

ALERT

State Gains Funds from Federal Infrastructure Bill



The federal infrastructure bill signed by President Joe Biden this week will provide

much-needed funding to help California improve its roads, bridges and ports.

Much of the annual maintenance on California transportation infrastructure has been deferred for the better part of a decade, creating a significant backlog of repairs, modernization and expansion needed to keep pace with technology advances and increases in traffic.

Paying for the transportation network

historically has been a partnership between the federal government and the states.

Earlier this year, the California Chamber of Commerce urged the California congressional delegation to support the federal bipartisan infrastructure plan, pointing out that the state's \$3.1 trillion economy depends on the condition of its infrastructure.

Roads, highways, bridges and rail networks are the bloodstream of the California economy, providing passage for delivering agricultural products to state ports, just-in-time components to

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Quick Preview of New and 2022 California Employment Laws



NEW LAWS

Following is a quick look at some of the new employment laws about which employers should be aware. Unless otherwise stated, the new laws take effect starting January 1, 2022.

California Family Rights Act

AB 1033 cleans up and builds upon last year's SB 1383, which dramatically expanded the California Family Rights Act (CFRA) to cover small employers and expanded the definition of family member for whom leave could be taken. This new bill clarifies that employees can take family and medical leave to care for a parent-in-law with a serious health condition.

AB 1033 also revises and adds more detailed provisions to the small employer (five to 19 employees) mediation program originally created in 2020 by AB 1867, including making participation in the mediation program a prerequisite to the employee filing a civil action. The revisions to the program should help more small businesses become aware of their ability to resolve CFRA disputes through mediation rather than costly civil litigation.

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The People's Voice: What Do Voters Want?



"There go the people. I must follow them, for I am their leader."

— Likely apocryphal

quote attributed to French Revolutionary.

Voters and their representatives often have clashing sentiments over public policy priorities, especially during times of crisis — whether a pandemic or a tax revolt — when politicians must catch up to the public mood.

The seventh CalChamber poll, The People's Voice, 2021, found that elected leaders are out of alignment with their voters on several important policy issues.

Californians start with a healthy skepticism of their leaders. Nearly three-quarters of voters believe that "Legislators are out of touch with the issues that are most important to people like me." This is

notable since 56% of voters believe that California is heading in the "right direction," the most confidence shown in that overall measure in five years.

Issue Importance

The CalChamber poll gauges responsiveness to voter concerns by conducting an Issue Importance Analysis. The poll measures **awareness**, which is whether voters "have heard quite a bit about this issue from elected officials in Sacramento," and **demand**, which is whether voters believe "elected officials in Sacramento are not spending enough time on this issue." Inquiring about individual policy priorities along these dimensions reveals whether voters believe that elected leaders are devoting their attention to issues of highest priority to voters.

As the chart below shows, voters believe their leaders are spending too

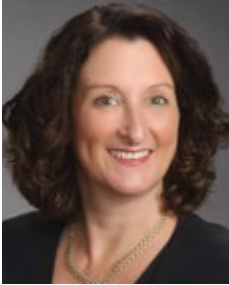
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Labor Law Corner

Allowing Use of Sick Time for Vacation Could Prove Costly for Employer



Ellen Savage
HR Adviser

My employee wants to take a few days off to take a trip with her family, but she is out of vacation time. Can I let her use her sick leave instead?

Many employers see no harm in allowing an employee to use their paid sick leave (PSL) as a substitute for vacation time, but doing so could lead to unintended and expensive financial consequences for the employer.

Vested vs. Unvested Time Off

The risk in allowing employees to use PSL for anything other than its intended purpose (such as illness or medical appointments) lies in the way California law draws the distinction between *vested* and *unvested* time-off benefits.

A vested benefit is one that belongs to the employee and can't be taken away, and which must be paid out at the end of the employment relationship. An unvested benefit can be subject to a "use-it-or-lose-it" rule.

California's Labor Commissioner says a time-off benefit that is "contingent upon the happening of a specific event" is an unvested benefit and does not have to be paid out at termination.

A time-off benefit that is given "without condition," such as vacation time, is a vested benefit and must be paid out at termination. This is true no matter what name an employer may choose for the time off bank, such as Paid Time Off (PTO). *DLSE Opinion Letter 1992.04.27*

Paid Sick Leave

Under California law, PSL is not a vested benefit because it is tied to being

used for specific purposes. California's PSL law allows an employee to use it for the diagnosis, care or treatment of an existing health condition, or preventive care, either for themselves or certain family members.

For example, an employee could take PSL for a cold or other illness, to care for a sick child, for a doctor's appointment for themselves or a family member or for preventive care, like a flu shot. Thus, California's PSL law specifically states that any remaining balance does not need to be paid out at the time of termination, resignation, retirement or other separation from employment.

By allowing an employee to use their PSL bank for reasons that are not specifically allowed under the law, the employer may be unintentionally turning an unvested benefit into a vested one.

In other words, because the time off is no longer tied to illness or medical appointments and can be used to take a vacation, it may now be vested and belong to the employee and therefore could lead to a claim that it should have been paid out on separation.

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CalChamber-Sponsored Seminars/Trade Shows

More at www.calchamber.com/events.

Labor and Employment

HR Boot Camp Virtual Seminar.

CalChamber. December 9 and December 10, SOLD OUT; March 10 and March 11, 2022, Online. (800) 331-8877.

2022 Employment Law Updates Virtual Seminar. CalChamber, January 7, 11, 14, 21, 2022, Online. (800) 331-8877.

Leaves of Absence: Making Sense of It All Virtual Seminar. CalChamber. February 17 and February 18, 2022; April 14 and April 15, 2022, Online. (800) 331-8877.

International Trade

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

36th Trade Expo Indonesia Digital Edition. Indonesia Ministry of Trade. Through December 20, Online. +62

(21) 829-2661.

Taiwan Trade Shows. Taipei Economic & Cultural Office, San Francisco.

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CalChamber Calendar

ChamberPAC Advisory Committee:

December 9, San Francisco

Board of Directors:

December 9–10, San Francisco

International Trade Breakfast:

December 10, San Francisco

Annual Meeting:

December 10, San Francisco

Next Alert: December 3

The Workplace

Stories from the Labor Law Helpline



In Episode 137 of The Workplace podcast, CalChamber employment law expert Matthew Roberts and CalChamber HR

Adviser Ellen Savage discuss unique workplace issues that employers have asked about on the [Labor Law Helpline](#), such as using secret video cameras, and talking to employees about personal hygiene, personal appearance and heating up foods with strong odors in the staff kitchen.

In Episode 136 of the podcast, we covered the hot button issues that employers have been asking about on the CalChamber Labor Law Helpline, but today we will be discussing the more uncommon, but real world human issues that take place in the workplace, Roberts says in kicking off the podcast

Secret Video Cameras

Employers often ask about the use of security cameras in the workplace for security or performance monitoring reasons, Roberts says. One employer called the Labor Law Helpline with a unique problem: fish from the company's fish tank were disappearing and they wanted to install a security camera to catch the fish thief.

Had a security camera been used in the movie *Finding Nemo*, where fish kept trying to escape the fish tank in a dental office, we would have found Nemo much sooner, Savage points out. The film also would have ended in 20 minutes, Roberts quips.

California's constitution has a broad right to privacy, so if an employer decides to install a security video camera, it is key that employees know about it, she says. If employees have a reasonable expectation of privacy, the employer must destroy that expectation. One way to accomplish this is by putting up a sign that states that the area is being recorded. It would be wise to also put the information in the employee handbook, and in new hire paperwork.

An employer once called the Helpline because they put a secret camera in their stockroom and caught their employee displaying very inappropriate behavior, Roberts says. What complicated the matter is that the employee locked the stockroom door while she was in there, which now adds an additional privacy issue concern to the situation.

Some areas, he explains, are expected areas of privacy, like bathrooms, locker rooms and changing rooms. Can this employer use the video footage to discipline the employee?

Savage replies that if the stockroom had not been locked, then the employer more likely could use the footage for discipline, but since it was locked, the employer should check with legal counsel before making a decision. With the door locked behind her, the employee might be able to argue she had a reasonable expectation of privacy.

If the employer had a sign that said something like, "Smile, you're on camera," the answer would be much easier, she adds.

As a best practice, if you have cameras, tell your employees the cameras

are there because it destroys the expectation of privacy, Roberts says.

Personal Hygiene, Appearance

Issues of personal appearance or offensive body odor sometimes come up in the workplace. One employer called the Helpline to ask about an employee whose breath was so smelly that others could smell him from across the room. What, Roberts asks, can we do about that?

Savage replies that labor laws don't specifically address this. The bad breath can be brought on by a medical issue, such as diabetes, so if the odor is due to a medical condition, employers should look to the Americans with Disabilities Act or the California Fair Employment and Housing Act and decide upon appropriate accommodations, such as putting the employee in a private office or offering remote work.

A resource Savage recommends is the [U.S. Department of Labor's Job Accommodation Network \(JAN\)](#). [AskJan.Org](#) provides free, confidential guidance on workplace accommodations and disability employment issues.

If the odor, however, arises from a simple lack of personal hygiene — for example, a worker is going on a run before his shift and comes into work smelly — then the employer can talk to that employee about improving their hygiene, she says.

Another personal appearance issue that is more common than some may anticipate is employees coming into the workplace with hickeys, Roberts says. An employer at a senior living facility

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CalChamber Member Feedback

"CalChamber gives our organization access and influence at the State Capitol beyond what we could achieve alone. We can count on CalChamber's advocacy, analytical abilities, and solid reputation to promote a healthy and thriving business climate that keeps jobs and economic opportunity in California."

Janet A. Liang
Group President and Chief Operating Officer, Care Delivery
Kaiser Foundation Health Plan, Inc. and Hospitals

Quick Preview of New and 2022 California Employment Laws

From Page 1

Safety, Wage Enforcement, Penalties

- **SB 606** expands the enforcement authority of the California Division of Occupational Safety and Health (Cal/OSHA) by creating two new violations categories for which Cal/OSHA can issue citations.

This bill creates a rebuttable presumption that a violation committed by an employer with multiple worksites is “enterprise-wide” if the employer has a written policy or procedure that violates certain safety rules or Cal/OSHA has evidence of a pattern or practice. Cal/OSHA may issue an enterprise-wide citation requiring abatement if the employer fails to rebut the presumption. Enterprise-wide citations will carry the same penalties as citations for repeated or willful violations, up to \$134,334 per violation.

Cal/OSHA also must issue a citation for an “egregious violation” if the division believes that an employer has willfully and egregiously violated an occupational safety or health standard, order, special order or regulation based on several factors listed in the statute. The bill requires each instance of an employee exposed to that violation to be considered a separate violation for the issuance of fines and penalties.

- **AB 1003** makes the intentional theft of wages, benefits or compensation in an amount greater than \$950 for one employee or more than \$2,350 for two or more employees in a consecutive 12-month period punishable as grand theft under the California Penal Code, which prosecutors may charge as a misdemeanor or felony.

- **SB 572** deals with enforcement of wage liens against employers by adding a provision to the Labor Code allowing the California Labor Commissioner to create, as an alternative to a judgment lien, a lien on real property to secure amounts due to the commissioner under any final citation, findings or decision.

Settlement Agreements

SB 331 significantly expands on laws passed over the past few years limiting the ability to use confidentiality clauses

in severance and settlement agreements. Prior to SB 331, any settlement agreement in a case where sexual harassment, sexual assault or discrimination based on sex has been alleged couldn’t include a confidentiality provision prohibiting disclosure of information regarding the claim.

SB 331 expands the prohibition to include acts of workplace harassment or discrimination based on any characteristic protected under the Fair Employment and Housing Act, not just those based on sex. While employees cannot be prohibited from discussing underlying facts of the case, employers can still use clauses that prevent the disclosure of the amount paid to settle the claim. **SB 331** will apply to agreements entered on or after January 1, 2022.

Industry-Specific Measures

- **AB 701** specifically targets warehouse distribution centers. The new law applies to certain larger employers meeting industry definitions for General Warehousing and Storage, Merchant Wholesalers (Durable and Non-Durable Goods), and Electronic Shopping and Mail-Order Houses. The law requires covered employers to provide each nonexempt employee working at a warehouse distribution center a written description of each quota to which they are subject, including tasks to be performed, materials produced or handled, time periods and any potential adverse employment actions that may result from failure to meet quotas.

Under **AB 701**, employees cannot be required to meet quotas that prevent compliance with meal or rest periods, use of bathroom facilities, or health and safety laws. If employees feel that quotas are interfering with these things, they can request a copy of applicable quotas and the last 90 days of their personal work speed performance, which the employer must produce within three weeks. The law also creates a rebuttable presumption of retaliation if the employer takes adverse action against an employee within 90 days of the employee’s request for their quota and personal work speed performance or an employee’s complaint about a quota.

- **SB 62** requires garment manufacturers and “brand guarantors” who contract

with another person for the performance of garment manufacturing to be jointly and severally liable with manufacturers or contractors for wage violations of employees in the supply chain. For purposes of expanding the shared liability under this law, the bill expands the definition of garment manufacturing.

SB 62 also prohibits the practice of piece-rate compensation for garment manufacturing, except at worksites covered by a valid collective bargaining agreement. The bill imposes statutory damages of \$200 per employee against a garment manufacturer or contractor, payable to the employee, for each pay period in which each employee is paid by piece rate.

- **AB 73** expands on one of last year’s personal protective equipment (PPE) bills, **SB 275**, which established a state stockpile of PPE in the event of a pandemic. **AB 73** broadens the scope of the law to include wildfire smoke events as a health emergency under the law and includes agricultural workers in the definition of essential workers. The bill also requires Cal/OSHA to review and update wildfire smoke training, which employers must follow.

COVID-19

- **AB 654** clarifies and cleans up last year’s COVID-19 notice and reporting bill, **AB 685**. As [previously reported](#), the bill revises the language **AB 685** used to describe COVID-19 notice requirements to make it more consistent throughout. This was an urgency measure that took effect immediately upon being signed on October 5.

- Under **SB 336**, when the California Department of Public Health (CDPH) or a local health officer issues an order or mandatory COVID-19-related guidance, they must publish the order or guidance on their website along with the date that the order or guidance takes effect. The CDPH or local health officer must also create an opportunity to sign up for an email distribution list to receive updates on the order or guidance. **SB 336** also went into effect immediately upon being signed on October 4.

Staff Contact: James Ward

Key Considerations for Employers Returning Their Employees to the Workplace



Many employers in California are in the process of returning their employees to the workplace

on either a full-time or part-time basis. For some employers this is the first time they have returned employees to a physical office or job site in over a year-and-a-half.

As expected, employers are concerned primarily with the health and safety of the workforce, especially as it pertains to adhering to the Cal/OSHA workplace safety rules and any additional rules enforced by local public health officers. However, there are several other considerations for employers to keep in mind as they return employees to the workplace and begin to return to more normalized operations.

Are Your Posters Up to Date?

Throughout the pandemic the definition of a “worksite” has changed dramatically for many employers. This definition is important for an employer’s obligation to maintain up-to-date posters and notices because the variety of laws that mandate the workplace posters and notices requires that they be posted in a conspicuous area in the workplace where the employee will tend to see them.

Employers should keep in mind that a “worksite” also includes an employee’s home if they are working remotely, and although SB 657 (passed this year and taking effect on January 1, 2022) permits providing notices electronically to telecommuting employees, it does not change the requirement for a physical posting.

In California, employers are required to post more than a dozen posters from varied agencies, such as the U.S. Department of Labor, the California Department of Fair Employment and Housing, and the California Department of Industrial

Relations. Further, many of these posters, such as minimum wage notices, anti-discrimination posters, and leave rights posters, are updated annually.

So, employers who have been away from the physical workplace or who have been understandably preoccupied with health and safety measures should review their workplace postings to ensure they have the most up-to-date postings at their workplace. Employers who need assistance with this should look to a trusted resource that can provide everything the employer needs for compliance.

Update Your Employee Handbooks

Beyond preparing the workplace for employees to return by updating required postings, many employers have changed many of the policies that govern the workplace. For example, employers that used to deny any remote work arrangement are now allowing either full or partial remote work arrangements. Moving into this “hybrid” work environment, employers are best off creating written policies for which departments or units may take advantage of and the rules pertaining to remote work.

Remote work comes with several other policy considerations, such as employer property and data protection, appropriate timekeeping for nonexempt employees, and how employees should remit expense reimbursements for any personal expenses associated with their job duties.

In addition, the California Legislature did not stop its work during the pandemic, creating several new laws that may have affected employee handbooks that also need to be revised. These new laws include the expansion of the California Family Rights Act (CFRA) leave law to cover all employers with five or more employees, and other changes to laws over the last couple of years, such as bone and organ donor leave and crime victims’ leave.

With so many different rules to establish, employers are strongly encouraged to seek out a trusted resource to update their employee handbook to set the guidelines for this new age of “hybrid” and remote work as well as update for the new laws that have been passed throughout the pandemic.

Harassment Prevention Training Still Required

Lastly, most laws and deadlines were not suspended throughout the pandemic. This includes California’s mandated harassment prevention training requirement. Current employees must undergo this training every two years, and newly hired and employees newly promoted to a supervisory position must participate in the appropriate training within six months of hire or promotion.

With remote and hybrid work making in-person training difficult, if not impossible, employers are encouraged to seek out compliant, computer-based training that meets the requirements of the law and still provides engaging content.

The California Chamber of Commerce offers a suite of products that can help employers prepare their worksites and get into compliance with state law.

Two of the most popular products include the CalChamber’s all-in-one 2022 California and Federal Labor Law Poster, which contains the 18 state and federal employment notices every California employer must post; and the online California Harassment Prevention Training. The harassment prevention training program exceeds California’s legal requirements and includes best practices that raise awareness about the subtleties of harassment, improve workplace culture and respect, and increase productivity and a sense of well-being.

For more information on these products, visit store.calchamber.com.

Staff Contact: **Matthew Roberts**

The People's Voice: What Do Voters Want?

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much attention on just a couple issues that already have enough attention: addressing COVID-19 and the need for the state to fight global warming. But leaders are not spending enough time on a host of issues of greater immediate concern to voters, including reducing crime, making California more affordable, improving quality of public education, expanding the state's water supply, addressing high housing costs, encouraging economic development, and fixing roads and bridges.

The biggest disconnect between voters' appetite for action and what they have heard from state leaders about the issue is on reducing crime, making California more affordable, and expanding the state's fresh water supply. These issue areas provide political and policy opportunities to fill huge unmet demands.

Budget Spending

Taking a different approach to issue spotting, the CalChamber poll asked voters how they might spend expected budget surpluses over the next year. Voters were not restricted in their choice by constitutional mandates or budgetary norms since this was an exercise to determine priorities.

When asked where they might invest a budget surplus, by a wide margin, voters

chose as "very important" water/drought and wildfire prevention, at 74% and 66%, respectively, followed by addressing homelessness. At the bottom of the list for surplus distribution is income inequality, identified as very important by 35% of voters, behind health care expansion, tax cuts and economic development in the bottom tier. Clustered in the middle were traditional issues like education, housing, roads, public safety, and climate change.

What voters want vs. what they are hearing about



Direct Democracy

Voters know that the safety valve of an unresponsive Legislature is direct democracy. Even as politicians and pundits criticized the recall in the wake of Governor Newsom's successful retention of his job, a plurality of voters supports direct democracy. Asked if "concepts such as recall, initiative and referendum are part of the problem or part of the solution," 42% of voters agreed with "solution," 36% agreed with "problem," and 23% were undecided.

Finally, a ballot measure is being considered to make the independent, nonpartisan Legislative Analyst's Office responsible for writing the official descriptions for each statewide ballot proposition in California. Under the current process, the official descriptions are drafted by the office of California's Attorney General. This measure would also require that the official descriptions of ballot propositions be reviewed by

a committee to ensure the language is easy to understand. Voters supported this proposal by a 68% to 6% margin.

In previous articles we have reported about California voters' economic concerns and anxiety about public safety. Subsequent articles will take a deep dive on public policy issues of interest to voters and employers.

Methodology

The CalChamber poll was conducted by Core Decision Analytics and Pierrepoint Consulting and Analytics with online interviews from October 9–12, 2021 with 1,003 online interviews of California 2022 general election voters. The margin of error for this study is +/- 3.09% at the 95% confidence level and larger for subgroups. This is the seventh year the CalChamber has published a voter survey.

Contact: Loren Kaye

CalChamber-Sponsored Seminars/Trade Shows

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Through December 27, Online. (415) 362-7680.

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-congress@iccwbo.org.

Athens International Tourism & Culture Expo 2021. Greek Ministry of Tourism and Greece 2021 Committee.

November 25–27, Athens, Greece. +30 210-614-1164.

What Is Next for the Global Supply Chain Crisis? IBG Global. November 30, Webinar. (917) 338-4911.

22nd Hong Kong Forum. Federation of Hong Kong Business Associations Worldwide. November 30–December 1, Online. (852) 1830 668.

Brazil & California: Developing Innovation and Business Opportunities. GlobalSF. December 2, Online. info@globalsf.biz.

Holiday Luncheon. Foreign Trade Association. December 14, Long Beach. (888) 223-6459.

Annual Pan African Global Trade and Investment Conference. Africa-USA Chamber of Commerce and Industry. January 16–17, 2022, Atlanta, Georgia. (626) 200-5985.

Concrete Show South East Asia 2022. MEREBO GmbH Messe International. September 14–17, 2022, Jakarta, Indonesia. 49-40-399 99 05-15.

Federal Recommendations Keep Focus on Modernizing U.S. Ports, Waterways



Last week, the Biden-Harris administration released a plan to help federal agencies gear up to imple-

ment the federal infrastructure bill quickly.

The White House said its action plan will increase federal flexibility for port grants; speed port infrastructure grant awards; announce new construction projects for coastal navigation, inland waterways and land ports of entry; and launch the first round of expanded port infrastructure grants funded through the newly signed infrastructure bill.

Immediate Actions

Immediate actions identified in the November 9 announcement were:

- Support creative solutions to current supply chain disruptions by allowing flexibility in port grants. The U.S. Department of Transportation (DOT) will allow port authorities across the nation to redirect project cost savings toward addressing supply chain challenges.
- Alleviate congestion at the Port of Savannah by funding the Georgia Port Authority pop-up container yards project.

Near-Term Actions

Other actions outlined by the White House included:

- A \$243 million Port Infrastructure Grant Program to be launched within 45 days, with \$230 million going toward modernizing port infrastructure and \$13 million for the Marine Highway Program to support waterborne freight service.
- Identifying projects for the U.S.

Army Corps of Engineers to build at coastal ports and inland waterways within the next 60 days. The plan will provide a roadmap for more than \$4 billion in funding to repair outdated infrastructure and deepen harbors to accommodate larger cargo ships.

- Prioritizing key ports of entry for modernization and expansion within 90 days. The plan will identify \$3.4 billion to upgrade obsolete inspection facilities and allow more efficient international trade across the nation's northern and southern borders.

- Opening competition for the first round of port infrastructure grants funded through the infrastructure bill within 90 days. DOT will announce more than \$475 million in additional funding for port and marine highway infrastructure.

Freight Movement

The administration committed to helping states and grantees direct federal resources to transportation supply chain needs by:

- Developing a comprehensive freight movement playbook to explain to states how to use DOT grant and loan programs to support goods movement and help ease freight bottlenecks. The White House points out that much of the more than \$50 billion per year that states will receive in federal highway funding due to the infrastructure bill can be used to repair and modernize existing infrastructure to improve freight corridors.
- Incorporating the best worldwide freight planning practices into revised DOT guidance on state freight plans. Improved plans that include supply chain cargo flows, an inventory of commer-

cial ports, the impacts of e-commerce on freight infrastructure and assessments of truck parking facilities will help states direct resources to the greatest economic development needs.

Data Sharing

The federal administration called for the DOT to work with the Federal Maritime Commission on setting new data standards for goods movement. Standardizing data, the administration said, is an important first step to "ensure interoperability" among the various companies in the goods movement chain.

Those companies, largely privately operated, include shipping lines, terminal operators, railroads, truckers, warehouses and beneficial cargo owners.

Standardizing the data exchange, the administration said, will further strengthen resiliency, leverage current digitization, and lead to greater transparency, fluidity, competition and efficiency across the supply chain.

CalChamber Actions

As reported earlier, the California Chamber of Commerce sent a letter on November 2 to Governor Gavin Newsom and members of the California Legislature offering a series of practical steps the state can take to ease the supply chain crisis and alleviate congestion at California ports.

In October, the CalChamber Council on International Trade hosted a [virtual meeting with Federal Maritime Commissioner Carl Bentzel](#) to discuss the state of U.S. ports and short- and long-term challenges in the shipping industry. **Staff Contact: Leah Silverthorn**

Allowing Use of Sick Time for Vacation Could Prove Costly for Employer

From Page 2

Costly Risk

If a former employee were to file a claim with the Labor Commissioner because the time remaining in the PSL bank was not paid out, the financial risk to the employer is more than just the few hours or days that were not paid from that bank.

The employee would also be entitled to waiting time penalties of one full day's wages for each day after their final pay was due, up to a maximum of 30 calendar days. Because most employees work about 20 days per month, the penalty can result in about an extra month-and-a-half of wages being owed.

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.

The People's Voice: Voters Anxious About Public Safety



Earlier this month, *Alert* reported about California voters' deep concerns over an increasing cost of living

and the fear of falling further behind.

Eighty-five percent of voters reported that "earning enough income to enjoy a middle-class lifestyle is becoming almost impossible in my part of California."

Along with economic insecurity, Californians are concerned about personal security.

Public Safety

Asked about public safety, more than two-thirds of voters say crime in California has increased "some" or "a lot." Eighty-five percent (53% strongly) of voters agree that "homelessness and

criminal behavior have become rampant throughout California," and 59% of voters agree with the statement, "I no longer feel safe because of the danger and disorder in society today."

On issues of crime and public safety, the most intensely concerned voters are women, voters aged 50 to 64, and residents of the Inland Empire.

Homelessness

Homelessness remains top-of-mind for Californians. Nearly three-quarters of voters say homelessness has gotten worse in the state, up six points since last year, and 63% say homelessness has gotten worse in their own communities, up seven points since last year.

This pessimism is maybe related to the visibility of the issue. Nearly half of voters report that they see someone homeless on the streets at least five days a week. Voters most concerned about the

local effects of homelessness are women and residents of San Francisco and the Central Valley.

The CalChamber poll also closely examined numerous public policy issues of interest to voters and employers. Subsequent articles will take a deep dive into those issues.

Methodology

The CalChamber poll was conducted by Core Decision Analytics and Pierreport Consulting and Analytics with online interviews from October 9–12, 2021 with 1,003 online interviews of California 2022 general election voters. The margin of error for this study is +/- 3.09% at the 95% confidence level and larger for subgroups. This is the seventh year CalChamber has published a voter survey.

Contact: [Loren Kaye](#)

Stories from the Labor Law Helpline

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once called into the Helpline because an employee would come to work with hickies on the neck and the residents were complaining about being uncomfortable seeing the abrasions.

Even though this is off-duty conduct between two people, can an employer address it, Roberts asks?

Absolutely, answers Savage.

California protects a lot of things in the workplace, but having a hickey on the neck or anywhere else is not one of them, she explains. As the employer, it's OK to tell the employee that they must cover up the abrasion, such as with a scarf or by wearing a turtleneck.

Importantly, she says, when enforcing this, the employer should be sure to

enforce it equally among all genders.

And this goes for all dress code and personal appearance policies, Roberts adds. Make sure your personal appearance policies are gender neutral.

Heating Up Foods in Staff Kitchen

Roberts shares that a law firm he worked at had a microwave and since popcorn is his favorite snack, he decided to heat up some popcorn. Unfortunately, he overcooked the popcorn and burned it, causing a burnt smell to permeate the office.

"Smoke was coming out of the microwave and everything," he says.

Employers have taken issues with employees heating up foods with different or unpleasant odors, such as fish or

broccoli. So, Roberts asks, can employers have a policy stating that employees cannot heat up smelly food in the office microwave?

Again, California protects many things, but usage of the microwave is not in any statute in terms of a protected activity or protected class, Savage explains. What employers should keep in mind, however, is that not everyone has the same definition of "smelly," so employers need to be careful in defining what "smelly" food is.

Moreover, employers may subject themselves to a national origin discrimination claim if they single out foods associated with a particular culture. Employers should be careful, she stresses, to not disparately target food based on national origin or religion.

State Gains Funds from Federal Infrastructure Bill

From Page 1

manufacturers, as well as getting tourists to recreation and entertainment centers and workers to their jobs.

An improved infrastructure network will help keep California goods and services moving and support the state's vibrant economy.

California Allocation

California's share of the \$1.2 trillion Infrastructure Investment and Jobs Act signed on November 15 includes the following:

- \$25.3 billion for federal aid highway apportioned programs and \$4.2 billion for bridge replacement and repairs over five years.
- \$9.45 billion over five years to

improve public transportation options across the state.

- \$384 million over five years to expand the state's electric vehicle (EV) charging network. California also will have the chance to apply for \$2.5 billion in grant funding dedicated to EV charging.

• At least \$100 million to help provide broadband coverage across the state. About 27% of Californians will be eligible for the Affordability Connectivity Benefit, which will help low-income families afford internet access.

- \$84 million over five years to protect against wildfires and \$40 million to protect against cyberattacks. The White House predicts Californians also will benefit from the bill's \$3.5 billion

national investment in weatherization, which will reduce families' energy costs.

- \$3.5 billion over five years to improve water infrastructure across the state and ensure the availability of clean, safe drinking water for California communities.

• \$1.5 billion over five years for infrastructure development for airports.

Several years ago, Californians agreed to increase revenues for transportation improvements. The infusion of federal funds will be a welcome investment to help with California's hundreds of bridges and thousands of miles of roads in poor condition and demands for rail and transit to support economic growth and desperately needed new housing.

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