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CalChamber

ALERT

3 Job Killer Bills Still Active

Would Impose Onerous Labor Mandates

Following last Friday's deadline for legislation to move out of the house in which it was introduced, just three of the 25 job killer bills the California Chamber of Commerce identified this year are still moving.

The surviving job killer bills would impose onerous labor and employment mandates, and increase liability for employers.

Job Killers Still Active

Labor and Employment Mandates

• **AB 616 (Stone; D-Scotts Valley) Forced Unionization Process for Agricultural Employees:** Limits an employee's ability to independently and privately vote for unionization in the workplace, by essentially eliminating a secret ballot election and replacing it with the submission of representation cards signed by over 50% of the employees, which leaves employees susceptible to coercion and manipulation by labor organizations. Also, unfairly limits an employer's ability to challenge the cards submitted by forcing employers to post an unreasonable bond, and then limits an employee's ability to decertify a union, by forcing them to go through the ballot election process instead of submission of representation cards. Also includes an unnecessary presumption of retaliation that is effectively unlimited in scope because it would apply for the duration of an election campaign, which could last for a year or more. *Passed the Senate Labor, Public Employment and Retirement Committee on June 7, 4-1. Referred to Senate Appropriations Committee.*

• **SB 62 (Durazo; D-Los Angeles)**

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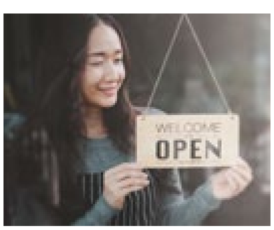
Statewide, Regional Organizations Urge Counties to Back Governor's Reopening Plan



The California Chamber of Commerce joined other statewide, regional and local organizations this week in urging county public health directors/officers and county supervisors to unite behind the state's June 15 reopening date.

In a June 8 letter, the coalition notes that June 15 marks a turning point in the battle against COVID-19.

The letter was signed by the CalChamber and 36 other business groups, including a number of chambers of commerce.

"Now, 15 months since California shut down," the coalition tells the county officials, "we are asking you to unite behind Governor Gavin Newsom's plan to fully reopen the state, eliminate the tier system and create a booming economy so millions of families can return to work and school."

In leading up to its request to back the reopening plan, the coalition comments,

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Cal/OSHA to Revise COVID-19 Emergency Temporary Standard Again

Revisions to California's COVID-19 workplace emergency temporary standard (ETS) were delayed again this week at a special meeting of the Cal/OSHA Standards Board, but employers may find a silver lining to this cloud.

The Standards Board voted at the end of the four-hour meeting on June 9 to withdraw the revised ETS text it had approved less than a week earlier (on June 3) so the Cal/OSHA staff can make some quick changes and resubmit them to the Standards Board for a vote at its June 17 meeting.

The Board's action means the revisions approved on June 3 (which included some loosening of requirements and recognition of vaccines as a form of protection) won't go into effect because the Office of Administrative Law (OAL) will not complete its 10-day review and approval process.

Face Masks – New CDPH Guidance and Potential ETS Revision

The focus of the Board's special meeting this week was a June 7 letter from the California Department of Public Health (CDPH) stating that CDPH would be

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Inside

Labor Law Corner

Many Factors to Consider When Employee Asks for More Leave Time

Dana Leisinger
HR Adviser

Our employee has used up all of her federal Family and Medical Leave Act (FMLA) leave, but called today to request an extension of time. Do we have to grant the extension, or can we terminate her employment?

This question comes up frequently, and the Labor Law Corner addressed it a few years ago. However, recent changes to the laws have made this question more problematic. The answer is — it depends.

The Equal Employment Opportunity Commission (EEOC) has in recent years issued guidelines stating that an extension of FMLA is one of the "reasonable accommodations" contemplated under the Americans with Disabilities Act (ADA).

The next question asked is "how much time?" This is not an easy one to answer because the ADA does not define precisely what is a reasonable accommodation.

Factors to Consider

Several factors are considered in making this determination, and key is what the medical provider certifies as a necessary extension of time.

How much more time is being requested? Most companies with 50 and more employees (the minimum size for the FMLA to apply) can accommodate a few days, or even a week or two.

As of January 1, 2021, however, the California Family Rights Act (CFRA) was expanded to apply to employers with *five* or more employees. If an employee is taking leave for their own serious health condition, and the employer is smaller, an extension of time can be more difficult to accommodate.

If an employee is requesting several more months, matters get even more complicated. What's reasonable for an employer with 800 employees might not be reasonable for a company of 52 employees, much less for an employer of eight employees. Therefore, the size of the company is yet another factor.

Another consideration is how sensitive the employee's job is. Is it easy to shuffle her job duties to others or are her responsibilities such that her prolonged absence is causing strain on the company?

In addition, some companies are seasonal in nature, and an employee's absence during a busy time of the year might be difficult to accommodate. For example, think of an accounting business during tax season.

What is critical for an employer to realize is not to have a knee-jerk reaction to a request for extending a leave. The issues involved are very serious, and employers should work hard to accommodate the requests.

It is much easier to accommodate an employee's request for more time versus defending a lawsuit based on denial of such a request.

Interactive Dialogue

The employer should enter into an interactive dialogue with the employee,

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CalChamber-Sponsored Seminars/Trade Shows

More at *www.calchamber.com/events*.

Labor and Employment

Workplace Safety Refresher Course for California Employers. CalChamber. June 17, Webinar. (800) 331-8877.

HR Boot Camp Virtual Seminar. CalChamber. June 24–25, Online. SOLD OUT. (800) 331-8877.

International Trade

Georgia: View from Silicon Valley. Consulate General of Georgia, San Francisco. June 17, Webinar. (415) 528-3706.

International Trade Update and Business Opportunities for U.S. with Europe, Africa and Latin America. Women in International Trade, Los Angeles. June 24, Online. (213) 545-6479.

Build Back Better Together: Canada and the United States. Institute of the Americas. June 29, Online. (844) 880-6519.

Sourcing Taiwan Online-Smart Vehicle Supply Chain. Bureau of Foreign Trade and Taiwan External Trade Development Council. July 8, Online. (415) 362-7680.

USA Pavilion. Defense Exhibition Athens 2021. July 13–15, Athens, Greece. +30 210 699-3559.

Exporting: What's in It for You? World Trade Center Northern California. July 13 and July 15, Online. (916) 447-9827.

EXIM 2021 Virtual Annual Conference. Export-Import Bank of the United States. September 21–23, Online. (800) 565-EXIM (3946).

2021 Taiwan Trade Shows. Taiwan Exter-

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ALERT
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Moderate Democrats Show Influence in Key Economic Recovery Policy Areas

Jennifer Barrera

In a democracy, it's the votes that count. No matter what the polls say before election day, or the pundits say about the make-up of the Legislature, nothing substitutes for the actual votes.

And so it was last week in the California Legislature as they faced the do-or-die deadline for bills in the house of origin. Noting the dominance of each house by Democratic supermajorities, with an agenda comprising some of the edgiest bills on the progressive wish list, most insiders predicted approval of unprecedented new regulatory and tax burdens.

Then the legislators voted.

One after another, bills that would have undermined the state's economic recovery were defeated or sidelined.

Stopping Worst of the Worst

The week began in the Assembly with an agenda of 277 bills, many of them anathema to employers and small businesses. But thanks to a rugged band of independent-minded Democrats, some of the worst of the worst were defeated or abandoned.

Known variously as the "moderate Democrats" or "new Democrats," this caucus has been a force of varying influence for many years. Mostly hailing from more conservative regions, including many with influential Hispanic populations, they share fundamental Democratic goals to protect the environment, increase worker protections and benefits, and improve access to childcare and health care.

Guest Commentary
By Jennifer Barrera

But while supporting these goals, this caucus also shares a keen appreciation for the costs of overreach in terms of economic opportunity and job creation. They also get the simple mathematics: jobs + economic success = more state budget revenues for programs serving their constituents.

Potent Opposition

Led by their convener, Assemblymember Blanca Rubio, the "moderate caucus" weighed in on many bills, including those identified by CalChamber as Job Killers or other contentious legislation.

Their opposition either killed a bad bill outright, convinced the author to accept amendments, or demonstrated to the author that the votes simply weren't there — reason to set the bill aside instead.

• An expensive ban on certain types of consumer goods packaging: failed passage (AB 1371).

• Burdensome regulation of quick service restaurant franchises: failed passage (AB 257).

• Another increase in mandatory sick leave benefits — would have been the second such increase this year: never brought up for a vote (AB 995).

• A massive tax increase on employers that operate globally: never brought up for a vote (AB 71).

• A mandatory $7 billion wage increase mandated on California hospitals: never brought up for a vote (AB 650).

• A burdensome disclosure mandate aimed at encouraging more lawsuits against employers: never brought up for a vote (AB 1192).

• Legislation to undermine a state Public Utilities Commission deliberation on ratepayer subsidies of rooftop solar: failed passage (AB 1139).

Not a bad day's work for Assemblymember Rubio and her colleagues in the moderate caucus. California's economic recovery will be better for their efforts.

Jennifer Barrera is executive vice president of the California Chamber of Commerce.

Many Factors to Consider When Employee Asks for More Leave Time

From Page 2

as is contemplated by the ADA. The law wants employers to evaluate leave requests on a case-by-case basis, not point to a "line in the sand" in the belief that the employer can automatically terminate the employee.

Indeed, if an employee has a serious health condition that also constitutes a disability as defined by Government Code Section 12926 and cannot return to work at the conclusion of her family leave, the employer has an obligation to engage that employee in an interactive process to determine whether an extension of that leave would constitute a reasonable accommodation under the Fair Employment and Housing Act.

If the employer does indeed believe it cannot grant the leave request after discussing these factors with the employee, it may be advisable to consult with legal counsel to affirm the decision.

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.

3 Job Killer Bills Still Active

From Page 1

Increased Costs and Liability on Employers: Significantly increases the burden on non-unionized employers in the garment manufacturing industry in California, by eliminating piece rate as a method of payment even though it can benefit the employee, creating joint and several liability for contractors for any wage violations or the employer, and shifting the evidentiary standards in a Labor Commissioner hearing to limit the ability for an employer to defend against an alleged wage violation. These additional requirements will encourage companies to contract with manufacturers outside of California, thereby limiting the demand and workforce of garment manufacturers in California. *Passed the Assembly Labor and Employment Committee on June 8, 5-2. Assembly Judiciary Committee hearing set for June 22.*

Workplace Safety

• **AB 701 (Lorena Gonzalez; D-San Diego) PAGA Litigation, and Regulations for Warehouses:** Threatens warehouse employers with duplicative costly litigation by creating new litigation risks, including a representative action under the Private Attorneys General Act (PAGA), for failing to comply with vague standards. Also permits potential warehouse-by-warehouse setting of standards by courts via individual injunctive lawsuits, and compels duplicative and likely inconsistent regulations from both Labor Commissioner and Cal/OSHA regarding appropriate performance levels in warehouses. *In Senate Labor, Public Employment and Retirement Committee; no hearing date set.*

Bills Stalled

The following bills failed to meet the June 4 deadline for passing their house of origin.

Labor and Employment Mandates

• **AB 650 (Muratsuchi; D-Torrance) Healthcare Workers: COVID-19 Bonuses:** Imposes at least an estimated $7 billion in direct payroll costs on healthcare providers through mandatory bonuses, which will jeopardize access to affordable healthcare due to the billions of dollars the healthcare industry has lost during the pandemic. Prohibits healthcare providers from reducing staff even if they are unable to afford to continue to pay those bonuses. *Placed on Assembly Inactive File on June 3 at author's request.*

• **AB 995 (Lorena Gonzalez; D-San Diego) Costly Sick Leave Expansion on All Employers:** Imposes new costs and leave requirements on employers of all sizes, by expanding the number of paid sick days employers are required to provide, which is in addition to all of the recently enacted leave mandates (COVID-19 sick leave, Cal/OSHA emergency paid time off, California Family Rights Act (CFRA) leave, workers' compensation, etc.) that small employers throughout the state are already struggling with to implement and comply. *Placed on Assembly Inactive File on June 3 at author's request.*

• **AB 1192 (Kalra; D-San Jose) Public Shaming of Employers:** Places new onerous administrative burdens on employers by requiring annual reporting of wage and hour data and employee benefits for an employer's entire United States workforce that will publicly shame employers for lawful conduct by publishing that data on the Labor and Workforce Development Agency's website, and will subject employers to frivolous litigation and settlement demands. *Placed on Assembly Inactive File on June 3 at author's request.*

• **SB 213 (Cortese; D-San Jose) Expands Costly Presumption of Injury:** Significantly increases workers' compensation costs for public and private hospitals by presuming certain diseases and injuries are caused by the workplace and establishes an extremely concerning precedent for expanding presumptions into the private sector. *Placed on Senate Inactive File on June 3 after falling short of votes needed to pass.*

Tax Increases

The following tax-related bills are likely dead for the year, although they may be brought up at any time as tax increases are not subject to normal legislative deadlines.

• **ACA 8 (Lee; D-San Jose) Wealth Tax:** Proposes to amend the Constitution to impose a massive tax increase upon all forms of personal property or wealth, whether tangible or intangible, despite California already having the highest income tax in the country. This tax increase will drive high-income earners out of the State as well as the revenue they contribute to the General Fund. *No policy hearing date set, but may move at any time as tax increases are not subject to normal legislative deadlines.*

• **AB 71 (L. Rivas; D-Arleta) Massive Corporate Tax Increase:** Significantly increases the taxation on the gross income of American companies with an international presence to create a homelessness fund, thereby shifting the responsibility of the crisis onto the private sector, despite the state's $76 billion (as indicated by the Governor) in unexpected revenue. *Placed on Assembly Inactive File on June 3 at author's request.*

• **AB 310 (Lee; D-San Jose) Wealth Tax:** Seeks to impose a massive tax increase upon all forms of personal property or wealth, whether tangible or intangible, despite California already having the highest income tax in the country. This tax increase will drive high-income earners out of the State as well as the revenue they contribute to the General Fund. *No policy hearing date set, but may move at any time as tax increases are not subject to normal legislative deadlines.*

• **AB 1199 (Gipson; D-Carson) Targeted Tax on Homeowners:** Unfairly imposes an excise tax on certain individual and corporate homeowners to pay for housing related services, which will ultimately increase rental rates and worsen housing unaffordability for vulnerable tenants. *No policy hearing date set, but may move at any time as tax increases are not subject to normal legislative deadlines.*

• **AB 1253 (Santiago; D-Los Angeles) Massive Personal Income Tax Increase:** Increases the state personal income tax rate, which is already the highest in the country, on high wage earners and sole proprietors. This tax increase will drive high-income earners out of the State as well as the revenue they contribute to the General Fund. *No policy hearing date set, but may move at any time as tax increases are not subject to normal legislative deadlines.*

Drought Challenges Increasingly Evident for Both Water Suppliers and Water Users

It's official. California is in another drought cycle as are most of the western states. A look at the U.S. Drought Monitor shows a state mostly in shades of red.

Drought Responses

The Governor has declared a drought emergency for 41 of the state's 58 counties.

The State Water Resources Control Board notified some water rights holders that they will not be able to draw surface water this year.

The U.S. Bureau of Reclamation changed its allocation amount to zero for its agricultural water contractors.

The Department of Fish and Wildlife is sounding the alarm that migrating salmon are in dire trouble with river water likely too hot for their survival.

Local water agencies and districts are sending notices to their customers to conserve water and in some areas to reduce water usage by at least 10%.

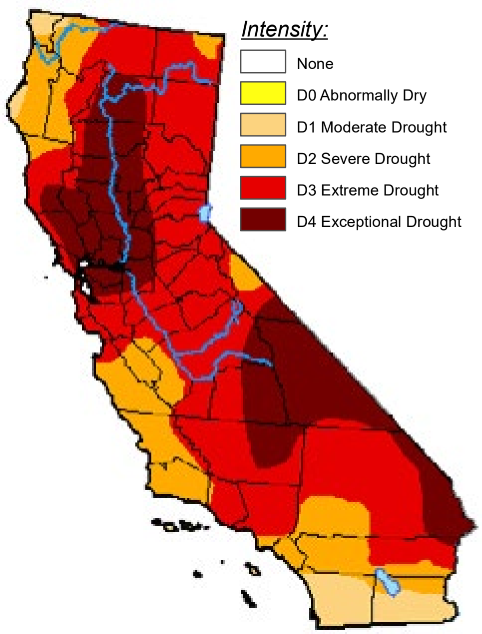
All this and it's just the beginning of the summer season when temperatures reach 100 degrees in many parts of the state. The wildfire season is already underway.

Cutbacks, Other Preparations

With the Governor's drought emergency declaration, the State Water Resources Control Board sent letters to thousands of junior water rights holder to stop drawing water from rivers.

At the same time, the Department of Water Resources is preparing to install a $30 million rock barrier on the Sacramento-San Joaquin Delta to keep salt water from encroaching into the freshwater estuary thereby contaminating drinking water and damaging agricultural fields.

Northern California reservoirs show diminishing water levels, making it difficult to supply cold water to send down the rivers to help migrating salmon and still provide water for municipal and agricultural uses. Wildlife refuges will not be receiving any water, putting many species in jeopardy.



The U.S. Bureau of Reclamation announced that most farm-irrigation districts drawing water from the Central Valley Project are cut off this year. It was initially thought that they would receive 5% of requested amounts, but that was changed due to lack of rain in the spring.

Municipal water agency allocations are slashed from 55% down to 25%, which will put pressure on local water districts in the valley. Water districts from the Oregon border to deep in the Central Valley have sent notices to their customers to reduce use from 10% to 20%. Some, like Westlands Water District, have cut water off for landscaping.

Tough Decisions for Growers

Farmers in California will bear the brunt of water restrictions. Many are making the hard decision to fallow fields or try to salvage what crops they can. Orchardists have begun pulling out trees in hopes of preserving what little water they have.

Producers of every commodity — from the hay fields at the Oregon border to the rice fields in the north valley to the orchards in the Central Valley — are making those tough decisions that will impact food prices in grocery stores, employment numbers and the export markets.

Wildfires

What sometimes gets lost is the fact that wildfires also draw down water supplies. During wildfires, water is pulled from nearby lakes and reservoirs to help control spreading flames.

The likelihood that 2021 will be a challenging wildfire year is strong, given the number of fires so far. Not only is it getting hot earlier in the year; the soil itself is dry from lack of rain, making it easier for fires to ignite.

Power Grid

Another looming problem with the drought is the possibility that the power grid could be affected. Hydropower provides 14% of the power grid's supply. If the water levels fall too low, the hydropower plants can't operate. Grid operators say they have enough power now, but if is hot and drought conditions prevail in the western states, California won't be able to buy power from its usual out-of-state sources.

It's going to be a challenging year for water suppliers and water users.

Staff Contact: Valerie Nera

State OKs Pilot Program to Test Driverless Rides

Last week, the California Public Utilities Commission (CPUC) announced it had authorized San Francisco-based Cruise, LLC to participate in the state's first pilot program to provide driverless passenger services to the public.

Cruise is the first company to enter the CPUC's Driverless AV Passenger Service pilot program, in which passengers can ride in a test autonomous vehicle (AV) that operates without a driver in the vehicle. Cruise may not charge passengers for any rides in test AVs, which still must maintain a communication link between passengers and a remote safety operator.

The California Chamber of Commerce supports the development of AV technology for passenger and commercial operations.

A study by the Boston Consulting Group estimates that by the end of the next decade, 20% to 25% of U.S. rides will be logged by Level 5 (fully automated) AVs operated by ride-sharing services.

Cruise

Cruise was founded in 2013 and acquired by General Motors in 2016, with subsequent additional investments from Softbank, Honda, T. Rowe Price, Microsoft and Walmart.

The Cruise website reports that Cruise autonomous vehicles have traveled more than 2 million miles on California roads. The company has more than 300 all-electric AVs operating in San Francisco and Phoenix.

The CPUC states that its pilot programs are intended to allow AV companies to develop their technologies on a test basis, while providing for the safety and consumer protection of passengers of commercial operators within the CPUC's jurisdiction.

CPUC Commissioner Genevieve Shiroma described the issuance of the first driverless permit in the CPUC Autonomous Vehicle Passenger Service Pilot Program as "a significant milestone."

She said AVs "have the potential to transform our transportation system and communities by solving individual mobility needs, improving roadway safety, and moving goods throughout the state sustainably and efficiently. The effective deployment of autonomous vehicles can also transform vehicle manufacturing, maintenance, and service business models to create new jobs and industries for the California workforce."

Requirements

As required, Cruise has already obtained an Autonomous Vehicle Tester Program Manufacturer's Testing Permit – Driverless Vehicles from the California Department of Motor Vehicles (DMV). The DMV permit is a necessary prerequisite for all AV testing, and is separate from the CPUC permit, which is an additional requirement only for carriers wishing to transport members of the public in AVs.

Companies participating in the pilot program must submit quarterly reports to the CPUC about the operation of their vehicles providing driverless AV passenger service. Companies also must submit a Passenger Safety Plan that outlines their plans for protecting passenger safety for driverless operations.

More information on the CPUC Autonomous Vehicle Passenger Service Pilot Programs is available at ***https://www.cpuc.ca.gov/avcpilotinfo/***.

For background information on autonomous vehicles, see the *CalChamber Business Issues and Legislative Guide* article.

Staff Contact: Leah Silverthorn

Statewide, Regional Organizations Urge Counties to Back Reopening Plan

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"Finally, normal life is on the horizon. The extraordinary public health emergency brought on by the novel coronavirus has receded. California now has one of the lowest COVID-19 case rates in the nation and more than half of all Californians have received at least one vaccine dose. While the crisis is ending, we all know the virus has not disappeared and we are entering a new phase in the effort to stop this disease."

The coalition acknowledges the efforts of the county health officers to keep communities safe by implementing ample COVID-19 testing and a speedy vaccination rollout, as well as being willing to work with the state and businesses to combat the virus.

"We look forward to our continued partnership ensuring that employees, customers and all Californians continue to remain safe, especially as the state and local governments relinquish their emergency powers and focus on how to manage this virus over the long-term.

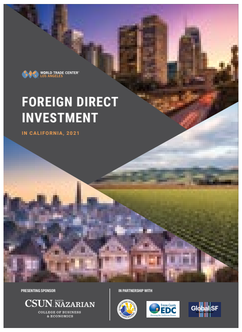
"Whether it is supporting employees and customers who choose to continue to wear their masks, maintaining many of the cleaning measures we implemented last year, continuing additional delivery and outdoor options, or providing access to boosters for the vaccine, we are ready to implement this next phase as safely as possible. Our united vigilance will be critical as we move beyond the state's June 15 reopening," the coalition writes.

The closing of major vaccination sites creates a new challenge, the coalition points out, noting that neighborhood pharmacies "will play a critical role in maintaining the efficacy of the vaccine."

The letter concludes: "It's time to rally behind Governor Newsom's reopening plan and move California forward."

Investment Report Reflects Tumult of 2020

Reduced Trade Flows, Decline in Global Production/Foreign Direct Investment



The negative impact of the pandemic on global commerce is reflected in this year's report on *foreign direct investment in California*.

Released on June 2, the 2021 Foreign Direct Investment Report for 2020 reveals the numbers behind the year of uncertainty and business restrictions, including reduced trade flows, declines in global production and economic growth, and a drop in foreign direct investment (FDI).

In 2020, an estimated 18,451 foreign-owned enterprises (FOEs) were operating in California, employing about 703,187 residents who earned an estimated $64 billion in wages.

The World Trade Center Los Angeles (WTCLA) released this sixth edition of its FDI report in conjunction with the David Nazarian College of Business and Economics at California State University, Northridge.

Top Investors

According to the report, Japan continued to be the top source of FDI in California, with 3,672 companies employing more than 115,000 California residents contributing $10.6 billion in wages.

Next was the United Kingdom with 2,380 companies employing 100,231 residents contributing $8.8 billion in wages.

Rounding out the top six sources of FDI were, in order, France, Germany, Switzerland and Canada. Companies based in each of these nations employed between 50,000–70,000 California residents bringing in between $5.2 billion and $5.8 billion each in wages.

In 2020, these top six sources of FDI all reduced their number of employees in California.

Due to the pandemic, there were 27,461 fewer California residents employed by FOEs and 267 fewer FOEs operating in California in 2020. This resulted in a loss of $1 billion in wages compared to 2019.

California Foreign Direct Investment Ranked by Number of California Jobs

	2020	2019
Japan	115,420	121,223
United Kingdom	100,231	111,430
France	67,705	69,458
Germany	59,539	61,039
Switzerland	54,558	55,840
Canada	51,009	61,841
Ireland	33,089	30,821
China	22,552	21,673
Sweden	18,341	17,849
Netherlands	18,299	15,359
Taiwan	17,493	16,804

Source: World Trade Center Los Angeles, Foreign Direct Investment in California, 2021 and 2020, using data from Dun & Bradstreet.

Shifts in Employment

The top-ranked FDI nations continued to lead in total number of Californians employed while reducing their presence in the state during the pandemic.

FOEs from the United Kingdom and Canada, for example, reduced their presence with 11,199 and 10,832 fewer employees, respectively, in California in 2020 than in 2019.

FOEs from the Netherlands and Ireland each added more than 2,000 workers within the state.

The changing times also changed patterns in growth; the retail industry saw the greatest year-over-year growth in 2020 with 9,500 jobs and 462 companies added in California, while the financial, information, wholesale and manufacturing industries suffered significant losses.

Five countries all increased the number of FOEs in California and the residents employed by the firms, in order: the Netherlands, Ireland, China, Taiwan and Sweden.

Ireland and the Netherlands saw the biggest increase in employees, employing 2,268 and 2,940 more residents than the previous year, respectively. Irish-owned FOEs contributed $3.1 billion in wages to California, while Dutch-owned FOEs contributed $1.32 billion in wages.

Regional Variations

As in previous years, the 10 counties of Southern California attracted the majority of the state's FDI, with 60.5% of all California FOEs and 63.2% of all California FOE employment.

The 15 counties of the San Francisco Bay Area accounted for about 31% of FOEs and employment. The remaining 23 California counties accounted for the rest.

California is the No. 1 state for residents employed by FOEs. Data from the Bureau of Economic Analysis show that California is the top state for FDI in manufacturing, wholesale trade, retail trade, and information in terms of the number of employees employed by FOEs.

More Information

For more information on country-specific data from the top 24 sources of FDI in California, please see the WTCLA's 2021 Foreign Direct Investment Report or the CalChamber's international trading partner portals.

Staff Contact: Susanne T. Stirling

CalChamber, Allies Join Forces to Stop 6 Oppose Bills, Amend 2

California Chamber of Commerce policy advocates working alongside advocates from allied business groups succeeded in stopping six CalChamber-**opposed** bills from advancing for the year, while negotiating amendments that allowed CalChamber to remove opposition from two other pieces of proposed legislation.

Amended Bills

• **AB 255 (Muratsuchi; D-Torrance)**: Before amendments, this bill would have required primarily small commercial lessors to absorb up to 75% of their owed rent from their tenants so long as they claimed a COVID-19 related financial impact, thereby turning mom-and-pop commercial lessors into acting as the state's safety net. *CalChamber position changed to "oppose unless amended." Placed on Assembly Inactive File on June 3 at author's request.*

• **AB 570 (Santiago; D-Los Angeles)**: Before amendments, this bill would have required employer-sponsored health plans to cover dependent parents and stepparents, which would have increased premiums and out-of-pocket costs by up to $936 million. Amendments made on May 24, 2021 would require only individual health plans provide this coverage, not employers. *CalChamber position changed to "no position." In Senate Rules Committee.*

Bills Stopped for the Year

• **AB 257 (Lorena Gonzalez; D-San Diego)**: Would have undermined the existence of the franchise model by holding franchisors responsible for all conduct by individual franchisees. Also established the Fast Food Sector Council that would have had unprecedented authority to write its own labor and employment laws for fast food restaurant employees, circumventing the California Legislature and other regulatory agencies' position in establishing such laws. *Failed deadline on June 4, but may be acted upon in January 2022.*

• **AB 1252 (Chau; D-Monterey Park)**: Would have turned every business offering any software or hardware to consumers, including fitness trackers, glucose monitors, mental health apps, websites and mobile applications, if designed to maintain identifiable information about an individual's mental or physical health conditions, into a provider of healthcare subject to the California Confidentiality of Medical Information Act (CMIA). *Failed deadline on June 4, but may be acted upon in January 2022.*

• **AB 1371 (Friedman; D-Glendale)**: Sought to ban critical protective packaging used by small and large online retailers alike to ship millions of products safely. The bill failed to account for whether adequate substitutes, or any substitutes, existed in the marketplace. The bans would have led to more waste created from food spoilage and product breakage, created unintended negative environmental externalities, and substantially disrupted supply chains. *Failed passage in Assembly, 36-28, on June 3. May be acted upon in January 2022.*

• **SB 342 (Lena Gonzalez; D-Long Beach)**: Sought to expand board membership and dilute local control and impose limitations on the types of appointees to the local air districts. *Failed deadline on June 4, but may be acted upon in January 2022.*

• **SB 582 (Stern; D-Canoga Park)**: Threatened substantial increases in the cost of all goods and services in California by doubling our 2030 carbon emissions reduction goals. *Failed deadline on June 4, but may be acted upon in January 2022.*

• **SB 746 (Skinner; D-Berkeley)**: Proposed to require only businesses to disclose detailed information about whether the business uses personal information for political purposes, regardless of whether the use of such information is partisan or whether there is an intent to use such information for political purposes. *Failed deadline on June 4, but may be acted upon in January 2022.*

CalChamber-Sponsored Seminars/Trade Shows

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nal Trade Development Council. October 6–9, Taipei. +886-2-2725-5200.

Expo Dubai 2021. Expo 2020 Dubai UAE. October 1, 2021–March 31, 2022, Dubai, United Arab Emirates. (+971) 800 EXPO (3976).

2021 Select LA Investment Summit. World Trade Center Los Angeles and Los Angeles County Economic Development Corporation. October 20–21, Los Angeles. (213) 236-4853.

12th World Chambers Congress: Dubai 2021. International Chamber of Commerce World Chambers Federation and Dubai Chamber of Commerce & Industry. November 23–25, Dubai, United Arab Emirates. *worldchamberscongress@iccwbo.org*.

Cal/OSHA to Revise COVID-19 Emergency Temporary Standard Again

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issuing new guidance changing face mask requirements, effective June 15.

The new CDPH guidance became public on June 9, and is available at ***https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx#June15guidance***.

Matching the recommendations from the Centers for Disease Control and Prevention (CDC), the CDPH will no longer require masks for fully vaccinated individuals, except in certain limited settings where masks are required for everyone, regardless of vaccination status (such as health care settings, on public transit, indoors in schools, state and local correctional facilities, and homeless shelters).

For unvaccinated individuals, the new CDPH guidance will require masks in indoor public settings and businesses (such as retailers, restaurants, theaters, family entertainment centers, at meetings and in state and local government offices serving the public).

In order to prevent its new June 3 amendments from being inconsistent with CDPH guidance, the Board voted to recall its standard from OAL to allow staff to make quick revisions to the masking portion of its regulation, as well as potentially revising other sections.

CalChamber Testimony

During the two hours of public testimony at the June 9 meeting, the California Chamber of Commerce and other business representatives urged the Standards Board to make the ETS consistent with CDC and CDPH guidance on face masks; questioned the need to require employers to provide N95 masks to workers upon request; and asked for clarification on any requirement to document the vaccination status of employees.

Several speakers pointed out that N95 masks need to be properly fitted to be effective and should be reserved for use by health care workers, first responders and as already required during the wildfire season, especially considering supply chain challenges that make the N95's difficult to obtain.

Labor representatives pushed for potentially providing N95's to all workers, vaccinated or not, and not relying on individuals to self-certify their vaccination status.

Timeline

The text for the new proposed ETS revision should be released by June 11 to allow sufficient public notice before the Standards Board meeting on June 17. Until that text is made public, it remains unclear what issues (besides face masks) the revision will address. If adopted, the revision would go into effect 10 days after the vote (June 28).

Employers should be aware that the present ETS — as passed in November 2020 — will continue in effect until this new text is adopted and goes into effect. That means **no changes to workplace standards on June 15**, despite the changes applicable to Californians in their personal lives.

New Testing Guidance

Although it wasn't discussed at the Standards Board meeting, another important guidance was recently released by the CDPH. On June 7, the CDPH posted a memo on "Updated Testing Guidance." Employers should take a look at the memo as a potentially significant obligation that is outside of the COVID-19 ETS. The new testing guidance appears to require weekly or biweekly testing of unvaccinated employees at workplaces in certain industries on an ongoing basis.

The testing guidance memo is available at ***https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Updated-COVID-19-Testing-Guidance.aspx***.

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