

ALERT

Proposal Allows Cal/OSHA to Sidestep Fiscal Review

COVID-19 Update: Dashboards Show Multitude of Data



OPPOSE

Workplace rules would be allowed to skip past critical analysis of their fiscal and other effects if legislation pending before the Assembly becomes law.

SB 410 (Leyva; D-Chino), opposed by the California Chamber of Commerce, seeks to exempt Cal/OSHA regulations from analysis that gives policymakers, the regulated community and the public access to a thorough economic analysis of the effects of proposed rules.

The process, known as the Standardized Regulatory Impact Assessment (SRIA), was set up by 2011 legislation and applies to all new regulations with a financial impact of more than \$50 million.

The SRIA analysis must consider both the benefits and costs of a proposed regulation, as well as alternative measures. Unlike other regulatory analyses, the Department of Finance then checks the SRIA to confirm the methodology used is

suitable and the conclusions are accurate. The analysis must be completed before an agency votes to approve the proposed regulation.

Reasons for Opposition

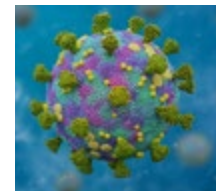
The CalChamber and a coalition of groups representing employers from a variety of industries are opposing SB 410 for the following reasons:

- Both the Legislative Analyst's Office (LAO) and the Department of Finance have cited benefits of the SRIA process. In a 2017 review, the LAO acknowledged the value of the process and urged it be strengthened. The Finance Department has pointed out that the SRIA process helps identify cross-jurisdictional issues where the actions of one state agency may create costs or other unexpected side effects for another agency.

- The SRIA process does not apply to emergency regulations and therefore does not slow agencies if there is an urgent need for action.

- Other documents, such as the required Economic Impact Statement

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As the Delta variant contributes to the recent surge in COVID-19 cases, state and other dashboards for tracking the virus illustrate

the ongoing volatility of the situation.

California's **COVID-19 dashboard**, updated on August 26 with data from August 25, is showing more than 4.1 million total cases to date with 28.4 new cases per 100,000 people, a downward trend from the previous seven-day average.

There have been 64,931 deaths to date, with the latest rate being 0.09 new deaths per 100,000, a slight uptick.

More than 80.2 million COVID-19 tests have been performed to date and the 5.4% test positivity rate is trending down.

More than 46 million vaccines have been administered to Californians so far.

National Comparisons

A **ranking of states** based on COVID-19 positivity rates using information from the **Johns Hopkins Coronavirus Resource Center** shows California the eighth lowest among the states reporting daily data.

A **New York Times** list shows California 24th of the states and territories with 34 cases reported per 100,000 residents in the last seven days as of August 26 and 20th based on vaccination rates with 55% of residents being fully vaccinated.

The **New York Times** also offers **color-coded maps of California** providing a quick glimpse at various statistics.

The Workplace

a Podcast by  CalChamber.

Catch Up on COVID-19 Employer Issues

Jobs Climate Best Practices
Vaccine Mandates
And More

calchamber.com/theworkplace



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Cal/OSHA Corner

Wildfire Safety Training, Other Topics at Cal/OSHA Training Academy



Mel Davis
Cal/OSHA Adviser

As an employer located where there is potential for extensive wildland fires, where can I find information about complying with the wildfire smoke safety regulation?

Earlier this year, the [April 16 Cal/OSHA Corner](#) highlighted some of the ways in which the Cal/OSHA Standards Board clarified employer obligations when adopting the final version of its emergency wildfire smoke safety regulation.

The final version went into effect on February 1 as a new [Section 5141.1](#) of Title 8 in the California Code of Regulations.

Cal/OSHA Training

To more easily determine how these revisions affect your operations, try going to the Cal/OSHA Training Academy at <https://trainingacademy.dir.ca.gov/page/home-english>.

Here you will find online training courses, information, videos, and other resources on wildfire smoke safety and a variety of occupational safety and health topics.

The [wildfire smoke safety page](#) includes a link to the [wildfire smoke regulation](#) (Title 8, Section 5141.1) with links to the new Appendix A and Appendix B to the regulation available from the [Article 107 Table of Contents link](#).

Fact sheets on wildfire smoke safety for employers and workers, and a wildfire smoke safety video are available in English and Spanish.

Also linked on the page is the Cal/OSHA-maintained list of vendors who say they have NIOSH-certified disposable N95 respirators in stock and available for delivery.

Cross links to much of the information are included on Cal/OSHA's [Worker](#)

[Health and Safety in Wildfire Regions](#) page and on the pages below the wildfire smoke safety videos, which also have been posted to YouTube.

Other Topics

Other Cal/OSHA Training Academy courses available cover COVID-19 information; health care; model health and safety programs and sample plans; respiratory protection; and tree worker safety. Future courses include construction safety, heat illness prevention, and silica.

Although successful completion of these courses will earn the user a completion certificate, completing the training alone "does not constitute compliance with an employer's legal obligations to comply with safety and health requirements under California law," the training academy website warns.

The courses are meant to be supplemental to the employer's safety program.

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

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CalChamber-Sponsored Seminars/Trade Shows

More at www.calchamber.com/events.

Business Resources

Proposition 65 Annual Conference. Prop. 65 Clearinghouse. September 27, Online. (415) 391-9808.

International Trade

U.S.-Ecuador Bilateral Relations Post-COVID: Build Back Better Together. Institute of the Americas. September 9-10, Online. (858) 453-5560.

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

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

Build Expo Greece 2021. Build Expo. October 15-17, Athens, Greece. +30 211 180 1801.

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.

Israel Defense Expo. Israel Defense & HLS Expo and Israeli Chamber of Commerce. November 9-11, Tel Aviv, Israel. +972-3-691-4564 x 300.

Smart City Expo World Congress 2021. U.S. Commercial Service. November 16-18, Barcelona, Spain. (704) 248-6976.

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CalChamber Calendar

Board of Directors:
September 2-3, Online

The Workplace

Video Resume Trend Raises Concerns



In Episode 129 of The Workplace podcast, CalChamber Executive Vice President and General Counsel Erika Frank, and employment

law expert Matthew Roberts discuss using video resumes to screen job applicants and the problems this new trend may pose for employers.

Video Resumes

How technology is used in the workplace has evolved greatly in the last year, and one of the latest trends is the use of video resumes. Tik Tok recently launched a resume pilot program where a candidate can apply to a job by creating a video in lieu of a paper resume, Frank tells podcast listeners.

But as “legal beagles,” she says, it’s hard not to go to the dark side and think of all the ways an employer can get sued. So, she asks Roberts, what are some of the issues that come to mind if a company decides to use video resumes to screen candidates?

For Roberts, what immediately comes to mind is the California Department of Fair Employment and Housing (DFEH) and the anti-discrimination rules and regulations that the agency enforces.

The agency, he says, has been focusing on application processes that unfairly screen out candidates. Updates have been made to regulations on discrimination related to age, religious creed and other protected categories. For example, there is a ban-the-box law that prohibits the use of criminal background checks on job applications.

What is most concerning to Roberts is the timing of when video resumes come into the recruitment process.

With traditional resumes, all an

employer has is a piece of paper with someone’s name and address, and in most cases the employer doesn’t know who the person is. This changes drastically, however, with video resumes because the employer sees exactly who the person is at the same time that they are determining whether to move the candidate through the recruitment process, Roberts says.

Immediately, a prospective employer can see who the candidate is, their age, gender, ethnicity and race. And, he points out, depending on where the video resume is filmed, an employer can see something that would fall under a protected rights issue. For instance, a job applicant may shoot the video in their home where a PRIDE flag may be displayed on the wall. This amount of protected class information at such an early stage is something that one doesn’t get in a paper resume.

And this is important due to unconscious bias and the role that may play in decision making, Frank says. Employers should remind themselves that when screening candidates they should be looking at skills and whether the candidate meets the qualifications of the job.

A video resume is something that can be problematic as a method of hiring, she says. For example, a child or elderly person walking in the video’s background is something that an employer would not see while interviewing a candidate in an office. So, the personal aspects of one’s life are not brought to the forefront when using paper resumes.

These personal details can create problems if the hiring individual keeps the information in the back of their mind.

“Once that comes out, sometimes — based on human nature — it’s hard to ignore it,” Frank points out.

Skills Testing

Submitting video resumes may be seen in some cases as a form of skills test as part of the qualifications for a job,

but Roberts explains that if it’s used as a skills test, then it’s best to ask for a video after the employer has gone through the resume screening/recruitment process. Doing so insulates the employer from protective class issues, as the video is submitted further down the line and the candidate’s qualifications for the job have been established.

Knowing how to work video conferencing platforms became an important skill over the course of the COVID-19 pandemic and because many employers will be maintaining a remote work environment, ensuring that workers can perform remote work is important, Frank says.

Additionally, the DFEH is keenly aware that there is an aging population which is still working, so it is incumbent on employers to determine if they have workers who need technology classes or better equipment in order to do their job. If employers fail to offer assistance, that can open the door to age discrimination problems, Frank warns.

Remote Work and Harassment

How the workplace is defined has changed dramatically in the last year, and many employers have employees who are working from home and will continue to work from home in the future.

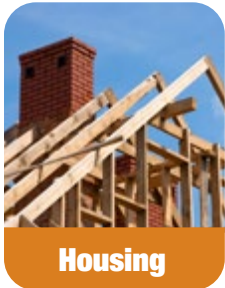
One of the problems that can arise in remote workplaces is harassment behavior.

It’s just a fact that people behave differently when they’re at home, Roberts says. Whether it’s their apparel or something else—people simply forget where they are. This lax attitude can lead to people doing things they shouldn’t be doing because they forget where they are.

Workplace harassment can still arise via the use of platforms like Zoom. And this harassment behavior — even if it’s in another’s home — has to be addressed by the employer, Roberts stresses.

“All traditional workplace rules still apply,” he says.

Bill to Boost New Housing Supply Passes with CalChamber, Coalition Support



Housing

Legislation to increase the supply of new housing and improve the quality and affordability of housing in the state, all while maximizing local land use decision making, passed the

Assembly this week with **support** from the California Chamber of Commerce and a coalition of advocacy groups.

The proposal, **SB 9 (Atkins; D-San Diego)**, moves next to the Senate for concurrence in Assembly amendments.

The California Home Building Alliance in support of SB 9 includes trade associations representing small and large businesses, for-profit and not-for-profit home builders, realtors, developers, employers, affordable housing infill builders, and nonprofit research, education and advocacy organizations.

SB 9 builds on legislation that had broad support last year, but on which time ran out before all the details could be finalized.

Pro-Housing Production

Supporters note that SB 9 will:

- Generate affordable rental units;
- Create new housing and home-ownership opportunities for those who need it most by promoting small-scale neighborhood residential development by streamlining the process for a homeowner to create a duplex or subdivide an existing lot;
- Provide flexibility for multigenerational housing by allowing homeowners to build a modest unit on their property so that their aging parent or adult child can have an existing residential parcel;
- Eliminate overly burdensome requirements that slow qualified applications for homeowners seeking to create a duplex or subdivide an existing residential parcel.

Any new housing created as a result of this bill must meet a specific list of qualifications to ensure the protection of historic districts and existing tenants vulnerable to displacement.

Changes to Address Concerns

Amendments adopted for SB 9 on August 16:

- Address concerns regarding local control by authorizing a local agency to deny a proposed housing development or lot split if the building official makes a written finding that the development or lot split would have an adverse impact on public health or safety or the physical environment that cannot be mitigated. This amendment is especially important to respond to concerns over fire hazards. With this amendment if the local government can document a specific fire hazard for a particular project, they could deny it if there is no way to mitigate the effect of the project.

- Strengthen the current owner occupancy provision in the bill by making it a statewide requirement instead of a local opt in, removing the sunset date, and lengthening to three years the time that the property must be occupied by the owner.

Last week, the Assembly Appropriations Committee sent SB 9 along for a vote by the entire Assembly on a bipartisan vote of 12-1.

Staff Contact: Adam Regele

Proposal Allows Cal/OSHA to Sidestep Fiscal Review

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(EIS), are an inadequate substitute for the SRIA. Although SB 410 supporters claim these other documents make the SRIA unnecessary, a comparison of the short EIS with the final SRIA for Cal/OSHA's revisions to the occupational lead standards demonstrates otherwise. The SRIA of the lead standards includes detailed consideration of the regulation, its health benefits, alternatives, which industries will be affected and the anticipated cost

to each industry.

- Taking the time needed to figure out all the ramifications of a complex regulation is justified because the requirements can remain in effect for decades.

Good Analysis Needed

"Big decisions must be built on good analysis," the coalition states in its letter to the Assembly. "As the COVID-19 pandemic has shown us, science and analyses take time, and our policy actions

must be shaped by that knowledge. The SRIA process ensures that high-quality, thorough analysis is available for the 1.5% of California's regulations that have the broadest effects — and we believe its removal would only harm public policy outcomes at Cal/OSHA."

SB 410 awaits action by the full Assembly. If it passes the Assembly, it must return to the Senate for consideration of the amendments made in the Assembly.

Staff Contact: Robert Moutrie

CalChamber-Sponsored Seminars/Trade Shows

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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. worldchamber-scongress@iccwbo.org. Athens International Tourism & Culture Expo 2021. Greek Ministry of Tour-

ism and Greece 2021 Committee. November 25–27, Athens, Greece. +30 210-614 1164.

CalChamber Companies Take Action to Maintain Grid Reliability; Governor Announces Compensation for Demand Reduction



When called on to take immediate emergency action to conserve energy by Governor Gavin Newsom, California Cham-

ber of Commerce members responded, helping to avert rolling blackouts and keep the lights on for all Californians.

Over the weekend of July 8–11, California faced a significant issue with energy shortages. The problem had, as with last year, many causes:

- California regulators were slow to plan for the transition to renewable power, not ensuring resources were available during increasing evening peak hours.
- Projects that were ordered last year for energy reliability were delayed by supply chain issues related to the COVID-19 pandemic.
- Climate-induced heat waves beat down earlier than predicted.
- Drought reduced capacity at in-state hydroelectric dams.
- Some traditional evening power resources went unexpectedly offline.

The California Independent System Operator (CAISO), which operates the majority of California's regional grid, began issuing [Flex Alerts](#) asking customers to conserve power during the peak hours of 4 p.m.–9 p.m. Governor Newsom declared a [State of Emergency](#) on July 9, allowing emergency use of backup generation and waiving other regulations related to power generation to ensure adequate power to meet demand.

Add to that, on the evening of Friday, July 9 and Saturday, July 10, the Bootleg

fire raging at the California/Oregon border threatened major transmission lines, cutting off one of California's major resources for zero-emission evening power — hydroelectric power. Governor Newsom issued a further [Executive Order](#) freeing up power at California's ports on July 10.

CalChamber Members Respond

CalChamber's members are some of the most aggressive businesses at both short-term and long-term energy consumption reduction.

- For example, **Walmart** has made significant investments in energy-efficient technologies, including interior and exterior LED lighting, skylights that facilitate reductions in electric lighting during the light of the day, and have deployed renewable resources to reduce the strain on the grid.

Additionally, Walmart participates in California demand response programs and has utilized its demand response infrastructure to reduce load during grid emergencies throughout the Western United States.

Finally, Walmart partners with the Center for Sustainable Energy, the California Energy Commission, and Southern California Edison to conduct the [Big Box Efficiency Project](#), aimed at evaluating best practices to reduce energy consumption by 20%.

- CalChamber member **Target** has participated in demand response programs throughout California for a decade, with 239 locations under contract to deliver energy reduction when dispatched.

Actions include lighting reduced by

50% on the sales floor and increasing HVAC temperatures. An additional 27 locations are equipped with automated energy reduction programs, which voluntarily shed load to address potential shortages.

Compensation to Reduce Demand or Use Backup Power

Following these events, Governor Newsom made these benefits more permanent, issuing his [July 30 Emergency Proclamation](#), which will remain in effect through October 31, 2021, hopefully the end of this year's wildfire season.

That proclamation extended the earlier allowances to free up capacity, but also directed the Department of Finance (DOF) to issue payments to utilities that set up a customer incentive program to reduce electricity demand of 500kW of incremental load reduction per hour or more.

California [released information on the programs](#) last week, with a customer template and claim forms for commercial customers that reduce load or utilize backup generation during emergency events. A [program overview](#) is available at the DOF website at https://dof.ca.gov/Programs/California_State_Emergency_Program/.

The Governor's proclamation also requires the California Air Resources Board to develop by November 15, 2021 a state-funded plan to mitigate any additional emissions that result from the capacity generation allowed under these orders.

Finally, the July 30 Emergency Proclamation also provides some streamlining for

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CalChamber Member Feedback

"No other statewide organization can bring together industries or geographic regions like the CalChamber can. The CalChamber gives a broad-based business community one cohesive voice at the State Capitol."

Stuart P. Woolf
President and Chief Executive Officer
Woolf Farming and Processing

AmCham Chile

Geographical Similarities, Shared Values Form Core of Chile-California Relations



The following answers to questions posed by the California Chamber of Commerce are from Paula Estévez, general manager of the American Chamber of Commerce (AmCham) in Chile.

AmCham Chile

Please tell us a bit about the American Chamber of Commerce in Chile, services you provide and activities.

The Chilean-American Chamber of Commerce (AmCham Chile) has more than 400 member companies from 32 economic sectors.

The United States is the largest source of foreign direct investment in our country, representing nearly US \$40 billion. Therefore, we are considered to be the “voice of the foreign investor” in Chile.

Our members also contribute nearly 450,000 jobs to the economy. Nonetheless, the ties between our countries go far beyond economic figures.

Our mission is to strengthen the relationship between Chile and the United States, supporting sustainable business by building spaces for public-private collaboration and an exchange of best practices.

In over 100 years of history, AmCham Chile has actively contributed to our country’s development. Our focus is not only on promoting business and investment. We also seek to contribute to the development of human capital and technologies, which improve quality of life.

We do this by sharing best practices in many fields such as corporate governance and transparency, as well as diversity and inclusion in the business world.

Chile-California Relations

AmCham Chile and the CalChamber have a memorandum of understanding (MOU) dating back to 2009 — shortly before the Chile California Council was established (www.Chile-California.org). How do you support the unique relationship between Chile and California? (Please see www.calchamber.com/chile.)

Over decades, Chile and California have developed a close relationship, which is built on elements ranging from geographical similarities to shared values such as sustainability and opportunities in fields including clean energy. These synergies are reflected in the numerous cooperation agreements signed between our countries and institutions, as well as the work of the Chile California Council — where representatives of both CalChamber and AmCham Chile participate as councilors.



Paula Estévez

This special relationship was evident in AmCham Chile’s most recent virtual mission to the United States, held in late 2020. During this program, we invited a group of our members to actively reflect on a new, emerging concept of sustainability and associated insights for the recovery from the pandemic.

This mission was sponsored by the Chile California Council and speakers included California-based institutions such as 7th Generation Advisors, the University of California, Davis Center for Watershed Sciences and the California State Coastal Conservancy, among other prestigious institutions.

We believe that both Chile and California have valuable learnings and experiences to share with each other, and therefore we actively promote opportunities for dialogue through the programs and events that we organize.

COVID-19 Impact

What is the economic impact of COVID-19 on businesses in Chile?

The pandemic has deeply affected all countries and aspects of society, and its economic impact will be felt for years to come. It has also led to an accelerated digitalization and technological transformation, with diverse impacts on different sectors.

At AmCham Chile, we are focused on contributing to our country’s recovery and building a more collaborative society with broad opportunities.

We are committed to fostering a new perspective on business, in which a company’s success is translated into creating value for all of society. Even in the context of COVID-19, foreign investment continues to be our country’s motor for development, and we are convinced that it will continue to play a key role in our economic recovery.

Despite the challenges associated with the pandemic, the United States continues to be the largest source of investment in our country. In this sense, we are convinced that the experience and leadership of our member companies can make a significant contribution to Chile’s sustainable and inclusive development.

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CHILE CALIFORNIA COUNCIL

The Chile California Council is a binational nonprofit organization, established in San Francisco with 501(c)(3) status, that promotes mutually beneficial relationships and the exchange of knowledge between Chile and California in the public and private sectors. To learn more:

- View Chile California Council [corporate video](#).
- Chile California Council [corporate presentation](#).

Geography, Shared Values Form Core of Chile-California Relations

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U.S.-Chile Free Trade Agreement

Both AmCham Chile and the CalChamber are longtime supporters of the U.S.-Chile Free Trade Agreement (FTA). What does the FTA mean for Chile?

Over the last 30 years, Chile has carried out a solid strategy of international insertion, which has opened new and larger markets. Since the signing of the FTA between Chile and the United States, trade between our two countries increased by more than 200%. We recently commemorated the 15th anniversary of its signing.

The United States is currently the No.

2 destination of Chilean exports, representing more than 13% of the total. It is also Chile's No. 1 trading partner in several economic sectors. Significantly, the U.S. is the main destination for exports from Chile's small and medium-sized businesses, representing 18% of the total and more than US \$284 million.

It is also the main destination for the export of noncopper products, representing 20% of the total and equivalent to over US \$6.3 billion. It is the main destination for the export of services, representing 31% of the total with a value of over US \$319 million.

Even beyond investment and job creation, American companies have made

an important contribution to our country in terms of forming human capital, sharing best practices in areas such as corporate governance and developing technology that improves the quality of life for all. Our countries also share essential values such as democracy, free enterprise, and diversity and inclusion.

At AmCham, we are actively working to build a more sustainable and inclusive society. We consider California to be a long-term partner in these efforts, and we look forward to working together in the years to come.

Staff Contact: Susanne T. Stirling

CalChamber Companies Take Action to Maintain Grid Reliability; Governor Announces Compensation for Demand Reduction

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California Energy Commission approval of longer-term storage projects, with the intent to avoid future power shortages.

With power consumption going up, and the hots getting hotter and earlier in the year, California certainly faces

some challenges. CalChamber members continue to step up to the plate to reduce energy demand to keep the lights on in California while still delivering goods and services necessary to keeping our economy moving.

Keep an eye out for new programs

from your local utilities, and [subscribe to updates from CAISO](#) to get real-time alerts on the state of California's energy grid.

This article appeared first as a Capitol Insider blog post.

Staff Contact: Leah Silverthorn

The Value of a CalChamber Preferred Membership



In these still uncertain times, CalChamber Preferred Members enjoy **exclusive benefits** that go beyond the reassuring compliance resources on HRCalifornia.com.

Consider the unlimited number of times you can speak with an expert from the Labor Line Helpline on questions specific to your employment and human resource issues. Or your unlimited Job Board postings or 20% discount on compliance products and training.

“The Labor Law Helpline advisers always come through when I need them. Don't ever stop offering this service to Preferred Members.”

Kat Lotz
CFO, Jewel Box Platinum, Inc.
Preferred Member Since 2001

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