

# ALERT

## Job Killer Bill Threatens Water Supply Reliability



Legislation that threatens water supply reliability for millions of Californians is scheduled to be considered next week by an Assembly policy committee.

The California Chamber of Commerce has labeled **SB 1 (Atkins; D-San Diego)** as a job killer due to the significant and entirely avoidable negative consequences resulting from language in the bill.

The author's stated intent is to protect California's air, water, biodiversity and citizens from any federal changes that undermine the state's existing environmental standards.

Instead, the bill:

- substantially threatens water supply

reliability for millions of Californians;

- forces state agencies to review irrelevant federal laws, regulations and guidelines;
- instigates costly litigation through the creation of brand new private rights of action;
- removes basic due process for everyone by waiving Administrative Procedure Act safeguards; and
- automatically integrates federal baseline standards into California law without agency review.

The CalChamber and a coalition of industry groups and local chambers of commerce have proposed reasonable amendments that preserve all goals in the bill, avoid all identified negative impacts,

*See Job Killer Bill: Page 6*

## Coalition-Backed Fixes to Privacy Law 'Stayin' Alive'



California Chamber of Commerce Policy Advocate Sarah Boot penned the following update on the CalChamber-supported privacy bills for the *Capitol Insider* blog.

*Well, you can tell by the way we worked these privacy bills—we walked the halls and made time to talk—to legislators.*

So far, the CalChamber Privacy Coalition's hard work to draft and advocate for reasonable, legislative fixes to the California Consumer Privacy Act (CCPA) has largely paid off. Friday, May 31, marked the house of origin deadline, and all but one of our bills (the fix for targeted, online ads) made it out of the first house.

### Still Alive

These important bills are still alive:

- **AB 25 (Chau; D-Monterey Park)** Clarifies the definition of consumer to exclude employees or job applicants.

Without clarifying legislation, a "consumer" under the CCPA would include employees of or job applicants to a business. Not only will this create huge, additional compliance costs for businesses for something never intended by this law designed for "consumers"—it

*See Coalition-Backed Fixes: Page 7*

## Application Period Now Open to Apply for 2020 Redistricting Commission



Business owners, business leaders and their employees have a unique once-in-a-decade opportunity to make their voices heard on how California is represented both

in Sacramento and Washington, D.C.

June 10 marked the first day that California citizens can begin submitting applications to join the state's 2020 Citizens Redistricting Commission. The deadline to apply is **August 9, 2019**.

The Commission, which is formed every 10 years, redraws the boundaries of California's congressional, state Senate, state Assembly, and state Board

of Equalization districts to reflect new federal census population data.

California voters passed the Voters First Act in 2008 (Proposition 11), authorizing the creation of the Citizens Redistricting Commission, and taking the job out of the hands of the Legislature and giving it to the citizens.

"The creation of the redistricting commission is yet another example of how we do things the California way," said California Chamber of Commerce Executive Vice President of Public Affairs Martin R. Wilson at the [June 10 press event launching the Commission application period](#).

"Only three other states have a

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[Linked Learning Bridges Skills Gap: Page 5](#)

## Labor Law Corner

# Part-Time Employees May Qualify as Exempt; 2-Part Test to Decide



**Ellen S. Savage**  
HR Adviser

*Can I classify an employee who works only part-time as exempt?*

An employee's exempt classification must be evaluated by the employee's rate of pay and the duties he/she performs, not necessarily by the number of hours worked.

An employee who meets the salary test requirements and is primarily engaged in exempt duties may be properly classified as exempt.

### Salary Test Requirements

Under California Labor Code Section 515, most "white collar" exempt employees must "earn a monthly salary equivalent to no less than two times the state minimum wage for full-time employment."

For purposes of the minimum exempt salary level only, the code states that full-time employment is 40 hours per week. (Note though that employers are free to set their own definition of full-time work for other purposes, such as entitlement to vacation accrual and holiday pay.)

Based on the current two-tier California minimum wage, for businesses with 25 or fewer employees, the annual exempt salary minimum is \$45,760 (\$3,813.33 per month), and for larger employers the minimum is \$49,920 (\$4,160 per month).

Labor Code Section 515 does not require that an employee actually work full-time hours in order to be exempt. However, regardless of the number of hours actually worked, the salary minimum stays the same and may not be prorated for work that is less than 40 hours per week.

A full-time exempt employee earning \$50,000 per year who cuts back to 20 hours per week and has her salary prorated to \$25,000 would not meet the

minimum salary test and thus could not remain exempt.

There are a few exceptions to this minimum salary requirement for outside sales, computer professionals, and certain doctors.

### Duties Test Requirements

Regardless of whether an employee works full-time or part-time, the employee must be "primarily engaged" in exempt duties, meaning he/she must spend more than 50% of his/her time engaged in those duties.

As an example, a licensed architect who wants to work only part-time hours can be classified as exempt as long as he/she primarily engages in architectural work and receives at least the full minimum required salary.

On the other hand, an exempt manager cutting back to part-time may not end up "primarily engaged" in managerial duties in the part-time role, because someone else in the company may need to take over more day-to-day management of workers. This would mean the manager may no longer meet the managerial duties test and therefore might not remain exempt.

*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](http://www.hrcalifornia.com).*

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## CalChamber-Sponsored Seminars/Trade Shows

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

### Labor Law

Classifying Exempt Employees.

CalChamber. June 20, Webinar. (800) 331-8877.

Leaves of Absence: Making Sense of It

All. CalChamber. June 21, San Diego; August 16, Oakland. (800) 331-8877.

HR Boot Camp. CalChamber. August 22, Pasadena; September 12, Sacramento. (800) 331-8877.

### International Trade

Farmers for Free Trade Reception. K•Coe

Isom and Farmers for Free Trade. June 18, Sacramento.

Complying with U.S. Export Regulations. Southern California District Export Council. June 20, Solvang. (805) 252-0036.

Trade Mission to Israel for National Cyber Week. U.S. Chamber of Commerce. June 23–26, Tel Aviv. (202) 463-5553.

Business H2O Water Innovation Summit. U.S. Chamber of Commerce and

*See CalChamber-Sponsored: Page 3*



*The Workplace*

## CalChamber Podcast Focuses on Meals and Breaks at the Office



Although California's meal and rest break rules are intended to give hourly employees time to take breaks during their shifts, problems can arise if employees skip their breaks or if employers don't offer them.

In this week's episode of *The Workplace*, CalChamber Executive Vice President and General Counsel Erika Frank discusses meals and breaks at the office with attorney Michael Nader, shareholder with Ogletree Deakins, who focuses his practice on defending wage-and-hour class actions.

In the podcast, they discuss meal and rest break rules and the importance of tracking employees' breaks to protect employers against class action lawsuits.

**Employers Must Provide**

California's Labor Code outlines the rules employers must follow when it comes to providing nonexempt employees their meal and rest breaks.

For meal breaks, Nader explains, it is important for the employee to be exempt from all duty and allowed to leave the premises if he/she wishes. "The employer must relinquish control over the employees' activities," he says.

There is no one purpose for meal breaks at the office; it is an unpaid break for hourly employees to spend however they choose.

"Under California law, a meal break really has nothing to do with lunch," Nader explains to Frank. "It is really the opportunity to provide the employee with duty-free uninterrupted time where they are free to leave the premises. If the employee wishes to eat during that period, that is fine. If they wish to do something else during that time, that is fine as well."

Similarly, with rest breaks, employees can use these paid, on-the-clock, net 10-minute periods any way they like.

"Employers are required to authorize and permit nonexempt employees to take rest breaks," adds Nader. "Rest breaks are required to fall in the middle of work periods insofar as practical."

**Why Tracking Breaks Matters**

When employees decide to skip their meal and rest breaks, legal issues can sometimes arise—often in the form of class action lawsuits.

To protect employers from class actions, it is important to track employees' breaks and encourage employees to take their breaks for meals and rest.

"Employers should have robust, detailed policies demonstrating to the

employees that rest breaks are provided and that they are expected to take them," Nader explains.

In the case that employees may be skipping their meal or rest breaks to continue working, it is key for the employer to first determine why the break wasn't taken and then determine whether a premium payment is owed. Most important, in all circumstances, employers should retain documentation in the event an employee ever disputes the reasons a break was not taken.

"A lot of employees choose to work through rest breaks and they never let the company know," Nader tells Frank. "While the company is fully authorizing and permitting rest breaks, employees may regularly not be taking them. That is where the company wants to make extra efforts to show that they encourage and expect employees to take their rest breaks and to try to build documentation, either through an attestation process or some other way that employees can confirm that they at least received some opportunity to take rest breaks."

Nader concludes the episode by reading a poem he wrote and dedicated to the unsung heroes of California—the employers and job creators—titled "Breaks in Paradise."

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**Quick Answers  
to Tough  
HR Questions**



**CalChamber-Sponsored Seminars/Trade Shows**

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Salt Lake Chamber of Commerce.  
September 12, Snowbird, Utah. (801) 364-3631.

Think Asia, Think Hong Kong. Hong Kong Trade Development Council.  
September 20, Los Angeles. (213) 622-3194.

Annual Pan African Global Trade and Investment Conference. Africa-USA

Chamber of Commerce. October 16–17, Sacramento. (626) 243-3614.  
Trade Expo Indonesia. Indonesian Ministry of Trade. October 16–20, Banten, Indonesia.  
Hong Kong International Wine and Spirits Fair 2019. Hong Kong Trade Development Council. November 7–9, Hong Kong.

## In Memoriam: Edwin A. Guiles



Edwin A. Guiles, 2008 chair of the California Chamber of Commerce Board of Directors, passed away on June 7 at the age of 69. While CalChamber chair, Guiles

was executive vice president, corporate development, for Sempra Energy. He retired from that position in 2009 and continued to serve on the CalChamber Board as a director of Cubic Corporation through December 2014.

At the time of his death, he had been a director of both the Cubic Corporation and the California Water Service Group since 2008.

Guiles joined the CalChamber Board in January 2001 while group president of regulated business units at Sempra Energy. He previously served as chairman and CEO of San Diego Gas & Electric (SDG&E) and Southern California Gas Co. (SoCalGas), Sempra Energy's California-regulated utilities.

Before that role, Guiles was president of SDG&E from 1997 to 2000. He also served as executive vice president of Enova Corporation, the former parent company of SDG&E, from January to June 1998. He was senior vice president of Enova Corporation from 1996 to 1997.

He joined SDG&E in 1972 and held

positions in engineering, power plant management, natural gas operations, customer service, and business planning and budgeting.

Guiles earned his bachelor's degree in mechanical engineering from the University of Arizona, and was a graduate of the executive programs at the University of Southern California and the Edison Electric Institute. He served as a captain in the U.S. Marine Corps from 1966 to 1969.

He was a member of the Economic Development Council Board and the San Diego County YMCA, and had served as planning commissioner for the City of Chula Vista, a director of the Arthritis Foundation and Wellness Communities, as well as in several fundraising positions for the United Way and Boy Scouts.

## Application Period Now Open to Apply for 2020 Redistricting Commission

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citizens commission like this, and in California it's really not the politicians who choose the voters. Because of this commission process, gerrymandering is a relic of the past. Our citizens will choose their representatives," Wilson said.

The CalChamber was an early supporter of Propositions 11 and 20—the two ballot measures that created the Citizens Redistricting Commission.

### Eligibility Requirements

Applicants must meet the following minimum eligibility requirements:

- Have been a registered voter since July 1, 2015;
- Have been registered with the same political party or no party preference (NPP) since July 1, 2015; and
- Voted in at least two of the last three statewide general elections.

An applicant is ineligible to serve on the Commission if the applicant has a conflict of interest as defined by the Voters First Act within the 10 years before submitting an application.

The conflicts resulting in ineligibility include the applicant or an immediate family member having: served or been a candidate for congressional or state elective office; been an officer, employee

or paid consultant for a California political party; been a paid consultant for a candidate for California congressional or elective state office; or been a registered lobbyist.



**Martin R. Wilson, CalChamber executive vice president of public affairs, helps kick off the application period for the 2020 Citizens Redistricting Commission.**

### Selection Process

California citizens must submit their application to the California State Auditor's Office by **August 9, 2019**. Applicants who are invited to advance in the selection process will be asked to submit a supplemental application containing additional information about their qualifications. An Applicant Review Panel will then review all applicants and select 120 of the most qualified people to interview.

From the pool of 120 individuals, 60 applicants (composed of 20 Republicans, 20 Democrats and 20 other or NPP) will then be presented to four legislative leaders for review. The final pool of applicants will then be sent to the State

Auditor, who will randomly select the first eight commission members, and then those first eight commissioners will select the final six members for the commission.

The 14-member 2020 Commission will be established no later than August 15, 2020. The Commission will be comprised of five members who are Democrat, five members who are Republican, and four members who are either registered without, or "independent" of, any political party (decline-to-state or no party preference) or with another party.

### More Information

To apply for the 2020 Citizens Redistricting Commission, visit [apply.shapecaliforniasfuture.auditor.ca.gov](https://shapecaliforniasfuture.auditor.ca.gov).

More information is available at <https://shapecaliforniasfuture.auditor.ca.gov>. To view the June 10 Sacramento application launch press conference, visit [www.facebook.com/shapeCAfuture/videos/611716419334273/](https://www.facebook.com/shapeCAfuture/videos/611716419334273/).

**Staff Contact: Martin R. Wilson**

# Employers Can Help Improve Skills Gap



## Education

California employers face major workforce challenges, especially a skills gap as high school-aged students enter the workforce without the tools necessary to succeed.

One strategy to effectively prepare students for the real world is [Linked Learning](#), which is an approach to education that integrates academics, high-quality career technical education, work-based learning and student supports to help them stay on track.

The program connects students with resources, individuals and local businesses to inspire their learning and skills development to succeed in a real-world setting.

This spring, a team of graduate students at the [USC Sol Price School of Public Policy](#) analyzed high schools and school districts in California that have implemented the Linked Learning approach to K-12 education.

The study was sponsored by the [California Foundation for Commerce and Education](#), a think tank affiliated with the California Chamber of Commerce.

## Vital Lessons

The Price School study was conducted at 12 high schools in Central and Southern California with both on-site visits and interviews with Linked Learning schools and districts and industry stakeholders. The study found vital lessons for businesses and school districts:

- Work-based learning opportunities allow students to gain experience in a real-world setting and build their skills; however, typically the demand by students outpaces the number of available internship opportunities.

- Recruiting teachers is difficult because the pay differential with industry experts and teaching experience required are limiting factors.

- Variation exists in the needs of each district and/or pathway for establishing sound business and school partnerships.

- Communication is vital to building lasting connections between schools and local businesses. Implementing career pathway advisory boards allows for direct communication between the groups.

- Post-graduation data is crucial to analyzing how effective the Linked Learning approach is, yet this data is often hard to come by.

## Building Connections

The Price School study concludes that building strong connections between districts and businesses is of top importance to create new and relevant opportunities for students.

Additionally, developing regional partnerships between businesses and school districts helps create a small business-oriented approach that connects students to local companies in their area.

Other studies have demonstrated the virtuous connection between Linked Learning and student outcomes. According to the [James Irvine Foundation](#), “Improvement in measures of Linked Learning pathway student outcomes over traditional students include higher high school graduation rates, greater postsecondary enrollment, and increased income after high school.”

The Price School study also addressed the current issues California students face in meeting educational state standards, with information from the Public Policy Institute of California and the Legislative Analyst’s Office. “[Although high school graduation rates in California have risen steadily, fewer than half of K-12 students meet state reading and math standards.](#)” There is also wide variation among the performance and achievement among groups of students.

## Student Data Is Key

When it comes to tracking the outcomes of students integrated into the Linked Learning pathway, the study found the business community was better

equipped to help students if the students’ data was shared.

“The business community responds well to school districts that share student data with them; employers seek to make data-driven decisions.” Similarly, the study found in Porterville and San Bernardino, business leaders acknowledged that data was useful to “adapt their recruitment strategies and better prepare for future skills gaps.”

With real metrics on students’ performance, local businesses could better understand how to tailor their engagement with school districts to benefit the students and help them develop personal growth.

The study noted that “Governor Newsom proposed a budget that included \$350,000 to merge existing educational data systems and an additional \$10 million to plan and develop a longitudinal data system to track K-12 students.”

Better data tracking systems will provide more information on the effects of Linked Learning on students’ education. With the current lack of available data on post-grad students, making workforce-based information accessible and available in new data systems will allow researchers to more adequately track the impact of the Linked Learning program.

## More Information

The study, *Linked Learning: An Approach to Bridging the Skills Gap*, included five Southern California school districts in the case study: Long Beach Unified School District, Porterville Unified School District, San Bernardino City Unified School District, Norwalk-La Mirada Unified School District and the Orange Unified School District.

It was authored by USC Price School Practicum students Corey Hashida, Jennifer Lovett, Wenjun Shen and Wesley Smith.

**Contacts:** [Loren Kaye](#), [Michelle Brandabur](#)



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## Job Killer Bill Threatens Water Supply Reliability

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and thereby remove all industry opposition. Unfortunately, the amendments have not been taken.

Citing similar reasons, others opposing SB 1 unless it is amended are water providers belonging to the State Water Contractors, six counties in Central California (Fresno, Kings, Madera, Merced, Stanislaus and Tulare), and the Metropolitan Water District of Southern California.

### Unresolved Issues

Although the author has accepted some of the amendments to address the CalChamber and coalition concerns, the majority and most significant problems of the bill remain unresolved. Those flaws include the following:

- **SB 1 undermines the State Water Project, Central Valley Project and voluntary water flow agreements** by removing the ability of the state Department of Fish and Wildlife to apply new science and adaptive management practices, thereby dismantling years of negotiations.

The bill's rigid approach to water management runs counter to the collaborative, science-based approach developed during the current and previous state administrations to enhance fish and wildlife habitat throughout California and provide reliable water supplies to communities.

A coalition of federal, state and local agencies, conservation groups and other stakeholders have been involved in developing the collaborative approach.

The voluntary water flow agreements are vital to protecting water supply reliability and improving the health of California waterways.

- **SB 1's overly broad mandate will have significant fiscal impacts** for California agencies, estimated to be in the tens of millions of dollars annually.

California environmental and labor laws and regulations are some of the most protective standards in the nation. Where California laws already exceed federal standards, or where California law does not rely or reference federal standards, any rollbacks to those federal standards have no practical effect on California's human health or the environment.

State agencies should focus their limited resources analyzing only federal standards that actually have an impact on state laws and regulations.

- **SB 1 attempts to lock in place federal standards** "in existence" at a certain date if any changes to federal standards are "less protective." The term "less protective" is undefined, open to numerous interpretations in the environmental context, and as ambiguous as the "less stringent" standard recently amended out of the bill.

Therefore, SB 1 will produce significant unintended consequences.

- **SB 1 subjects state and local agencies to lawsuits**, including when reasonable persons can differ as to whether a standard/requirement is "less protective" than existing federal law. The bill also encourages such lawsuits through a one-sided attorneys' fees provision and vague/ambiguous language.

- **SB 1 violates the "single subject" requirement of the California Constitution** by including three comprehensive federal labor standards and worker protection statutes in a bill already addressing complex federal environmental laws and regulations.

Any one of the federal environmental laws referenced under SB 1 could be an expansive bill on its own.

- **Rulemaking pursuant to SB 1 will be permanent and without public notice** and comment to nongovernmental organizations, businesses, the public and even state and local agencies. The bill circumvents the California Administrative Procedure Act.

As currently drafted, SB 1 provides no remedy other than litigation.

- **New amendments allow federal baseline standards to automatically be integrated into California law without any state agency oversight or rulemaking.**

### Action Needed

SB 1 is scheduled to be considered on April 18 by the Assembly Environmental Safety and Toxic Materials Committee.

The CalChamber is asking members to contact their Assembly representatives and members of the committee to urge them to support the coalition amendments and prevent the unintended negative consequences and litigation risks from SB 1.

An [easy-to-edit sample letter](#) is available on the CalChamber website.

**Staff Contact: Adam Regele**



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## Coalition-Backed Fixes to Privacy Law ‘Stayin’ Alive’

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could lead to serious, unintended consequences. For example, an employee accused of sexual harassment could ask a business to delete complaints about them. (*Send a letter in support*)\*

• **AB 846 (Burke; D-Inglewood/Low; D-Campbell/Mullin; D-South San Francisco)** Clarifies access to customer loyalty and rewards programs.

Under the CCPA, frequent flier miles, hotel points, and other rewards programs could be in jeopardy. AB 846 would ensure loyalty and rewards programs can continue by fixing language in the CCPA that could make them unlawful. (*Send a letter in support*)\*

• **AB 873 (Irwin; D-Thousand Oaks)** Clarifies the definition of personal information.

The CCPA defines personal information too broadly—as any information that is “capable of being associated” with a consumer or household. The breadth of this definition creates an unreasonable burden on businesses. For example, if a customer makes a purchase in a store and later asks the store for access to the customer’s personal information, the store could be required to search security camera footage from the day the customer made a purchase to find where the customer appears on the film and to provide that data to the customer because the business is technically capable of doing so. AB 873 fixes this problem by making the definition of personal information more reasonable—without eroding privacy rights. (*Send a letter in support*)\*

• **AB 874 (Irwin; D-Thousand Oaks)**

Clarifies the definition of “publicly available” information.

The CCPA limits the use of publicly available government records in a way that is unconstitutional and that creates practical problems for businesses that rely on the free flow of public records information, including those involved with real estate, journalism, credit reporting, and many more. AB 874 fixes this problematic language in the CCPA. (*Send a letter in support*)\*

• **AB 1146 (Berman; D-Palo Alto)** Protects consumers’ access to vehicle safety information.

Under the CCPA, consumers could exercise their privacy rights to delete data or their right to opt out of the “sale” of their personal information and unknowingly find themselves unable to receive information regarding necessary vehicle repairs relating to warranty work or a safety recall. This is a dangerous, unintended consequence of the CCPA’s hasty drafting, and AB 1146 will fix it. (*Send a letter in support*)\*

• **AB 1416 (Cooley; D-Rancho Cordova)** Ensure businesses can continue to prevent identity theft and other crimes.

The CCPA unintentionally undermines businesses’ efforts to protect consumers from identity theft and to prevent other crimes, like money laundering or human trafficking.

Additionally, the CCPA unintentionally places restrictions on the sale of data to governmental entities that will have a profoundly negative impact on many crucial government services, including reuniting foster youth with relatives, as

well as fraud prevention in governmental benefits programs. AB 1416 fixes these problems. (*Send a letter in support*)\*

• **AB 1564 (Berman; D-Palo Alto)** Removes unreasonable burden on small businesses.

AB 1564 would remove the requirement that all businesses must staff a 1-800 number for consumers to call and exercise their CCPA rights. This fix is crucial for small businesses who do not have the resources to staff a 1-800 number. (*Send a letter in support*)\*

### Challenge

Although the language in almost every single one of these bills has been significantly narrowed through negotiations with privacy advocates and committees, we still face some opposition to all but one of them (AB 874). That will present a challenge for us as we approach what may be our highest hurdle—the Senate Judiciary Committee. The committee chair, Senator Hannah-Beth Jackson, has indicated she may not be open to any of the business community’s proposed fixes to the CCPA.

Now, it’s alright, it’s OK—but you can’t look the other way. We’ve gotta make sure these bills ain’t goin’ nowhere. Somebody help me, please!

To keep these bills stayin’ alive—please sign your business up for our **Make Privacy Work** coalition and contact your legislator. You can find more information at <https://makeprivacy.work>.  
**Staff Contact: Sarah Boot**

\*See [capitolinsider.calchamber.com](http://capitolinsider.calchamber.com) blog post for links to sample letters.

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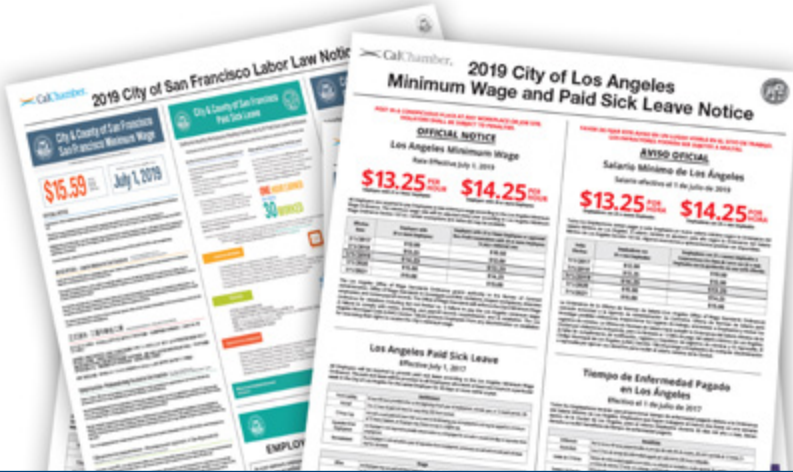
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