Governor Newsom Outlines ‘California for All’ Mission

Newly inaugurated Governor Gavin Newsom began the week presenting his vision of “a California for all” on January 7, then took steps to implement pieces of that goal.

His first act as 40th Governor of California was to sign an executive order to create the largest single purchaser for prescription drugs and allow private employers to join the state in negotiating prices. He also announced other actions aimed at reducing prescription drug and health care costs (see story on Page 6).

His first budget, unveiled on January 10, includes funding to help families afford health care premiums.

The Friday before his swearing in, Newsom announced the appointees who will lead his administration’s handling of labor and business matters (see story on Page 3).

Inaugural Address

In his inaugural address, Governor Newsom credited the leadership of his predecessor, Governor Edmund G. Brown Jr., with putting the state on sound fiscal footing and building a “foundation of rock.” Newsom continued, “Our job now is not to rest on that foundation. It is to build our house upon it.”

Calling California “our home,” the Governor outlined principles that would be followed, including:

• Launching a “Marshall Plan for affordable housing” and making the fight

New Year, New Labor Laws to Know

The beginning of the new year is a good time for Alert readers to resolve to take a few moments to familiarize themselves with the new employment laws that they will need to know in 2019.

Employment law counsel for the California Chamber of Commerce analyzed the significant bills signed into law last year and prepared a white paper summarizing the legislation’s effects on California employers.

Read the latest information on:

• An increase in the minimum wage as well as the minimum salary for exempt employees;
• A new mandate to train nearly every California employee about sexual harassment prevention that applies even to smaller employers;
• Changes to employers’ obligation to provide nursing mothers with lactation accommodations;
• New protections from defamation lawsuits for employers who give employment references;
• An expansion of employer liability for all types of harassment, even by non-employees; and
• Much more.

The CalChamber white paper on New 2019 Labor Laws Affecting California Employers is available for members to download on HRCalifornia.

Also available on HRCalifornia is a full discussion of the new laws.

Staff Contact: Ellen S. Savage

Inside

Governor Newsom Makes Key Appointments:

Pages 3, 4

Following his inauguration on Monday, January 7, Governor Gavin Newsom waves with his wife, First Partner Jennifer Siebel Newsom, and their children (from left) Dutch, Brooklynn, Montana and Hunter.
Potential Family Leave Act Factors in Time Off for Grandchild’s Birth

In normal pregnancy and childbirth situations, a time-off request for this purpose by a mother of a child would be more indicative of a personal leave.

Although personal leaves are not required by law, an employer may grant a personal leave. If a personal leave is granted, it should be consistent with existing policies and past practices.

**FMLA Considerations**

In determining whether a request for an FMLA leave would be granted, you can require a Serious Health Condition Certification from her daughter’s medical provider.

In addition, it is important to know that FMLA provisions for care of a child distinguish between a child who is a minor and a child who is an adult.

FMLA rights are required only for a child who is under 18 years of age or a dependent adult child 18 years or older who is incapable of self-care due to a mental or physical disability recognized as such by the Americans with Disabilities Act. These conditions normally do not apply to an adult child having a baby, but should always be considered in making an FMLA determination.

**Baby Bonding**

The other basis for an FMLA leave might be baby bonding. Although a baby bonding request usually is made by a biological, adoptive or foster parent, the law does recognize that other individuals may have these rights if they fulfill the role of a parent or step in the shoes of a parent. That provision in the law, normally referred to as loco parentis, does not require a biological or legal relationship, such as a legal guardian.

Both the FMLA and the California Family Rights Act (CFRA) have very broad definitions for “parent.” The CFRA regulations define parent as follows:

“Parent” means a biological, foster, or adoptive parent, a stepparent, a legal guardian, or other person who stood in loco parentis to the employee when the employee was a child. A biological or legal relationship is not necessary for a person to have stood in loco parentis to the employee as a child. Parent does not include a parent-in-law.

Circumstances that may involve loco parentis might include situations wherein the mother is mentally or physically unable or unfit to care for a child, or if the mother is incarcerated, deceased or the child has been taken away from the mother by Child Protective Services or a court. Because requests in these situations are unusual, it is best to consult with legal counsel before making an FMLA determination.

### California Chamber Officers

- **Grace Evans Cherashore**
  - Chair
- **Mark Jansen**
  - First Vice Chair
- **Donna L. Lucas**
  - Second Vice Chair
- **Kailesh Karavadra**
  - Third Vice Chair
- **Terry MacRae**
  - Immediate Past Chair
- **Allan Zaremberg**
  - President and Chief Executive Officer

### Labor Law Corner

*My employee wants to take federal Family and Medical Leave Act (FMLA) leave when her daughter has a baby. Can I deny her request?*

Typically, an employee asking for time off work to be with her adult daughter for the birth of a child would not be a basis for FMLA, absent some extenuating circumstances.

**Sunny Lee**

HR Adviser
Newsom Elevates Labor Commissioner Su to Head State Agency; Picks Business Founder/Forward Thinker as Chief Economic Adviser

Julie Su

As labor commissioner and chief of the Division of Labor Standards Enforcement since 2011, Su has adjudicated wage claims, investigated discrimination and public works complaints, and enforced labor law and the Industrial Welfare Commission wage orders.

In 2014, the California Chamber of Commerce joined Su and the California Labor Federation in announcing the start of a statewide, multilingual campaign to educate workers and employers about wage theft.

In her new position as LWDA secretary, Su will be a member of Governor Newsom’s Cabinet, overseeing the state entities that coordinate workforce programs, including the Department of Industrial Relations, Employment Development Department and the boards dealing with agricultural labor relations, unemployment insurance appeals and workforce development.

Before being named Labor Commissioner, Su was the litigation director at the Asian Pacific American Legal Center. She received the MacArthur Foundation “genius” fellowship and was honored as an international human rights activist, among many other awards.

Lenny Mendonca

Before joining California Forward and its work for performance-oriented reforms of government, Mendonca was a senior partner at McKinsey & Company, a global management consulting firm.

In his new role, Mendonca will be “rolling out the welcome mat to current and future California businesses and growing a sustainable economy for every Californian,” according to the Newsom transition team release announcing the appointment. Mendonca also will convene a Council of Economic Advisers and encourage capital investment.

With his wife, Christine, Lenny Mendonca is the founder and owner of the Half Moon Bay Brewing Company and the Mavericks Beer Company. He also is chairman of the board of the Coastside News Group, formed in 2018 to buy the Half Moon Bay Review. According to a story in the Half Moon Bay Review, Mendonca and his wife will receive the Citizens of the Year Award later this month from the Half Moon Bay Coastside Chamber of Commerce and Visitors’ Bureau.

For a list of other Newsom appointments, see the next page and the January 7 CalChamber Top Story.

Reminders: W-2s Due January 31 to IRS; 2019 Mileage Rates

The IRS can more efficiently verify income that individuals report on their tax returns because of the January 31 deadline; this helps prevent fraud. The IRS advises employers to file these forms correctly and timely to avoid penalties. According to the IRS, its e-file is the quickest, most accurate and convenient way to file these forms.

Automatic extensions of time to file Forms W-2 are not available. The IRS will grant extensions only for very specific reasons. Details can be found on the instructions for Form 8809, Application for Time to File Information Returns.

For more information, read the instructions for Forms W-2 and W-3 and the Information Return Penalties page at IRS.gov.

Standard Mileage Rates

The IRS issued the 2019 optional standard mileage rates used to calculate the deductible costs of operating an automobile for business, charitable, medical or moving purposes.

Beginning January 1, 2019, the standard mileage rates for the use of a car (also vans, pickups or panel trucks) is:

- 14 cents per mile driven in service of charitable organizations (same as 2018).
- 20 cents per mile driven for medical or moving purposes (up 2 cents from the rate in 2018).
- 58 cents per mile for business miles driven (up 3.5 cents from the rate in 2018).

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- 20 cents per mile driven for medical or moving purposes (up 2 cents from the rate in 2018).
- 58 cents per mile for business miles driven (up 3.5 cents from the rate in 2018).

For a list of other Newsom appointments, see the next page and the January 7 CalChamber Top Story.

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Governor Newsom Names Key Administration Leaders

Following is a partial list of people Governor Gavin Newsom has appointed so far to leadership posts in his administration. For a fuller list, see the January 7 Top Story.

- **Chief of Staff:** Ann O’Leary, a former top aide to Hillary Clinton.
- **Cabinet Secretary:** Ana Matosantos, former Director of the state Department of Finance.
- **Finance Director:** Keely Bosler, who has served as Finance Director under Governor Edmund G. Brown Jr. since August 2018. Before that, she worked as Governor Brown’s Cabinet Secretary for two years and as his chief budget deputy for three years before that.
- **Legal Affairs Secretary:** Catherine E. Lhamon, former chair of the U.S. Commission on Civil Rights, a position former President Barack Obama appointed her to in 2016.
- **Legislative Secretary:** Anthony Williams, a longtime Capitol staffer and former Director of Government Relations for Boeing Company.
- **Office of Strategic Communications and Public Engagement:** Daniel Zingale was a senior vice president at the California Endowment, a health care foundation.
- **Spokesman and Director of Public Affairs:** Nathan Click, former Democratic campaign operative who was Newsom’s chief spokesman during the campaign and transition.
- **Director of External Affairs:** Priscilla Cheng, a senior political adviser to Newsom during his campaign and former labor leader.
- **Director of Civic Engagement and Strategic Partnerships:** Maricela Rodriguez, former Senior Communications Program Manager at the California Endowment.
- **Chief Deputy Cabinet Secretary for Executive Branch Operations:** Jason Elliott, former Chief of Staff for San Francisco Mayor Edwin M. Lee, then, upon Mayor Lee’s passing, for three subsequent mayors in quick succession, including current Mayor London N. Breed. Previously, Elliott served as Deputy Chief of Staff and Legislative Director for Mayor Lee and as policy advisor to then-Mayor Newsom.
- **Chief Deputy Cabinet Secretary for Policy Development:** Angie Wei, former Chief of Staff of the California Labor Federation. Previously, Wei was the Federation’s Legislative Director. Wei began her career as an advocate for the California Immigrant Welfare Collaborative and the Northern California Coalition for Immigrant Rights.
- **Secretary of the California Labor and Workforce Development Agency:** Julie Su, state Labor Commissioner under Governor Brown since 2011 (see story on Page 3).
- **Chief Economic and Business Adviser and Director of the Governor’s Office of Business and Economic Development:** Lenny Mendonca, co-chairman of the nonprofit organization California Forward (see story on Page 3).
- **Director Governor’s Office of Emergency Services (Cal OES):** Mark Ghilarducci, retained and reappointed.
- **California Military Department (CMD):** Adjutant General David Baldwin, retained and reappointed.
- **Commissioner California Highway Patrol (CHP):** Warren Stanley, retained and reappointed.
- **Director Department of Forestry and Fire Protection (CAL FIRE):** Thomas Porter, who is currently serving as acting director.
- **Secretary of the California Environmental Protection Agency (CalEPA):** Jared Blumenfeld, founder of private firm advising clean tech companies in best practices following eight years as regional administrator of the U.S. Environmental Protection Agency for the Pacific Southwest. Blumenfeld was director of the San Francisco Department of Environment when Newsom was mayor.
- **Secretary of the California Department of Food and Agriculture (CDF):** Karen Ross, retained and reappointed. Before being named CDFA secretary eight years ago by Governor Brown, Ross was chief of staff to U.S. Agriculture Secretary Tom Vilsack. Previous to her federal post, she held positions with the California Association of Winegrape Growers and the Agricultural Council of California.
- **Secretary of the California Government Operations Agency:** Marybel Batjer. Also named to lead a “strike team” to modernize and reinvent the California Department of Motor Vehicles (DMV), “with an emphasis on transparency, worker performance, speed of service and overall consumer satisfaction.” Before Governor Brown named Batjer to head the newly created Government Operations Agency in June 2013 after his government restructur- ing, she was vice president of public policy and corporate social responsibility for Caesars Entertainment Inc., and had served as Cabinet Secretary to Governor Arnold Schwarzenegger, and Chief of Staff to Nevada Governor Kenny Guinn.

Inaugural Address: Governor Newsom Outlines ‘California for All’ Mission

From Page 1 against homelessness a statewide mission.

- Guaranteed health care for all, using “market power and moral power to demand fairer pricing” for prescription drugs.
- Fair pay for working people, “the right to join a union, and the chance at a middle-class life for themselves and their families. We will fight not just for growth at any cost, but for inclusive sustainable growth.”
- Support for small businesses: “California must never turn its back on the entrepreneurial spirit that has always defined us.”
- Supporting parents “so they can give their kids the love and care they need, especially in those critical early years.”
- Standing together. “When fires strike or the earth shakes, we will be there for each other.”
- “Justice for all” and continuing the fight against “over-incarceration” of persons convicted of crimes.
- Governor Newsom promised to partner with mayors, sheriffs and supervisors all over the state to work on changes, and said he intends “to represent all Californians, not only those who voted for me.”

Continuing on his theme of “we’re all in this together,” the Governor said, “My pledge to every Californian is this: no matter what comes at us, I will have your back.”

In concluding, Governor Newsom defined the “California dream” as being “for everyone... Not to get rich quick or star on the big screen, but to work hard and share in the rewards. To leave a better future for our kids.”

...
Tourism Industry Jobs Form Big Piece of California’s Economic Foundation

Vacations Support Communities Across California

Vacations to California’s natural wonders, cultural riches and exciting city attractions fuel stable employment and the world’s fifth largest economy.

Regardless of where travelers go and what they do in California, vacations are more than memories—they also spur one of California’s strongest economic pillars. In fact, tourism drove $132 billion in travel-related spending in 2017, generating $11 billion in state and local tax revenues.

Running a cruises and events company wasn’t exactly the course I expected to take when I studied mechanical engineering at Cal Poly San Luis Obispo. After graduating and starting my career as an environmental engineer, I quickly rose through the ranks of Industrial Clean Air and later became vice president of sales for Ecolaire Systems Inc. I found myself regularly scouting venues for client and employee events, which is how I discovered and later purchased a small yacht charter company based in Berkeley, California.

Over the last four decades, Hornblower expanded to a 100-vessel, half-billion-dollar company, spanning over 30 ports from coast-to-coast. Today, Hornblower companies employ more than 2,500 people and we take great pride in knowing our business supports so many families.

Pillars of Economy

As you enjoy your next vacation, know you too are fueling many pillars of the state’s economy, which in turn supports jobs for 1.1 million California workers.

California’s tourism industry brings vibrancy to our economic health, vibrancy we see in the faces of the people who make this happy industry hum. It is these employees who help create amazing experiences and maintain California as a desirable travel destination. It is their energy and enthusiasm that melds with the natural beauty of California to create the vibrant experiences California is known to offer.

Commentary
By Terry MacRae

Whether it’s new Californians looking for employment, retirees seeking seasonal work, summer jobs for students or a second job that bolsters a family’s income, tourism jobs remain stable even in the midst of economic downturns. The service-oriented industry relies on employees—yes, real people—who have a stake in customer satisfaction, and their work cannot be shipped abroad or cut back by automation.

In the midst of the Great Recession, tourism’s employment held strong against other sectors, dipping just 5.6% compared to an overall employment loss of 8.6%. Coming out of the recession, tourism created more new jobs than any other industry—a trend that has reliably continued, with 30,000 new jobs created last year, a faster growth rate than state government, trade or manufacturing.

(Source: California Employment Development Department)

Worker Shortage

Now, with the lowest unemployment rates since 1976 and a growing economy, California is seeing jobs growth slow, due in part to a shortage of workers.

The California Foundation for Commerce & Education is projecting a shortfall over the next generation of more than a million graduates of four-year colleges and hundreds of thousands of those with two-year degrees.

Graduates who enter the workforce need qualities that employers urgently seek: Solid communications skills, personal responsibility, and a strong work ethic. Tourism jobs help prepare California’s workforce with exactly these important skills.

Travel and tourism is California’s largest export. International visitors spend more than $25 billion in California a year. That is more than the value of California’s agriculture exports.

To help keep California a desirable location, we must work to provide clean and safe cites and infrastructure necessary for visitors. Not only is it necessary to provide education and training, but we must all commit to provide affordable housing and transportation alternatives for the amazing folks who work in this industry. We must take immediate action and create permanent solutions.

The world has many beautiful places, so we must ensure we are working to maintain the competitiveness of this important pillar of California’s economy.

Secret to Success

On your next vacation, share how much we all appreciate the dedicated employees who help create those fond vacation memories. Take a moment to share your gratitude. These welcoming, hard-working folks may well be the secret to your best vacation ever and the secret to the success of California’s largest export industry: tourism and the jobs we all need.

Terry MacRae, 2018 chair of the California Chamber of Commerce Board of Directors, serves as commissioner on the Visit California Board of Directors and is chief executive officer, president and founder of Hornblower Cruises & Events.
Governor’s First Day Focuses on Health Care
Leverage Buying Power to Reduce Drug Costs, Individual State Mandate, & More

Shortly after being sworn into office this week, Governor Gavin Newsom launched his ambitious plan to make sure every person has access to quality, affordable health care. In a brief ceremony streamed on Facebook Live, the Governor signed two executive orders and a letter to Congress and the White House to set in motion his plan to expand health care coverage:

- Executive order creating the largest single purchaser for prescription drugs and allowing private employers to join the state in negotiating.
- Budget proposal to provide coverage to young undocumented adults through Medi-Cal and to expand Affordable Care Act (ACA) financial assistance to middle-income families to buy health insurance.
- Creating a state-level individual mandate to have health care coverage to help pay for the expanded assistance to middle-income families.
- Sending a letter to Congress and the White House asking that federal law be amended to enable states to apply for and receive "Transformational Cost and Universal Coverage Waivers."
- Executive order creating a position of California Surgeon General to advise the Governor on a comprehensive approach to addressing health risks and challenges.

Prescription Drugs

The Governor’s executive order said state spending on prescription drugs has increased about 20% per year since 2012 and that 25 of the most expensive drugs account for about half of state prescription drug spending.

The executive order outlined steps various state departments should take to negotiate better prescription drug pricing, including having the Department of Health Care Services negotiate on behalf of all 13 million Medi-Cal beneficiaries (versus just 2 million today, according to the Governor’s press release).

The Department of General Services is assigned to reach out to local governments to participate, develop a way for private purchasers to benefit from the state’s bulk pharmaceutical purchasing, and “if appropriate,” recommend, in consultation with the California Pharmaceutical Collaborative, legislative changes to make prescription drugs “more affordable for all.”

Undocumented Young Adults

Two years ago, California began covering undocumented youths up to age 19 under Medi-Cal. The Governor’s news release notes that the ACA allows most young adults to remain on their parents’ health insurance to age 26, and that undocumented young adults should not have to worry about coverage when they turn 19.

Middle-Income Families

Currently, individuals earning more than $48,000 a year or a family of four earning more than $98,000 don’t qualify for financial help with health insurance premiums.

The Governor proposes providing financial assistance to individuals earning up to $72,840 a year and families of four earning up to $150,600.

This will make California the first state in the nation to offer subsidies to individuals with income between 400% and 600% of the federal poverty level, according to the Governor’s news release.

Individual Mandate

Effective January 1, the federal penalty for the individual mandate was reduced to $0. A University of California, Los Angeles (UCLA) study recently predicted that without a federal individual mandate, the number of uninsured Californians would increase from a projected 150,000–450,000 in 2020 to 490,000–790,000 in 2023.

Federal Waivers

The Governor’s letter acknowledged the federal government has given states flexibility to make innovative changes in health care through waivers, but said that the existing waiver is too limited.

By amending federal law and granting the Transformational Cost and Universal Coverage Waivers, California and other states could reinvest federal funding, combined with state funds to design and tailor their own solutions, “and lay the groundwork for more comprehensive solutions, such as a single-payer system,” the Governor wrote.

Surgeon General

The first Surgeon General is to be appointed by February 1, with duties to include gathering insights of medical professionals, scientists and other experts to solve pressing public health challenges, and serving as a spokesperson on public health issues throughout the state.

Staff Contact: Karen Sarkissian
“CalChamber has proven its ability to ensure the success of California businesses by working in partnership with people who favor creative leadership over partisanship.”

Terry MacRae
Chief Executive Officer, President and Founder
Hornblower Cruises & Events
2018 CalChamber Chair

CAPITOL WATCHDOG
Each year, CalChamber tracks more than 3,000 legislative proposals on behalf of member businesses.

MAJOR VICTORIES
CalChamber scores major victories for employers through targeted advocacy and political action. See www.calchamber.com/majorvictories

ABOUT US
CalChamber is the largest broad-based business advocate in California, 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.

FOR MORE INFORMATION
Contact Drew Savage, Vice President, Corporate Relations, (916) 930-1277.

Advocacy Return on Investment

2018 Sample Return on Investment for CalChamber Members

<table>
<thead>
<tr>
<th>Proposal</th>
<th>Savings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expansion of sales tax to services stopped (SB 993)</td>
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<tr>
<td>New health care bureaucracy stopped (AB 3087)</td>
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<td>Massive increase in corporate tax rate (10 percentage points) stopped (ACA 22)</td>
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<td>Split roll property tax initiative delayed to 2020 ballot</td>
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<td>Transportation infrastructure funding investment protected (Proposition 6)</td>
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<td>New 1% tax on millionnaires stopped (AB 2351)</td>
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<td>Increased film production from extension of motion picture tax credit (AB 1734/SB 951/SB 871)</td>
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<tr>
<td>Increase in corporate tax rate for publicly traded corporations/financial institutions stopped (SB 1398)</td>
<td>$350 million</td>
</tr>
<tr>
<td>New tax on opioids stopped (AB 2486)</td>
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<td>Increased health care premiums from expansion of dental general anesthesia coverage stopped (AB 2643)</td>
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<td>Increased health care premiums averted by veto of bill eliminating cost containment mechanisms (AB 2384)</td>
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<td>Unnecessary Cal/OSHA inspections related to worker blood lead levels stopped (AB 2963)</td>
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<td>Increased energy costs from expanded intervenor compensation in utility rate cases stopped (AB 2431)</td>
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<td>Increased health care premiums averted by veto of change in how autism services are provided (SB 399)</td>
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<td>Increased permitting fees from new regulatory board stopped (SB 774)</td>
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<td>Tax increase on punitive damages stopped (SB 66)</td>
<td>$1.2 million</td>
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Total Definable Return $101.44 Billion

Return Per California Employee $6,792

Other Savings from Legislation Stopped, Amended or Enacted

<table>
<thead>
<tr>
<th>Proposal</th>
<th>Savings</th>
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</thead>
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<tr>
<td>Ban on mandatory arbitration for all labor and employment claims vetoed (AB 3080)</td>
<td>$10 million per class action</td>
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<tr>
<td>Stand-alone private right of action for failure to prevent harassment/discrimination removed from bill (SB 1300)</td>
<td>$125,000 per discrimination claim prevented</td>
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<tr>
<td>Legislation protecting employers from defamation lawsuits for investigating sexual harassment cases and informing potential employers of the findings signed into law (AB 2770)</td>
<td>$70,000 per lawsuit prevented</td>
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<tr>
<td>Mandated rolling data breach notification stopped (AB 2182)</td>
<td>$70,000 per lawsuit prevented</td>
</tr>
<tr>
<td>Initiative worsening housing crisis rejected by voters (Proposition 10)</td>
<td>Hundreds of $ millions annually in replacement taxes passed by local governments</td>
</tr>
<tr>
<td>Initiative jeopardizing access to kidney dialysis rejected by voters (Proposition 8)</td>
<td>Hundreds of $ millions annually in higher taxpayer costs for treating kidney dialysis patients when clinics are forced to close</td>
</tr>
</tbody>
</table>
THURSDAY, JANUARY 31, 2019 | 10:00 - 11:30 AM PT

2019 Employment Law Updates Webinar

If you’re not up to date on your employer obligations for the new year, don’t miss our annual live webinar on January 31. Learn how recent California and federal laws, regulations and court cases apply to your workforce.

CalChamber’s legislative presence at the California State Capitol means you can trust us for expert analysis and clear explanation of employment-related legislation signed into law for 2019.

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

LEARN MORE at calchamber.com/2019updates or call (800) 331-8877.