

# ALERT

*New CalChamber Grassroots Program*

## Impact California Helps Users Engage on Key Issues



The California Legislature reconvened this week, marking

the beginning of what is expected to be another busy year at the Capitol.

Ready to help you stay informed and engage in the legislative process is Impact California, the new California Chamber of Commerce grassroots program.

Impact California provides users with:

- Legislative insight on key lasting/major issues;
- Resources explaining how to engage in the legislative process;
- Real-time legislative updates; and
- Direct links to take action on bills that would affect your community and businesses.

### Impact California

After years under its previous name, the CalChamber's grassroots program has been rebranded as Impact California. Along with the launch comes a new webpage for the program, new and updated resources, a new social media presence that allows followers to receive insight and updates on California legislation, and much more.

Explore the Impact California website by visiting <https://www.calchamber.com/impact-california> and be sure to sign up to receive email updates from the program so that you never miss an opportunity to use your voice in the legislative process!

Follow Impact California on Twitter at [@Impact\\_CA](https://twitter.com/Impact_CA) and stay informed on key legislation affecting California business no matter where you are.

**Staff Contact: Natalie Leighton**

## Anti-Arbitration Lawsuit Update



As *Alert* went to print this week, a U.S. District Court judge was scheduled to hear arguments on whether to permanently stop a new California law banning arbitration agreements

made as a condition of employment from taking effect.

The hearing was scheduled for January 10 at 10 a.m.

U.S. District Judge Kimberly J. Mueller issued a temporary restraining order on December 30, 2019 preventing the new law, **AB 51 (Gonzalez; D-San Diego)**, from taking effect on January 1.

### Lawsuit

A business coalition led by the California Chamber of Commerce filed the AB 51 lawsuit, *U.S. Chamber of Commerce v. Becerra*, in December. Set to take effect on January 1, AB 51 forbids employers from offering and entering into arbitration agreements with their workers, even if the workers may opt out of arbitration.

The law sets substantial civil enforcement mechanisms, providing possible avenues for investigation and enforcement action by California state departments, and for lawsuits by individuals.

Especially problematic is that the law establishes the extraordinary burden of

*See Anti-Arbitration: Page 3*



**CAPITOL SUMMIT & SACRAMENTO HOST BREAKFAST**  
**JUNE 3-4, 2020**

### Inside

Hearing on Job Killer Tax Bills: Page 5

## Labor Law Corner

# Small Firm Eyes Medical Leave Policies to Put in Employee Handbook



**Sunny Lee**  
HR Adviser

*We are a small company of 30 employees. Are we required to have a medical leave policy in our employee handbook?*

Many different types of medical leaves, both federal and state, may apply to an employee based on company size.

### Pregnancy Disability Leave

In California, the Pregnancy Disability Leave law applies to you since you have 5 or more employees. You also are required to have a pregnancy disability leave policy and include it in your employee handbook.

In addition, whenever 10% or more of your employees speak a different language, you are required to put that policy in those other languages in your employee handbook.

### Federal/State Medical Leaves

The other two medical leave of absence policies that are required to be included in an employee handbook do not apply to you based on your company size since you have fewer than 50 employees; those leave policies are the federal Family Medical Leave Act (FMLA) and the state equivalent, the California Family Rights Act (CFRA).

Those policies, if they had applied to you, also require that whenever 10% or more of your employees speak a different language, you are required to put that

policy in those other languages in your employee handbook.

### Disability Protection Laws

The federal Americans with Disabilities Act applies to you because you have 15 or more employees and the state disability protection law applies because you have 5 or more employees.

Even though these laws apply to you, they do not specifically require that you include a policy in your employee handbook.

Since it often is difficult to interpret disability protection laws and how they apply to a particular situation, it is important to get legal advice before taking any adverse action against an employee.

*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

2020 Employment Law Updates.

CalChamber. January 15, San Jose; January 16, Oakland; January 23, Los Angeles-Sold Out; January 24, Sacramento; January 28, San Francisco; January 30, Webinar. (800) 331-8877.

Leaves of Absence: Making Sense of It All. CalChamber. February 21, Sacramento; April 24, Costa Mesa; June 26, San Diego; August 13, Oakland. (800) 331-8877.

HR Boot Camp. CalChamber. March 5, Modesto; March 27, San Diego; April 23, Costa Mesa; May 6, Sacramento; June 12, Walnut Creek; August 21, Pasadena; September 10, Sacramento. (800) 331-8877.

### International Trade

Select Bay Area Investor Immersion Program. U.S. Commercial Service. January 13-14, San Francisco and San Jose. (415) 744-7728.

Exporting Mechanics Webinar Series

II: Commodity Jurisdiction. National Customs Brokers & Forwarders Association of America, Inc. and U.S. Department of Commerce. January 14, Webinar. (202) 466-0222.

Trade Mission to India. Rauch Export-Import, India Electrical & Electronics Manufacturers Association and U.S. Commercial Service. January 16-24, Greater Noida, India. (702) 818-1765.

State of the Port of Los Angeles. Pacific Merchant Shipping Association. January 16, San Pedro. (310) 732-3508.

U.S.-Europe Research University Collaboration Opportunities and Challenges Webinar. National Council of University Research Administrators, European American Enterprise Council and Hannover Fairs. January 22, Webinar. (202) 482-3787.

CSU Alumni Reception. The California State University. February 10, Seoul, South Korea; February 13, Tokyo, Japan. (562) 951-4717.

*See CalChamber-Sponsored: Page 6*



*The Workplace*

**What to Do When Your HR Recommendations Are Ignored, Dismissed**



Human resources professionals often have some of the most difficult conversations in the workplace. Whether they

need to mediate workplace conflict or craft policies that comply with state and federal laws, the advice HR professionals provide can be an invaluable asset to businesses. Sometimes, however, HR professionals can be perceived as simply wanting to ruin workplace fun.

In Episode 43 of *The Workplace* podcast, CalChamber Executive Vice President and General Counsel Erika Frank and employment law expert Jennifer Shaw discuss ways HR experts can combat dismissive attitudes from leadership and help the company comply with federal and state laws.

The podcast kicks off by featuring a clip of “*The Office*” that has branch manager Michael Scott deride a human resource representative, Toby Flenderson, for suggesting that office personnel watch a sexual harassment prevention video and are reminded of the company’s sexual harassment policy. Scott dismisses Flenderson’s concerns that inappropriate jokes should not be emailed at work, saying, “There is no such thing as an appropriate joke. That’s why it’s a joke.”

The clip, Shaw tells Frank, showcases a conversation with which many HR professionals are undoubtedly familiar. HR professionals are responsible for staying up to date with labor laws and applying them to a workplace, but they also

need help from the top, Shaw says.

Yet, sometimes company leaders push back against concerns of noncompliance or training suggestions and can sometimes dismiss the advice of their HR experts altogether.

**Tips to Combat Dismissive Attitudes**

If facing resistance from company leadership, Frank suggests that HR professionals find ways to talk to the head of their company and convince them to get onboard. While making employees dedicate an hour to harassment prevention training may seem wasteful, workers are learning to be better employees, thus increasing productivity, Frank points out.

Moreover, Shaw adds, educating employees on harassment prevention is better for the overall company bottom line because the company will be saving money by preventing potential litigation.

If a company’s leadership is still pushing back against recommendations given by its HR experts, Shaw outlines three approaches to keep in mind:

- Talk calmly and rationally to the person giving the push back and explain why an action is required. “Plead your best case,” Shaw says.
- Keep in mind that some issues warrant further discussion and others don’t. For example, with harassment prevention training, there is a risk of personal liability, she points out. “Bring it home to the leader: ‘Listen, this is something that is not just an organization issue, this could be something that hits you personally...you don’t have to like it, you don’t have to agree with it, but this is where...I recommend we go,’” she says.

• If there is problem that cannot be resolved, HR professionals should go up the leadership ladder—even if it means going straight to the board of directors. And if a company is in violation of labor laws and refuses to correct its policies, Shaw reminds listeners that there are whistleblower laws which protect HR professionals from reporting a company.

**Access to Resources Is Essential**

Last, Frank and Shaw stress that HR professionals need to have access to resources and should be comfortable knowing that it’s OK to ask questions. Attending training, reading an employment law newsletter or completing an employment law updates seminar not only provides an HR professional with timely information, but also the data and concrete examples that professionals can show to their company’s leadership to support policy recommendations.

The California Chamber of Commerce offers expert advice on labor law compliance and compliance tools to meet business needs, including required state, federal and local employment posters and pamphlets, sexual harassment prevention training, reference guides, compliance seminars and webinars, and an online employee handbook creator. Visit the CalChamber store for more information.

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To listen or subscribe, visit [www.calchamber.com/theworkplace](http://www.calchamber.com/theworkplace).

**Anti-Arbitration Lawsuit Update**

*From Page 1*  
criminal penalties as well, making it a misdemeanor to violate any part of AB 51’s restrictions, which is punishable by imprisonment not exceeding six months, a fine not exceeding \$1,000, or both.

**Preempted by Federal Law**

The complaint points out that AB 51 is preempted by the Federal Arbitration

Act (FAA), which precludes any state from limiting, interfering with, or discriminating against the use of arbitration agreements to resolve claims.

In granting the temporary restraining order, Mueller echoed similar concerns, stating: “plaintiffs have raised serious questions regarding whether the challenged statute [AB 51] is preempted by the Federal Arbitration Act as construed

by the United States Supreme Court.”

For more information on the *U.S. Chamber of Commerce v. Becerra* complaint, including lawsuit documents and recent news stories, visit [www.calchamber.com/legalaffairs](http://www.calchamber.com/legalaffairs) and click on “CalChamber in Court” in the dropdown menu.

# 14 CalChamber Member Firms Recognized as Best Places to Work in San Diego



Fourteen California Chamber of Commerce member companies were recently selected by the

*San Diego Business Journal* as some of the best places to work in San Diego.

The list honors businesses that, according to the *Journal*, “reflect true excellence in policies and practices that foster employee health, engagement and productivity.”

The list was broken into four categories: small employers with 15–49 employees, medium employers with 50–249 employees, large employers with 250–1,999 employees and mega employers with more than 2,000 employees.

The CalChamber member companies that landed on the 2019 list are:

## Small Companies

- **LevitZacks, Certified Public Accountants**, an accounting firm, ranked No. 12. The company awards full medical coverage to its employees as well as the opportunity to take paid time off for community service programs.

- **Wakeland Housing and Development Corp.**, a nonprofit committed to creating affordable housing in California, came in at No. 15. The organization nurtures a healthy work-life balance through its many wellness programs.

- **Lee & Associates**, a real estate firm, placed at No. 17. Devoted to its employees’ health, the brokerage pays 100% of its employees’ medical coverage and supplies access to a fitness facility.

## Medium-Sized Companies

- **Hughes Marino**, a commercial real estate brokerage, topped the list at No. 1. The company has secured its reputation by always living up to its “10 Core Values,” the first being, “Always do the right thing.”

- **The Miller Hull Partnership**, an architecture and planning firm, ranked No. 2. Outside the firm, employees and their families are welcome to participate in nature retreats and other fun activities throughout the year.

- **Nth Generation Computing Inc.**, an information technology solutions provider, placed at No. 3. Employees enjoy seasonal celebrations, yoga classes, free theater tickets and overnight stays at wineries and spas.

- **Smashtech**, an advertising, public relations and marketing firm, came in at No. 9. Perks include two months of paid parental leave, numerous company events and flexible hours.

- **Cavignac & Associates**, a risk management-oriented insurance brokerage, ranked No. 12. The firm provides medical and dental coverage, chiropractic and acupuncture services, Section 125 plans and other wellness programs.

- **Pure Financial Advisors Inc.**, which has provided financial services since

2007, placed at No. 13. The firm offers its employees stock options, medical coverage, a retirement plan and flexible spending.

- **tklsc**, which placed at No. 22, ensures that buildings are safe, innovative and environmentally friendly. Among tklsc’s many perks are a competitive salary, full medical benefits and half days every Friday.

- **Accredited Debt Relief**, which ranked No. 25, helps clients resolve their debt in an intelligent and swift manner. The company grants its employees a sizable benefits package, including a 401(k) plan and medical coverage.

- **Pro Back Office, LLC**, an accounting firm, placed at No. 29. Employees rely on the company’s multiple opportunities for professional development to expand and improve their skills.

- **NovasYTE Health, an IQVIA Co.**, which provides service teams and technologies for the health care industry, came in at No. 35. Employees have access to innovative medical technology and can teach, travel and meet a diversity of clients across the country.

- **Andrews Lagasse Branch & Bell LLP**, a 100% female- and minority-owned law firm, ranked No. 36. The firm offers full medical coverage, a retirement plan and a flexible spending account.

To view the full list of the *San Diego Business Journal*’s “Best Places to Work,” visit <https://www.bestplacestoworksd.com/2019-best-places-to-work-in-san-diego-rankings>.

## State Holding Employment Status Seminars Statewide



The California Employment Development Department (EDD) has scheduled free

seminars throughout the state on AB 5 and the ABC test for classifying workers.

**AB 5 (Gonzalez; D-San Diego; Chapter 296)** placed into law starting January 1 the ABC test for determining whether a worker is an employee or independent contractor.

The seminars generally are scheduled from 9 a.m. to noon. According to

the EDD website, seminar attendees will learn about the ABC test and “excepted categories,” how to distinguish between employees and independent contractors, and resources to help classify workers.

To register, visit EDD’s payroll tax seminars section at [https://seminars.edd.ca.gov/Payroll\\_Tax\\_Seminars/](https://seminars.edd.ca.gov/Payroll_Tax_Seminars/) and select “AB 5/ABC Test – Employment Status Seminar” in the dropdown menu.

## Other State Resources

The California Labor and Workforce Development Agency has set up [Labor.ca.gov/employmentstatus](http://Labor.ca.gov/employmentstatus), to serve as

a one-stop shop of online resources for workers and employers.

The agency describes the website as a place where it and its departments, including EDD, the Labor Commissioner’s Office, the California Division of Occupational Safety and Health (Cal/OSHA) and the Division of Workers’ Compensation are coordinating information and services about AB 5 and its enforcement.

Also available on the website is information about the ABC test and [Frequently Asked Questions \(FAQ\)](#) about AB 5, misclassification, employee protections and employer obligations.

## Legislative Outlook

An update on the status of key legislation affecting businesses. Visit [www.calchamber.com/impact-california](http://www.calchamber.com/impact-california) for more information, sample letters and updates on other legislation. Staff contacts listed below can be reached at (916) 444-6670. Address correspondence to legislators at the State Capitol, Sacramento, CA 95814. Be sure to include your company name and location on all correspondence.

### Job Killer Bills Imposing Targeted Taxes Set for Hearing in Senate Committee



Two targeted tax bills identified by the California Chamber of Commerce as job killers are scheduled to be considered by the Senate Governance and Finance Committee on January 15.

#### Corporate Tax Hike

**SB 37 (Skinner; D-Berkeley)** imposes a tax on California businesses that, for certain companies, would raise California's corporate tax rate—already one of the highest in the nation—up to 22.26%. This amounts to an increase of approximately 150%, one of the steepest tax increases ever considered in California.

The bill requires that corporations with net income of \$10 million or more be revised to instead impose a tax rate from 10.84% to 14.84%, or for financial institutions from 12.84% to 16.84%, based on the compensation ratio of CEOs to employees of the corporation.

It would further increase the tax rate by another 50% from publicly held corporations that have a specified decrease in full-time employees in the United States while increasing the number of contracted and foreign full-time employees.

The CalChamber has labeled SB 37 as a job killer because, if passed, California will have the highest corporate tax rate in the country, undoubtedly discouraging companies from locating to or further investing in the state.

Moreover, SB 37 will likely harm

California workers, whose jobs will be jeopardized as companies try to counteract the costs of higher taxes by reducing their presence in California.

#### Oil and Gas Operators

**SB 246 (Wieckowski; D-Fremont)** seeks to impose a targeted 10% severance tax on oil and gas operators for deposit into the General Fund.

The CalChamber has deemed SB 246 a job killer because it unfairly imposes a targeted tax on oil and gas—an industry already saddled with layers of taxes.

Californians pay the highest consumer prices for gas in the nation, at \$3.43 per gallon compared to the national average of \$2.58 per gallon. SB 246 would certainly increase consumer prices even more.

This tax increase also imperils jobs throughout the oil and natural gas industry, with consumers likely modifying their behavior to offset the hike in gas prices.

The 2019–2020 state budget enjoys a \$20+ billion cushion of surpluses and reserves, and the budget for 2020–2021 is forecast to include multibillion-dollar reserves as well. There is therefore no need for additional revenue that justifies increasing the cost of living on California consumers, who are already struggling with high costs for energy, gas and housing.

The CalChamber is strongly opposing both SB 37 and SB 246.

**Staff Contact: Preston Young**

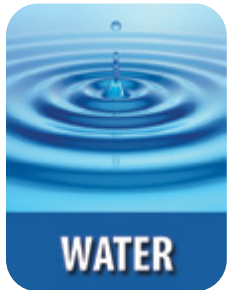
LEGISLATIVE INSIGHT  
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**USE YOUR VOICE, MAKE AN IMPACT**

[www.calchamber.com/impact-california](http://www.calchamber.com/impact-california)



# State Begins Year with Good Sierra Snowpack



The first manual snow survey of the year on January 2 showed a healthy snowpack of 33.5 inches, according to the California Department of Water Resources (DWR).

California is still below average for this time of year. “We must remember how variable California’s climate is and what a profound impact climate change has on our snowpack.”

“It’s still too early to predict what the remainder of the year will bring in terms of snowpack,” said Sean de Guzman, chief of DWR’s Snow Surveys and Water Supply Forecasting Section. “Climate

change is altering the balance of rain and snow in California.”

DWR explains that continued warming from climate change is expected to lead to fewer, more intense storms affecting snow distribution across elevations, the pattern of snow accumulation and rate of snow melt.

Typically, California receives about 75% of annual precipitation during

December, January and February, with the bulk of the precipitation coming from atmospheric rivers, DWR reports.

DWR has conducted manual snow surveys at Phillips Station since 1964, recording both depth and snow water equivalent. Snow water equivalent is the depth of water that theoretically would result if the entire snowpack melted at once.

As it melts in the spring and early summer, the snowpack supplies, on average, about 30% of the state’s water needs.

**Staff Contact: Valerie Nera**

That snow depth translates to a snow water equivalent of 11 inches, 97% of average for the Phillips Station in the Sierra. The department uses the snow water measurement to forecast spring runoff.

DWR’s electronic readings from 130 stations throughout the state show a statewide snowpack of 9.3 inches, 90% of average. Last year, the statewide reading was 67% of average.

DWR Director Karla Nemeth commented that precipitation in Northern

Photo by Ken James, California Department of Water Resources



The first manual survey of the year shows snow 33.5 inches deep at Phillips Station in the Sierra. The snow water equivalent of 11 inches is 97% of average for the location.

## CalChamber-Sponsored Seminars/Trade Shows

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Exporting Mechanics Webinar Series

II: Drop Shipments and Routed Transactions. National Customs Brokers & Forwarders Association of America, Inc. and U.S. Department of Commerce. February 18, Webinar. (202) 466-0222.

The 51st General Assembly of the World Trade Centers Association. World Trade Center Taipei. March 1–4, Taipei, Taiwan. (212) 432-2626.

Exporting Mechanics Webinar Series II: Cultural Sensitivity Program. National Customs Brokers & Forwarders

Association of America, Inc. and U.S. Department of Commerce. March 10, Webinar. (202) 466-0222.

2nd Medical Device Research & Development Summit. March 23–24, Tel Aviv, Israel. +972-3-5626090, ext. 3.

Exporting Mechanics Webinar Series II: ACE Export Reports for Compliance. National Customs Brokers & Forwarders Association of America, Inc. and U.S. Department of Commerce. April 14, Webinar. (202) 466-0222.

2020 Annual Export Conference. National Association of District Export Councils. May 19–20, Alexan-

dria, Virginia. (407) 255-9824. 2020 SelectUSA Investment Summit. International Trade Administration. June 1–3, Washington, D.C. (800) 424-5249.

Construction Indonesia 2020. PT Pamerindo Indonesia and Informa Markets. September 16–18, Jakarta, Indonesia. +49-3999905-0.

## CalChamber Calendar

Board of Directors:  
February 27–28, La Jolla.



**“CalChamber does an amazing job at bringing together many constituencies to collaborate on making the state a better place to live and work for our diverse, hard-working residents.”**

Grace Evans Cherashore  
Executive Chairwoman  
Evans Hotels  
2019 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](http://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

## 2019 Sample Return on Investment for CalChamber Members

Repeal of tax exemptions stopped with amendments (SB 468)	\$20 billion
More than doubling of corporate taxes stalled (SB 37)	\$19.5 billion
Housing construction cost increase vetoed (AB 520)	\$6.72 billion
Housing mandate relief signed (AB 178)	\$516.5 million
Unfair excise tax on drug manufacturers stalled (AB 1468)	\$100 million
Targeted tax on new tire purchases stopped (AB 755)	\$76.65 million
Higher health care premiums prevented (SB 11 stopped; SB 163 vetoed)	\$22.3 million
Air board duplicative reporting mandate scaled back (AB 617 regulation)	\$10.5 million
Unemployment insurance benefits for striking workers stopped (AB 1066)	\$6 million
<b>Total Definable Return</b>	<b>\$46.95 Billion</b>

**Return Per California Employee \$3,081**

## Other Savings from Legislation Stopped, Amended or Enacted

### Litigation Threats

- \$125,000 per lawsuit** prevented by amendments to protected employee leave expansion (AB 1224)
- \$70,000 per lawsuit** prevented
  - Addition of private right of action to California Consumer Privacy Act stopped (SB 561)
  - Uncapped new leave for employees/family members stopped (AB 628)
  - Criminal/civil liability for wellness programs stopped (AB 648)
  - Expansion of False Claims Act to taxes stopped (AB 1270)
  - State ban on doing business with federal government contractors stopped (AB 1332)
  - Gender discrimination pricing education signed (AB 1607)
  - Employer pay data reporting vetoed (SB 171)
  - Local enforcement of state employment/housing discrimination vetoed (SB 218)

### Increased Costs/Administrative Burdens

- Expansion of Healthy Workplace Healthy Family Act sick leave from 3 to 5 days stopped (AB 555)
- Rigid water management approach inviting potential costly litigation vetoed (SB 1)
- New gas fees/carbon tax amended (SB 43)
- Single-use packaging ban stopped (SB 54, AB 1080)
- Expansion of family leave to small businesses with 5 or more employees stopped (SB 135)



**THURSDAY, JANUARY 30, 2020 | 10:00 - 11:30 AM PT**

## **2020 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 30. Learn how recent California and federal laws, regulations and court rulings may require changes to your workplace policies and practices.

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 2020.

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



This webinar is mobile-optimized for viewing on tablets and smartphones.

**LEARN MORE** at [calchamber.com/2020updates](http://calchamber.com/2020updates) or call (800) 331-8877.

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