as a condition of employment, which is likely preempted under the Federal Arbitration Act and will only delay the resolution of claims. Banning such agreements benefits the trial attorneys, not the employer or employee. In Assembly Appropriations Committee.

Economic Development Barriers
• AB 1902 (Levine; D-San Rafael) Interference with Contracts — Discourages and reduces “personal service contracts” as defined, by unfairly increasing the contract price for these services

See CalChamber Urging: Page 7

Remembering Governor George Deukmejian

Former California Governor George Deukmejian, one of the most popular leaders in California’s history. Governor Deukmejian’s humility, integrity, and passion for doing what was best for California is a model for all who seek public service.

“He inspired me and many others by his compassion for all Californians, by his commitment that government help those who cannot help themselves, and his empathy for those who suffered political oppression.

“He served the people through his unparalleled leadership on public safety, quality judicial appointments, fiscal stewardship, response to natural disasters such as the Loma Prieta earthquake, and doing the unexpected, including—his effort to create the first assault weapons ban.

“During his time in office, the Governor eliminated a huge deficit without raising taxes, balanced the budget during

See Remembering: Page 4

Inside
New Online Tools for Business: Page 3
**Labor Law Corner**

**Steps to Follow Before Terminating Underperforming Employee**

Although California is an “at-will” state, meaning an employer can dismiss an employee for any reason as long as it isn’t an illegal reason, this question presents the danger of exercising at-will terminations without thinking through the decision.

**Disciplinary Process**

In this instance, the employee is in two protected categories—age and religion. Plus, the employer has not worked with the employee. A personnel file empty of warnings could cause an employee to think it was his race and religion that led to the termination, not his job performance.

If an employer has exercised due diligence and disciplined the employee about the performance issues, it can rebut the claim the employee was being discriminated against.

Therefore, even with at-will status, it’s advisable to go through the disciplinary process before terminating an employee. Claiming at-will will not protect an employer from a claim of discrimination.

**Mandatory Notices**

In addition, it is important to remember that all departing employees—whether the reason is termination, resignation or layoff—must receive three documents:

- Notice to Employee as to Change in Relationship;
- the Health Insurance Premium Payment (HIPP) form; and
- Form 2320—For Your Benefit from the Employment Development Department (EDD).

The first two notices are one-page documents available on HRCalifornia. The third is available on the EDD website, www.edd.ca.gov.

The COBRA (continuation coverage rights) election form also should be provided if the employee is on the company health benefits plan.

Lastly, when terminating an employee, besides the forms noted above, the employee must be provided his/her final paycheck at the time of termination. If the employee wants the employer to mail the check, he/she must direct the company to do so in writing.

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**CalChamber-Sponsored Seminars/Trade Shows**

More at www.calchamber.com/events.

**Labor Law**


Lead the Charge: Preventing Sexual Harassment in Your California Workplace. CalChamber. September 17, Webinar. (800) 331-8877.

HR Boot Camp. CalChamber. June 5, Santa Clara; August 21, Sacramento; September 5, Long Beach. (800) 331-8877.

You Can’t Fight City Hall and Their Local Ordinances. CalChamber. June 14, Webinar. (800) 331-8877.

CalChamber Joins Secretary of State in Unveiling Online Business Filing Tools

California Chamber of Commerce President and CEO Allan Zaremberg joined Secretary of State Alex Padilla at a CalChamber news conference on May 8 to unveil a new online business filing and search portal that will streamline the process for starting a new business in California.

“Small businesses drive our economy and the people who want to be entrepreneurs—who have ideas, who may have funding or are looking for funding—want to get up and running in California,” said Zaremberg. “Now, when people call CalChamber asking for help with getting their business going, we have a great resource to offer.”

“The days of only being able to form an LLC in-person at the Secretary of State’s office, or by mail are gone with our new, easy online filing option,” said Secretary Padilla. “Now, a business can submit LLC formation documents, submit LLC Statements of Information, or file a trademark or service mark application—all online from the convenience of their laptop, tablet or smartphone.”

Search Assistant

Secretary Padilla also announced the creation of Eureka, a new artificial intelligence search assistant, known in the information technology world as a “chatbot,” to help customers easily navigate business resources on the Secretary of State website.

Over the last five years, LLCs have been the fastest-growing company entity type being registered in California, with early 120,000 LLC Formation filings in the 2016-17 fiscal year alone, according to the Secretary of State. The new LLC Formation tool was designed and implemented in collaboration with the staff of the Secretary of State and the ThinkSmart LLC Platform.

Developed in partnership with Microsoft (a CalChamber member), the Eureka chatbot answers frequently asked business entity and trademark questions.

Customers can ask a question such as “How do I get a copy of a filed document?” and Eureka will link them to the California Business Search website where they can look up their business record and access documents for free. Eureka responds best to short questions or keywords.

For more information, visit the bizfile California website at www.sos.ca.gov.

To see a video of the news conference, visit calchamberalert.com.

A video explaining the process for filing California LLC paperwork online is available on the California Secretary of State YouTube channel.

CalChamber-Sponsored Seminars/Trade Shows

From Page 2

13–14, Santa Monica. (800) 805-5385.

International Trade


Startup Lebanon—Executive Innovation Retreat. American Lebanese Chamber of Commerce. June 4-8, San Francisco.


Vehicle Aftermarket Trade Mission to Chile. Auto Care Association and International Trade Administration. August 21–22, Chile. (301) 654-6664.

83rd Thessaloniki International Fair. HELEXPO. September 8–16, Thessaloniki, Greece.

Bill Protecting Victims/Employers from Serial Harassers Passes Assembly

From Page 1
without the threat of defamation lawsuits.”

The bill also protects employees from defamation lawsuits for reporting sexual harassment allegations to employers or official agencies.

Defamation Lawsuits

Alleged harassers are not only suing victims, but also filing suit against employers for defamation. Such lawsuits put employers in an impossible position as they have an affirmative duty to take reasonable steps to prevent and promptly correct harassment.

Worse, if the alleged harasser’s employment is then terminated, or the alleged harasser resigns, employers are put in an even more difficult position. The company has knowledge of the harassing activity and yet its hands are tied.

If the company tells a potential employer that the employee was accused of harassing conduct, the company is on the hook for a defamation claim. If the company stays silent, the harassers are then free to victimize more individuals at their next job without anyone at the new company ever knowing about the unacceptable behavior.

By addressing this situation, AB 2770 will reduce frivolous lawsuits and allow an employer to use the financial resources that would have been diverted to litigation to grow its workforce instead.

Key Vote

AB 2770 passed the Assembly 72-0 on May 7.

The bill now moves to the Senate.

Staff Contact: Laura Curtis

Remembering Governor George Deukmejian

From Page 1
each of the eight years he was governor, and created a reserve for emergencies.

“His policies encouraging job creation and economic growth resulted in over 3 million additional jobs and one of the longest periods of economic prosperity in state history.

“Governor Deukmejian made a huge impact on the State of California and on the lives of those of us who had the honor to work with him.

“The San Francisco Chronicle carried a wonderful quote about the Governor from his final State of the State address. He said, ‘Like so many others, I became Californian not by birth but by choice. I adopted a state whose opportunities are as boundless as its beauty, whose future is as bright as its sunshine, and whose possibilities are as varied as its people.’”
State Economy Draws Strength from Trade

As the Trump administration and the 115th Congress now are into their second year, the California Chamber of Commerce continues to communicate its international trade priorities and support for working together to secure a national free trade agenda. The designation of May as World Trade Month each year provides an opportunity to acknowledge the importance of global trade—the regular attacks notwithstanding—and the economic advances that international commerce makes possible.

Promoting Trade a Priority

California’s economy is more diversified than ever, and the state’s prosperity is tied to exports and imports of both goods and services by California-based companies, to exports and imports through California’s transportation gateways, and to inflows and outflows of human and capital resources.

Accordingly, promoting the ability of California companies to compete more effectively in foreign markets continues to be a high priority for the CalChamber, along with attracting foreign business to the state.

In 2017, California exports amounted to $171.93 billion, an increase from the 2016 total of $163.6 billion, according to the U.S. Department of Commerce. California maintained its perennial position as a top exporting state, accounting for 11% of total U.S. exports in 2017.

Trade Agreements

Trade agreements (the U.S. has 20) ensure that the United States may continue to gain access to world markets, which will result in an improved economy and additional employment of Americans.

The CalChamber urges support of these trade agreements that will continue to keep U.S. and California businesses competitive. Although the recent trend has been to regional trade agreements, the CalChamber will also be supportive of bilateral trade agreements.

2018 Priority Issues

Trans-Pacific Relations

During the last decade, growth in U.S. exports to Asia has lagged behind overall export growth. The United States is gradually losing market share in trade with Asian countries, which have negotiated more than 160 trade agreements among themselves, while the United States has signed only three (with South Korea, Singapore and Australia).

In March, the United States and South Korea announced an agreement in principle on the general terms of amendments and modifications to the U.S.-Republic of Korea Free Trade Agreement (KORUS). The CalChamber has reaffirmed our support for the agreement.

World Trade Month Commentary

By Susanne T. Stirling

Earlier in March, 11 Pacific Rim countries signed the revised Trans-Pacific Partnership (TPP-11). The updated pact, finalized just more than a year after U.S. withdrawal left its fate in question, retains all the tariff reductions and eliminations from the original version signed in 2016 by the 11 nations and the United States. TPP-11 suspends 22 other provisions, including some intellectual property rules.

The TPP-11 will reduce tariffs in countries that together amount to more than 13% of the global economy—a total of $10 trillion in gross domestic product. Even without the United States, the deal will span a market of nearly 500 million people, making it one of the world’s largest trade agreements.

The TPP-11 will take effect after at least six countries have approved it. President Donald Trump also has recently expressed interest in rejoining TPP-11 after his top trade priorities have been accomplished.

The CalChamber certainly would consider supporting new bilateral and multilateral free trade agreements in the Pacific region; however, the larger Pacific picture needs to be assessed for trade, investment, geo-political and strategic implications.

Trans-Atlantic Relations

The CalChamber is supportive of Europe and the United States continuing trade talks. In the interim, it may be that a U.S.-United Kingdom Free Trade Agreement is negotiated. The UK must exit from the EU before it can negotiate new agreements.

The CalChamber certainly would consider supporting such a new bilateral free trade agreement.

The Americas

Now that the renegotiation of the North American Free Trade Agreement (NAFTA) is well underway, the CalChamber 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.

The CalChamber’s long-standing support for NAFTA is based upon an assessment that it serves the employment, trading and environmental interests of California and the United States, as well as Canada and Mexico, and is beneficial to the business community and society as a whole.

NAFTA has been beneficial for U.S. industries, agricultural enterprises, farmers, ranchers, energy companies and automakers. The renegotiation of NAFTA must recognize the gains achieved and ensure that U.S. trade with Canada and Mexico remains strong and without interruption.

Export-Import Bank of the United States

Although an overwhelming majority in Congress voted to fully reauthorize the CalChamber-supported Export-Import Bank of the United States in December 2015, the appointed members have been on “political hold” in the U.S. Senate. This leaves the Ex-Im Bank Board without a quorum, and unable to approve transactions of more than $10 million.

The drop in authorizations represents numerous lost opportunities for U.S. businesses—large and small—and their workers. With economic growth and job creation the top priorities for the United States, Ex-Im has an important role to play, and it is hoped this issue will come to a resolution in Congress in 2018.

Susanne T. Stirling is vice president of international affairs for the California Chamber of Commerce, www.calchamber.com/international.
Water Storage Projects Move a Step Closer to Gaining California Bond Funding

Eight of 11 water storage projects seeking funding from a bond measure approved by voters in 2014 advanced to the next phase of the approval process run by the California Water Commission. After hearing staff recommendations, project applicants and comments from the public during three days of meetings in Sacramento last week, the Commission released its list of eligible approved amounts on May 3.

Proposition 1, the 2014 measure, authorized $2.7 billion for investments in new water projects. The California Chamber of Commerce supported the water bond based on the water storage component.

The Commission explained that Proposition 1 funds the public benefit aspects of water storage projects, specifically ecosystem improvement, water quality improvement, flood control, recreation and emergency response. To receive funding, applicants for Proposition 1 funding must detail the public benefits, along with a measurable benefit for the Sacramento-San Joaquin Delta.

Importance of Storage
As reiterated by project applicants in last week’s meetings, storage is needed to control the amount and timing of water flowing through the Delta to meet endangered species requirements, which affects the amount of contracted water available for farmers and cities downstream.

Storage capacity also provides the opportunity to store more water in wet years to offset needs in drier years. Stored water gives water managers greater flexibility that ultimately benefits people, farmers and other businesses, and the environment.

Conjunctive use projects use surface water and groundwater collaboratively, such as storing surface water in groundwater basins in wet years to be withdrawn for use in dry years.

Funding Amounts
One major surface water storage project, the Sites Project, was listed by the Commission as eligible for $1.008 billion in funding, slightly more than the staff had recommended. The total cost for the project, located in Northern California west of the community of Maxwell in Colusa County, is estimated at $5.176 billion.

Storage capacity also provides the opportunity to store more water in wet years to offset needs in drier years. Stored water gives water managers greater flexibility that ultimately benefits people, farmers and other businesses, and the environment.

Water Storage Investment Program Projects  (As of May 3, 2018)

<table>
<thead>
<tr>
<th>Project</th>
<th>Claimed Public Benefit</th>
<th>Total Project Cost</th>
<th>Funding Request</th>
<th>Commission Approved Eligible</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sites Project (surface storage)</td>
<td>Ecosystem &amp; water quality improvements, flood control, emergency response, recreation</td>
<td>$5,176 M</td>
<td>$1,388 M</td>
<td>$1,008.3 M</td>
</tr>
<tr>
<td>Temperance Flat Reservoir Project (surface storage)</td>
<td>Ecosystem improvements, flood control, emergency response, recreation</td>
<td>$2,661 M</td>
<td>$1,055.3 M</td>
<td>$171.3 M</td>
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<tr>
<td>Pure Water San Diego Program North City Phase 1 (surface storage)</td>
<td>Ecosystem &amp; water quality improvements, emergency response, recreation</td>
<td>$1,210 M</td>
<td>$219.3 M</td>
<td>ineligible</td>
</tr>
<tr>
<td>Pacheco Reservoir Expansion Project (surface storage)</td>
<td>Ecosystem improvements, flood control, emergency response</td>
<td>$969 M</td>
<td>$484.5 M</td>
<td>$484.5 M</td>
</tr>
<tr>
<td>Los Vaqueros Reservoir Expansion (surface storage)</td>
<td>Ecosystem improvements, emergency response, recreation</td>
<td>$795 M</td>
<td>$459 M</td>
<td>$459 M</td>
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<tr>
<td>Tulare Lake Storage &amp; Floodwater Protection Project (conjunctive use)</td>
<td>Ecosystem improvements, flood control, emergency response, recreation</td>
<td>$603 M</td>
<td>$452 M</td>
<td>ineligible</td>
</tr>
<tr>
<td>Chino Basin Conjunctive Use Environmental Water Storage/Exchange Program (conjunctive use)</td>
<td>Ecosystem &amp; water quality improvements, emergency response</td>
<td>$480 M</td>
<td>$300 M</td>
<td>$206.9 M</td>
</tr>
<tr>
<td>South Sacramento County Agriculture &amp; Habitat Lands Recycled Water, Groundwater Storage, &amp; Conjunctive Use Program</td>
<td>Ecosystem &amp; water quality improvements, emergency response, recreation</td>
<td>$373 M</td>
<td>$280.5 M</td>
<td>$280.5 M</td>
</tr>
<tr>
<td>Willow Springs Water Bank Conjunctive Use Project (conjunctive use)</td>
<td>Ecosystem improvements, emergency response</td>
<td>$343 M</td>
<td>$301.6 M</td>
<td>$123.3 M</td>
</tr>
<tr>
<td>Centennial Water Supply Project* (surface storage)</td>
<td>Ecosystem improvements, recreation</td>
<td>$324 M</td>
<td>$12 M</td>
<td>ineligible</td>
</tr>
<tr>
<td>Kern Fan Groundwater Storage Project</td>
<td>Ecosystem improvements, emergency response</td>
<td>$171 M</td>
<td>$85.7 M</td>
<td>$85.7 M</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$5,097.9 M</strong></td>
<td><strong>$2,819.5 M</strong></td>
<td></td>
</tr>
</tbody>
</table>

Source: California Water Commission  *No appeal filed
CalChamber Urging Fiscal Committees to Keep Job Killer Bills on Hold

From Page 1

based upon an undefined and unspecified “area income” rate that presumably will include wages from different industries and different occupations that are not comparable to personal services. It also provides the Department of Industrial Relations with extraordinary authority to value companies, determine “similar services” to be included under the provisions of this bill, and what constitutes “area income.” Assembly Appropriations

Increased Unnecessary Litigation Costs and Increased Labor Costs

• AB 2069 (Bonta; D-Oakland) Medical Marijuana in Employment — Undermines employer’s ability to provide a safe and drug-free workplace by creating a new protected classification of employees who use marijuana for medical purposes, and exposing employers to costly and unnecessary litigation under the Fair Employment and Housing Act (FEHA) whenever the employer terminates an employee in this new protected class who has created a safety hazard in the workplace. In Assembly Appropriations.

Increased Unnecessary Litigation Costs

• SB 1284 (Jackson; D-Santa Barbara) Disclosure of Company Pay Data — Unfairly requires California employers to submit pay data to the Department of Industrial Relations, creating a false impression of wage discrimination or unequal pay where none exists and, therefore, subjecting employers to unfair public criticism, enforcement measures, and significant litigation costs to defend against meritless claims. Senate Appropriations Committee Suspense File.

• SB 1300 (Jackson; D-Santa Barbara) Removes Legal Standing and Prohibits Release of Claims — Significantly increases litigation by removing standing requirement for plaintiff alleging failure to prevent harassment or discrimination when no harassment even occurs, limits the use of severance agreements, and prohibits the use of a general release or nondisparagement clause in employer/employee contracts. Senate Appropriations Suspense File.

• SB 1121 (Dodd; D-Napa) Increased Consumer Litigation — Removes the requirement of economic injury for standing to bring a claim in California against a company for a data breach, undermining the intent of voters, and drastically increasing liability for companies without providing any corresponding benefit to California consumers. Senate Appropriations hearing May 14.

Increased Labor Costs

• AB 2613 (Reyes; D-Grand Terrace) Wage Statement Penalties — Imposes another layer of Labor Code penalties for wage and hour violations in addition to the penalties already available under the Private Attorneys General Act (PAGA) and imposes personal liability onto employees who have no control over the actual payment of wages. Assembly Appropriations Suspense File.

Increased Health Care Costs

• AB 2384 (Arambula; D-Kingsburg) Increases Health Care Premiums — Increases health care premiums by mandating medication-assisted treatment for substance disorders and by excluding all quality control and cost containment mechanisms. In Assembly Appropriations.

• AB 3087 (Kalra; D-San Jose) Health Care Price Controls — Jeopardizes employers negotiating power and access to care, ignores the drivers of health care costs, and adds another layer of bureaucracy by creating an appointed commission to impose price controls on health care providers and insurers. In Assembly Appropriations.

Action Needed

The CalChamber is encouraging members to contact their Assembly and Senate representatives to urge that these job killer bills be left on the Appropriations Committee suspense file if the bills are already there, or sent to the suspense file because they are costly job killers that will damage the California economy if they become law.

Water Storage Projects Move a Step Closer to Gaining Bond Funding

From Page 6

Reactions

In a prepared statement, the Sites Project Authority chairman said the state is “missing a significant opportunity to flexibly manage water for the benefit of endangered salmon” and expressed disappointment that the process “was not more collaborative and resulted in an undervaluing of the benefits Sites provides to struggling salmon populations.”

Supporters of the Temperance Flat project, including local, state and federal officials representing San Joaquin Valley communities, also criticized the Commission’s decision.

Assemblyman Vince Fong (R-Bakersfield) issued a statement with Assemblyman Jim Patterson (R-Fresno) commenting the project “was an important and needed opportunity to save, store, move and use millions of acre-feet of water—water that is now wasted and recklessly flushed to the sea.”

A chart of the water projects appears on page 6. More information on the projects, applications and hearings is available at the Commission website, www.cwc.ca.gov.

Next Steps

On May 25, the Commission staff will release recommendations for project scoring based on relative environmental value, resiliency and implementation risk.

The Commission will make final decisions on those scores at its June 27-29 meeting, and make preliminary award decisions at its July meeting.

Staff Contact: Valerie Nera
LIVE WEBINAR | THURSDAY, MAY 17, 2018 | 10:00 - 11:30 AM PT

Bundle of Labor Laws: PDL, California’s New Parental Leave, and Baby Bonding Under FMLA and CFRA

Time off for baby. California provides strong protections for employees who are pregnant and/or new parents.

Managing pregnancy and baby bonding leave is not an easy task given the number of laws involved.

On May 17, join our employment law experts online for specifics on leave eligibility and employer obligations.

Cost: $199.00 | Preferred/Executive Members: $159.20

REGISTER NOW at calchamber.com/may17 or call (800) 331-8877.