

ALERT

Voters, CalChamber Agree: No on Props. 6, 8 & 10



Voters ultimately agreed with the California Chamber of Commerce on three hotly

contested ballot measures, rejecting Propositions 6, 8 and 10 on the November 6 ballot.

Ballots were still being counted as **Alert** went to print, but “no” votes were outweighing the “yes” votes.

With 100% of precincts reporting on November 8, the vote was:

- Proposition 6: Makes Bridges and Roads Less Safe: 55.2% no to 44.8% yes.
- Proposition 8: Jeopardizes Access to Kidney Dialysis: 61.5% no to 38.5% yes.
- Proposition 10: Makes California’s

Housing Crisis Worse: 61.7% no to 38.3% yes.

An election day news release from the Secretary of State said that county election officials must report their final results to the Secretary of State by December 7. The Secretary of State will certify the final results to the Governor by December 14.

State law requires that mailed ballots postmarked on or before election day, November 6, and received no later than three days after the election, November 9, will be counted.

Proposition 6 would have repealed all the transportation taxes adopted by the Legislature in 2017, including higher gasoline and diesel excise taxes, a new tax on vehicles, and a new tax on zero-emission vehicles. It also would have

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Water Supply Bond Failing; Housing, Children’s Hospital Bonds Pass



A California Chamber of Commerce-supported proposal to issue state general

obligation bonds to fund water supply and infrastructure projects was behind in the vote count as **Alert** went to print, but other bond measures were passing with strong margins.

With 100% of precincts reporting on November 8, the vote tally was:

- Proposition 1: Funds Affordable Housing for Veterans, Families and Seniors: 54.1% yes to 45.9% no.
- Proposition 2: Funds Stable Housing for Individuals with Mental Illness: 61.2% yes to 38.8% no.
- Proposition 3: Funds Clean, Reliable Water Supply Plus Improvements to Stabilize Groundwater Levels: 52.3% no to 47.7% yes.
- Proposition 4: Funds Critical Care at Children’s Hospitals: 60.6% yes to 39.4% no.
- Proposition 5: Removes Unfair Moving Penalty for Seniors, the Severely Disabled and Disaster Victims: 58.1% no to 41.9% yes.

Proposition 3

Proposition 3 would have authorized \$8.877 billion in state general obligation

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CalChamber HR Symposium Attracts Experts, Practitioners to Sold-Out SF Venue



Photo by Cathy Breslow

Erika Frank, CalChamber executive vice president, legal affairs and general counsel, opens the day-long CalChamber HR Symposium on November 2 in San Francisco. Story and more photos on Pages 4–5.

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Labor Law Corner

How Layoff Affects Disability Insurance, Paid Family Leave Benefits



Ellen S. Savage
HR Adviser

I'm closing down a department in my company and laying off all the employees in that department. One of the employees is on pregnancy disability leave and collecting state disability insurance (SDI). Can I lay her off? Will she lose her SDI benefits? Will she still be able to collect paid family leave in a few months if she's unemployed?

California's pregnancy disability leave law (PDL) has very strong job protection rights. In this particular situation, however, you may be able to include this employee in the layoff if you can show she clearly would have lost her job even if she had *not* been out on a protected leave.

If *all* the employees in that department are being laid off, she can be laid off at the same time. An employee who is on PDL does not have any greater job protection right in this situation than other employees do.

However, if some employees are being transferred to other departments instead of being laid off, then you will likely have a much more difficult time justifying the layoff and should consult with legal counsel before making any final decisions.

SDI Benefits

When an employee who is receiving SDI benefits is laid off, she does not lose eligibility to continue receiving those benefits. The SDI program does not take into account whether you are holding her job.

Since your employee became disabled by her pregnancy while she was still working, and her SDI claim was approved at that time, she can continue to

receive benefits even though there is no longer a job to which she can return.

The SDI benefits will last as long as she is disabled by her pregnancy or until the benefits are exhausted under the terms of the SDI program. Because SDI is funded by employee payroll deductions, there is no cost to you as the employer.

Paid Family Leave Benefits

Your employee also should be eligible for up to six weeks of paid family leave (PFL) benefits for baby bonding after her period of pregnancy disability ends, despite having been laid off.

As long as she was working at the time her SDI claim began, and she transitions directly into a PFL claim, the fact that she has no job to return to should not change her eligibility.

Like SDI, there is no cost to you as the employer because PFL is funded by employee payroll deductions.

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

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CalChamber-Sponsored Seminars/Trade Shows

More at www.calchamber.com/events.

Labor Law

HR Boot Camp. CalChamber. December 7, Oakland – SOLD OUT; February 22, 2019, Modesto; March 29, 2019, San Diego; April 12, 2019, Oakland; April 26, 2019, Costa Mesa; May 9, 2019, Sacramento; June 14, 2019, Walnut Creek; August 22, 2019, Pasadena; September 12, 2019, Sacramento. (800) 331-8877.

2019 Employment Law Updates. CalChamber. January 8, 2019, San Diego; January 9, 2019, Costa Mesa; January 10, 2019, Glendale; January 11, 2019, Sacramento; January 16, 2019, San Jose; January 17, 2019, Oakland; January 24, 2019, Los Angeles; January 28, 2019, San Francisco; January 30, 2019, Sacramento; January 31, 2019, Webinar. (800)

331-8877.

Leaves of Absence: Making Sense of It All. CalChamber. March 8, 2019, Sacramento; June 21, 2019, San Diego; August 16, 2019, Oakland. (800) 331-8877.

Business Resources

ADA Access in the Restaurant Industry. California Commission on Disability Access. November 14, Fresno. (916) 319-9974.

BusinessH2O Water Innovation Summit: Best Practices from the U.S. and Israel. U.S. Chamber of Commerce.

See CalChamber-Sponsored Page 3

Next Alert: November 30



Strong California Economy Will Allow Next Governor to Address These Issues



Allan Zaremborg

The top priorities for California's next governor ought to reflect what is on the minds of Californians.

With our diverse population, geography and business community, no single issue hits all our needs, unless the economy is bad. Then there is no other issue. It affects our quality of life and our spending habits. For government, it squeezes revenue needed to provide education, public safety, infrastructure and water supply and quality.

Today, for most Californians, the economy is good. That gives us all a chance to address unmet needs.

Unmet Needs

At the top of the list—**education funding and quality** so we can develop our workforce of tomorrow. Transportation is a daily concern; excessive traffic affects the ability to move goods and get our population to work and school.

Other services we unfortunately take for granted. Most turn on the faucet and high-quality water flows out, so we don't think of water as a major issue. But it

cannot be stated more clearly than this:

Water supply and quality are the lifeblood of California. We have had a couple of good years of precipitation, but the next dry spell can quickly be upon us. To prepare, we need to improve the supply and delivery infrastructure, especially when a warming earth creates less snowpack and more rain.

Commentary By Allan Zaremborg

Public safety and the courts may not be needed by most of us on a regular basis, but they need to be there, fully funded and functioning to serve the public.

Health care is a complicated issue that continues to be at the forefront. Working Californians are mostly satisfied with coverage through their employers, except for rising costs. Many other Californians are on Medi-Cal or Medicare, though they also get services from the private sector. Therefore, as we address health care issues, we must maintain what works—the private sector delivery system—while keeping prices affordable.

For businesses to maintain the strong economy, policymakers should not take their needs for granted. **Affordable and reliable energy**, including electricity and transportation fuel, is a fundamental requirement. We may have a laudable goal of increasing electric vehicle use, but the reality is that 90% of us use internal combustion cars and 100% of shipping vehicles use petroleum fuels. It is critical that as we lead the country with our environmental agenda, we balance

the costs and benefits, especially when one-third of Californians now live at or below the poverty line.

The next governor also needs to pay attention to more narrow issues, such as the **role of independent contractors** in the gig economy. Workers who want the flexibility of independent contracting and businesses who rely on those contractors should not be constrained by outdated government regulations.

Above all, as I listen to Californians, one recurrent theme emerges. Even those benefiting from the strong economy express concern that their children will not be able to afford to live in California.

Housing costs are at the top of their list of worries. The solution requires a partnership between the private sector and government. It should not be the role of government to build affordable housing, but it is appropriate to encourage investment by the private sector.

And for the 20 million Californians who will need to get a Real ID before 2020 to get on an airplane, they will want an efficient process at the Department of Motor Vehicles. For me, this took less than 30 minutes—including the time needed to take a routine test to renew my driver's license—because I had all the necessary documents.

Unfortunately, that doesn't take into account the three days I spent searching for my Social Security card. I would wager that this issue will become top of mind for many Californians all too soon.

Allan Zaremborg is president and CEO of the California Chamber of Commerce. This commentary first appeared in The Sacramento Bee.

CalChamber Calendar

Public Affairs Conference:

November 27–28, Huntington Beach

Environmental Policy Committee:

December 6, San Francisco

Water Committee:

December 6, San Francisco

ChamberPAC Advisory Committee:

December 6, San Francisco

Board of Directors:

December 6–7, San Francisco

International Trade Breakfast:

December 7, San Francisco

Annual Meeting:

December 7, San Francisco

CalChamber-Sponsored Seminars/Trade Shows

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December 10–11, Phoenix, Arizona.
(202) 463-5484.

International Trade

Global SFA Asia Roadshow. SFA Asia.

November 26–30, Seoul and Taipei.

International Consulate Reception. East

Bay Economic Development Alliance.

November 29 (new date), Oakland.

(510) 272-6746.

ChinaSF Builds 2018. ChinaSF. December 3–7, Beijing, Chengdu and Guangzhou. (415) 352-8823.

Discover Global Markets: Indo-Pacific. U.S. Commercial Service. December 10–12, Salt Lake City, Utah. (208) 364-7791.

SelectUSA Investment Summit.

SelectUSA. June 10–12, 2019, Washington, D.C. (800) 424-5249.

HR Symposium Draws Sold-Out Crowd for Info

HR symposium

Practical and entertaining insights on the nuts-and-bolts of implementing state and federal labor and employment laws were the focus of the second California Chamber of Commerce HR Symposium on November 2.

Like last year's symposium in Los Angeles, this year's gathering in San Francisco was a sellout. Attendees heard from and were able to ask questions of HR practitioners and experts in a wide array of topics of interest to California employers.

Before the start of the formal program, the 250 symposium registrants had a chance to mingle and network at a breakfast buffet. Symposium highlights included the following:

- Luncheon keynote speaker **Kevin Kish**, director of the California Department of Fair Employment and Housing (DFEH), explained department enforcement priorities and upcoming regulations.

- **Ohnmar Shin**, senior partner at Mullen & Filippi, a firm that advises employers and insurance carriers throughout California, presented scenarios of workers' compensation cases in the real world.

- **Erika Frank**, CalChamber executive vice president, legal affairs and general counsel, moderated a roundtable discussion on trends in hiring and recruit-

ing practices. Roundtable speakers were **Lisa V. Ryan**, partner at Cook Brown LLP, specializing in investigating and defending sexual harassment, wage and hour, discrimination, retaliation and labor law claims; and longtime HR practitioner **Hilda Watson**, CalChamber director of human resources.

- From the CalChamber policy team, **Jennifer Barrera**, senior vice president, policy, and **Laura Curtis**, policy advocate, gave a recap of how legislators and the Governor handled priority labor and employment bills this year and provided a forecast of issues likely to be revisited in 2019.

- The first afternoon session featured **Lisa Buehler**, partner at Ellis Buehler Makus, drawing on more than 17 years' experience conducting investigations for California employers to explain how the #MeToo movement is changing the landscape of internal harassment investigations.

- The closing session focused on managing reasonable accommodation requests. **Jennifer Shaw**, principal, Shaw Law Group, told attendees how to know when a request is no longer reasonable, citing anecdotes from more than 20 years in the field.

CalChamber thanks everyone who attended this year's symposium. Planning has begun for the 2019 HR Symposium.



Ohnmar Shin, Mullen & Filippi, workers' compensation for



Luncheon keynote speaker Kevin Kish, director, California Employment and Housing.



Hiring and recruiting practices: Lisa V. Ryan, Cook Brown LLP, and Hilda Watson, CalChamber HR director.

Informative, Entertaining Labor Law Insights



the real world.



Legislative review and forecast from Jennifer Barrera and Laura Curtis, CalChamber insiders at the State Capitol.



Department of Fair

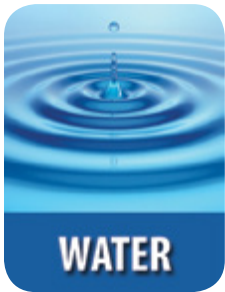


Lisa Buehler, Ellis Buehler Makus, describes #MeToo impact on harassment investigations.



Jennifer Shaw, Shaw Law Group, takes questions on navigating reasonable accommodation requests.

State Water Board Delays Action on River Flows Again



In an unexpected turn of events, after receiving a letter from Governor Edmund G. Brown Jr. and Governor-elect Gavin Newsom, the State Water Resources Control Board again

delayed action November 7 on a proposal to amend the Bay-Delta Water Quality Control Plan, which included changes to the minimum flow standards for the Lower San Joaquin River.

The proposal calls for 40% “unimpaired flows” from February through June with a permitted diversion range of 30% to 50%, depending on conditions for the Stanislaus, Tuolumne and Merced rivers through to the San Joaquin River.

The update is part of the final draft [Bay-Delta Water Quality Control Plan](#) and has been the subject of hundreds of letters, extensive public comment and a significant number of one-on-one meet-

ings with various stakeholders and experts regarding the effects of altering stream flows in the San Joaquin River.

In August, the board delayed a vote on the same subject in response to a request from state agencies, legislators, businesses, water agencies, cities, counties and agriculture.

On November 7, the board took testimony and voted to postpone the item until December 12. The goal of the plan is to establish flow and water quality objectives needed to reasonably protect beneficial uses, including fish and wildlife.

The proposal engendered criticism from agriculture, business and water agencies on one side and praise from the environmental community on the other. The proposal leaves business, agriculture, water agencies and other water rights holders scrambling to find alternative sources of water, which could be very difficult in dry and drought years, and very expensive.

California Fish and Wildlife Director Charles Bonham and Water Resources Director Karla Nemeth addressed the

board on behalf of Governor Brown.

Since the previous delay, agencies, water districts, farmers, cities and other affected groups have been working to craft voluntary agreements that would satisfy the requirements of the water quality control plan amendments proposed for adoption.

The letter from Governor Brown and Governor-elect Newsom stated that “a short extension will allow these negotiations to progress and could result in a faster, less contentious and more durable outcome. Voluntary agreements are preferable to a lengthy administrative process and the inevitable ensuing lawsuits.”

During the postponement, the Governor and Governor-elect “pledge to actively and meaningfully engage to bring this vital matter to a successful closure.”

The board voted 3-0 for the delay, with two members abstaining. Board members struggled with the decision; there was much conversation and statements by members that they were torn and uncomfortable about agreeing to the delay.

Staff Contact: Valerie Nera

Bond Measures: One Failing, Two Pass

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bonds for various infrastructure projects and funded improvements to water safety and quality, watershed and fisheries, habitat protection programs, water conveyance, groundwater sustainability and storage, and surface water storage and dam repairs.

Bond proceeds were to have provided major funding for watershed improvements and better management practices that would have improved water quality and supply; safe drinking and wastewater treatment for disadvantaged communities; stabilizing groundwater levels in overdrafted groundwater basins; funding for recycling wastewater; funding for leak detection, toilet replacement and landscape conversion; and repairing the Oroville Dam spillway.

Other Measures

- Proposition 1 authorizes \$4 billion in general obligation bonds for housing-related programs, loans, grants, and projects and housing loans for veterans. Proposition 1 is projected to create more than 100,000 jobs associated with or indirectly related to the construction of new housing and inject billions of dollars

back into the state’s economy.

- Proposition 2 is a revenue bond that spends only revenue generated from Proposition 63 (2004), which provides for a 1% tax on income above \$1 million (an estimated \$2.23 billion in the fiscal year 2018–2019). This measure authorizes the state to use the revenue generated from Proposition 63 (2004) on \$2 billion in revenue bonds to address the homelessness crisis in California for those suffering from mental health issues. There will be no additional taxes and no additional spending from the General Fund as a result of this bond.

- Proposition 4 authorizes \$1.5 billion in general obligation bonds, to be repaid from state’s General Fund, to fund grants for construction, expansion, renovation, and equipping of qualifying children’s hospitals.

Proposition 4 will help the 13 regional children’s hospitals meet growing demand for services and update technology

- Proposition 5 would have allowed people over 55 years old, severely disabled homeowners and owners of contaminated or disaster-destroyed property to sell their homes, move and transfer their property tax basis to the replacement residence.

No on Props. 6, 8 & 10

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required any future legislatively imposed taxes on fuels and vehicles to take effect only upon a statewide vote of the people.

The Legislative Analyst estimated the measure would have reduced spending on state and local transportation projects by nearly \$5 billion annually.

Proposition 8 would have limited amounts outpatient kidney dialysis clinics may charge for patient care and imposed penalties for excessive charges. Its passage would have set a dangerous precedent to apply arbitrary government price controls to other health care providers and businesses.

Proposition 10 would have repealed the Costa-Hawkins Rental Housing Act of 1995, a bipartisan bill that placed limits on locally enacted rent control laws. Passage of Proposition 10 would have opened the door to radical rent control and made California’s current housing crisis even worse. The Legislative Analyst’s Office warned that Proposition 10 was likely to cost state and local governments hundreds of millions of dollars in lost tax revenues. That would have increased the pressure on lawmakers to fill the gap with new taxes.

CalChamber Board Member Receives Minority Export Firm of Year Award



Photo courtesy MBDA

CalChamber Board member Margaret Wong accepts the Minority Export Firm of the Year award from MBDA National Director Henry Childs.

California Chamber of Commerce Board member Margaret Wong, president and CEO of McWong International, has

received the minority export firm of the year award from the U.S. Department of Commerce Minority Business Development Agency (MBDA).

Wong received the award at the National Minority Business Awards Ceremony on October 16 in Austin, Texas during National Minority Enterprise Development Week.

The National Minority Business Award is the highest level of national recognition that a U.S. minority-owned firm can receive from the Department of Commerce. These prestigious awards, presented during National Minority Enterprise Development (MED) Week, October 14–20, celebrate the outstanding achievements of minority entrepreneurs, as well as the individuals and organizations that have demonstrated their commitment to advancing minority business enterprises.

Since its inception, McWong Environmental Technology has been a U.S. export champion, completing numerous projects in China and the United States, while investing more than \$600 million in

global and local communities on labor, goods and services.

MBDA, www.mbda.gov, is the only federal agency dedicated to the growth and global competitiveness of U.S. minority-owned businesses through mobilizing and advancing public and private sector programs, policy, and research. MBDA services provide greater access to capital, contracts and markets, and better equip minority-owned firms to create jobs, build scale and capacity, increase revenues and expand regionally, nationally and internationally.

Since 1983, every U.S. president has issued a Presidential Proclamation designating National MED Week to recognize the contributions of the minority business community to the U.S. economy. MBDA has hosted the National MED Week celebration since its inception. This year, the National Minority Business Awards ceremony was supported by corporate partners: Facebook, IBM, and Raytheon.

Staff Contact: [Susanne T. Stirling](#)

CalChamber Hosts U.S. Department of Commerce Official

The California Chamber of Commerce hosted a small meeting of business representatives, federal trade officials and state legislative liaisons on October 25 to discuss the current international business landscape with Ian Steff, deputy assistant secretary for manufacturing, U.S. Department of Commerce.

Co-hosts for the event were the CalChamber Council for International Trade and the Northern California District Export Council (DEC). The District Export Councils (five in California and 60 nationwide with a total of 1,500 members) contribute leadership and international trade expertise to complement the U.S. Commercial Service's export promotion efforts.

The same week, Northern California hosted the 10th Americas Competitiveness Exchange (ACE) during which about 75 foreign government and business leaders looked at a variety of sites related to



Photo by Sara Proffitt

Ian Steff (left), U. S. Department of Commerce, talks about market access and other international issues at an October 25 CalChamber-hosted meeting. At right is CalChamber Second Vice Chair Mark Jansen of Blue Diamond Growers.

innovation and entrepreneurship. Participants included CalChamber Board member Mark Jansen of Blue Diamond Growers and the Turlock Manufacturing Plant.

Steff currently serves as acting assistant secretary for global markets and director general of the U.S. and Foreign

Commercial Service.

In that capacity, he oversees approximately 1,400 trade and investment professionals based in more than 100 U.S. cities and 70 markets around the world and is responsible for executing the Trump administration's plans to foster growth in U.S. jobs, exports, and investments.

October 25 meeting attendees discussed ongoing negotiations for various free trade agreements, the recently completed United States-Mexico-Canada Agreement (USMCA), the U.S. relationship with China, tariffs, U.S. involvement and dealings with the

World Trade Organization and the BUILD Act—which will streamline and strengthen U.S. development finance tools by establishing a full-service U.S. International Development Finance Corporation (USIDFC).

Staff Contact: [Susanne T. Stirling](#)

Mandatory Updates to Required Poster and Pamphlets for January 1



Simplify your compliance with CalChamber's 2019 Required Notices Kit. It contains an updated all-in-one poster with the 18 required state and federal employment notices all California employers must post on January 1.

The kit also provides 20 copies each of the most current required pamphlets to hand out to employees.

As always, Preferred and Executive members receive their 20 percent member discount.

PREORDER at calchamber.com/2019kit or call (800) 331-8877.

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