

ALERT

EY West Coast Leader to Chair CalChamber Board



Kailesh Karavadra

Kailesh Karavadra, Senior Partner for Ernst & Young LLP, has been elected the 2022 chair of the California Chamber of Commerce Board of Directors.

“I’m hopeful, optimistic and encouraged that the CalChamber can do our part to support California businesses, especially small business owners, in the coming year,” said Karavadra. “Diversity, equity and inclusion; inequity

concerns; and the technology innovation that is already here are going to lead to policy changes affecting all sectors of our California economy. Our super Chamber and Board leadership team, great foundation shaped in past years, and our positive, collaborative working relationship with the Legislature are going to allow us to tackle anything that comes our way next year.”

Serving with Karavadra as 2022 officers of the CalChamber Board are:

- **First Vice Chair Gregory S. Bielli**, president and chief executive officer of Tejon Ranch Company;

- **Second Vice Chair Janet A. Liang**,
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CalChamber Board Takes Positions on Initiatives Aiming for 2022 Ballot



The California Chamber of Commerce Board of Directors has voted to support two

ballot measures and oppose two others that may go before voters in 2022.

The CalChamber Board voted to:

- Support the California Fair Pay and Employer Accountability Act, a reform initiative that repeals the Private Attorneys General Act (PAGA) and replaces it with enhanced enforcement mechanisms by the Labor Commissioner.
- Support the Ballot Measure Transparency Act, which transfers responsibility for preparing ballot materials from the Attorney General to the Legislative Analyst’s Office (LAO).
- Oppose the Tax Cut and Housing Affordability Act of 2022, which proposes a split roll property tax on all property valued at more than \$4 million per parcel.
- Oppose the California Dialysis Clinic Requirements Initiative, which places on-site staffing requirements on dialysis clinics.

PAGA Repeal

The California Fair Pay and Employer Accountability Act “eliminates an abusive method for trial attorneys to file

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Leadership Transitions at CalChamber Helm



The CalChamber Board of Directors meeting on December 10 marked transitions for both the top volunteer position of board chair and the top staff post. From left are CalChamber President and CEO Jennifer Barrera, 2021 CalChamber Chair Donna Lucas of Lucas Public Affairs, 2022 CalChamber Chair Kailesh Karavadra of Ernst & Young LLP; and CalChamber President and CEO Allan Zaremb, who will be retiring at the end of the month after 23 years in charge.

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Labor Law Corner

Minimum Wage Hikes Effective January 1 Include Local Rate Increases



Matthew J. Roberts
Labor Law Helpline
Manager

I just heard West Hollywood passed a local minimum wage ordinance. How do local minimum wage ordinances interact with the statewide minimum wage and how do we know which wage rate to apply to our workforce?

Much like updating workplace postings and employee handbooks, understanding minimum wage increases has become an annual end-of-year task for employers. In California, there are two

different statewide minimum wage rates depending upon employer size.

Currently for employers with 26 or more employees, the minimum wage is \$14 per hour, while employers with 25 or fewer employees are subject to a \$13 per hour minimum wage.

Effective January 1, 2022, the minimum wage rate for employers with 26 or more employees will increase to \$15 per hour while the minimum wage rate for employers with 25 or fewer employees will increase to \$14 per hour.

Local Minimum Wage Rates

Over the last several years, many local governments have implemented their own minimum wage rates for work performed within their jurisdiction.

West Hollywood is the latest city to do so, enacting its own minimum wage ordinance (MWO) that takes effect January 1, 2022. The West Hollywood MWO sets minimum wage rates depending upon whether you employ at least 50 employees.

For employers with 50 or more

employees, the West Hollywood minimum wage effective on January 1, 2022 will be \$15.50 per hour. For employers with fewer than 50 employees, the minimum wage will be \$15 per hour. The West Hollywood minimum wage has scheduled increases every six months until July 1, 2023, and then will be subject to increases annually every July 1.

In addition to West Hollywood, approximately three dozen other local jurisdictions have minimum wage ordinances within the state. Although each ordinance is unique, the general rule of thumb is that an employee who performs at least two hours of work in a locality that has a minimum wage ordinance will be subject to that minimum wage for all work performed in the locality.

In nearly every case, the local minimum wage is greater than the statewide minimum wage, so employers who have employees performing work in areas with minimum wage ordinances will need to pay that higher rate.

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California Chamber Officers

Donna L. Lucas
Chair

Kailesh Karavadra
First Vice Chair

Gregory S. Bielli
Second Vice Chair

Janet A. Liang
Third Vice Chair

Mark Jansen
Immediate Past Chair

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Alert (ISSN 0882-0929) is published weekly during legislative session with exceptions by California Chamber of Commerce, 1215 K Street, Suite 1400, Sacramento, CA 95814-3918. Subscription price is \$50 paid through membership dues.

Send email address changes to alert@calchamber.com. Publisher: Jennifer Barrera. Executive Editor: Ann Amioka. Art Director: Neil Ishikawa. Capitol Correspondent: Sara Proffitt.

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CalChamber-Sponsored Seminars/Trade Shows

More at www.calchamber.com/events.

Labor and Employment

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

2022 Employment Law Updates Webinar. CalChamber. January 27, 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.

HR Boot Camp Virtual Seminar. CalChamber. March 10 and March 11, 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. Through

December 27, Online. (415) 362-7680. Taiwan Smart Agriweek. Taipei Economic and Cultural Office in San Francisco. Through December 31, Online. (415) 362-7680.

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

2022 Taiwan Trade Shows. Taiwan External Trade Development Council. February 1-October 31, 2022, Online and In-Person. +886-2-2725-5200.

30th Annual Africa and Diaspora International Conference. Center for African Peace and Conflict Resolution, California State University, Sacramento. April 28-30, 2022, Sacramento. (916) 278-6282.

Next Alert:
January 7, 2022

The Workplace

HR Tips for Work Holiday Parties



In **Episode 139** of The Workplace podcast, CalChamber employment law experts Matthew Roberts and Bianca Saad

discuss the workplace rules employers should consider when planning their company's holiday party.

It has been another challenging year due to the COVID-19 pandemic and since many employers in California couldn't host a party last year, many employers are looking forward to celebrating this holiday season by throwing an in-person company holiday party. As with anything that is work related, employers need to make sure they put together a respectful and safe event in addition to the fun, Roberts says.

Saad agrees, pointing out that it's important to follow appropriate workplace rules. For example, a common misconception is that everyone can "let loose" at an offsite company holiday party, disregarding sexual harassment prevention rules and engaging in speech or conduct that one wouldn't in a traditional work setting.

But, "that's just not the case," Saad says. These rules and policies are still going to apply to work-hosted functions, and employees should be reminded that they must maintain a respectful environment, even if the event is held at an offsite restaurant or on the weekend.

"I know one of your favorite mantras, Matt, is 'It's not where you are, it's who you are with,'" she says.

Because people are off site, they feel more casual and are in a more celebratory mood and may lose sight of these workplace rules, Roberts adds. But conduct at these events can still come back into the workplace.

Serving Alcohol

Roberts asks Saad whether alcohol may be served at holiday parties, even if the company has a drug- and alcohol-free workplace policy.

Saad answers that yes, an employer may serve alcohol and alcoholic beverages at a work function, but because they are doing so in a very limited scope, they should remind employees that it's a narrow exception to their drug- and alcohol-free policy.

Employers also need to consider the risk and liability that comes along with serving alcohol because it can loosen behavior and lead to inappropriate conduct or comments. One way to lower the risk of overconsumption or drunk driving is to hand out drink tickets or limit drinking alcohol to a certain time period. Other options employers can explore is serving food and water alongside the alcohol, and helping with ride-share service fees to ensure employees get home safely, Saad says.

Décor, Gift Exchanges

When it comes to decorations, employers should not limit their choices to one particular theme or religion or just to Christmas. There are many winter holiday celebrations taking place this time of year and we don't want anyone to

feel excluded for their religious beliefs. Employees can even be encouraged to bring their own decorations, she says.

If an employer decides to hold a gift exchange, Saad recommends that employees be reminded of the company's policies and they should be mindful not to bring something that is inappropriate for work, such as gifts with sexual connotations or which are otherwise inappropriate or offensive.

Party Attendance

Employers often put a lot of time, effort and money into these holiday parties and want to encourage employees to partake in the festivities. What concerns, Roberts asks, are there in requiring attendance at these parties?

Some employers don't want to appear overbearing and will say that attending the company holiday party is voluntary, but in reality, there is an unspoken expectation that employees will need to attend. If an employer says attendance is voluntary, then it's important that attendance really is voluntary, Saad stresses. There can be no negative actions taken on an employee if they fail to attend, such as not giving them their bonus or not giving them opportunities to advance their role within the company.

Making attendance mandatory is acceptable, but that time will then be considered as hours worked. This means that the employee will need to be paid for that time and will be owed overtime pay if the party results in extra hours, she explains.



CalChamber Member Feedback

"For over 125 years, the CalChamber has been the premier business advocate to government—educating legislators of employers' concerns about new laws and regulations."

Susan Corrales-Diaz
President and Chief Executive Officer
Systems Integrated

EY West Coast Leader to Chair CalChamber Board in 2022

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group president and chief operating officer, care delivery, Kaiser Foundation Health Plan, Inc. and Hospitals; and

• **Third Vice Chair Maryam S. Brown**, president, Southern California Gas Company.

Kailesh Karavadra

Karavadra was born in Uganda and left as a refugee during the Idi Amin military crisis. After a nomadic journey of being raised in India, settling in England, not speaking English but adjusting with the support of teachers and mentors, Karavadra obtained his bachelor's and master's degrees in electronic engineering with a focus on artificial intelligence (AI) from Bangor University in Wales.

He began his Ernst & Young career in the United Kingdom as a Chartered Accountant before relocating to EY's San Jose office in 1995. As a Partner there since 2001, he has served a diverse base of innovative and entrepreneurial startups to EY's largest clients.

Karavadra has served as the Global Coordinating Partner for all EY services worldwide for some of the world's market leading companies based in the San Francisco Bay Area, advising on business growth strategy, information technology (IT) consulting, tax matters and mergers and acquisitions (M&A).

As Managing Partner of EY's San Jose office, he strengthened the company's leadership legacy in Silicon Valley, serving more than 70% of the region's companies listed on the Silicon Valley Top 150.

In addition to reading, being a constant student for learning and giving back into the community, Karavadra is an avid soccer fan and both coaches and plays. His favorite quote is, "People don't care what you know until they know you care."

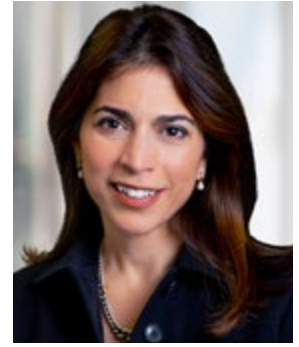
2022 Officers of CalChamber Board of Directors



Gregory S. Bielli



Janet A. Liang



Maryam S. Brown

2022 At-Large Members of CalChamber Executive Committee



John F. Boyle



Sima Patel



John A. Stowell

Executive Committee

The CalChamber Board also approved three directors as at-large members of the CalChamber Executive Committee:

- **John F. Boyle**, president and chief executive officer, Automobile Club of Southern California;
- **Sima Patel**, chief executive officer, Ridgmont Hospitality; and
- **John A. Stowell**, senior vice president, The Walt Disney Company.

In addition to the at-large members and current officers, the Executive Committee includes the last three chairs

of the CalChamber Board: **Donna L. Lucas**, president and chief executive officer, Lucas Public Affairs; **Mark Jansen**, president and chief executive officer, Blue Diamond Growers; and **Grace Evans Cherashore**, executive chairwoman, Evans Hotels.

The Executive Committee works with top CalChamber management to determine policy, financial and program direction, including, when necessary, providing policy guidance between the regular quarterly meetings of the CalChamber Board.

Staff Contact: Dave Kilby

German Consul General Highlights Opportunities for California Businesses



California and Germany have many ongoing cooperative efforts underway already and there are more opportunities to come, German Consul General Oliver Schramm told a California Chamber of Commerce gathering last week.

Areas of mutual interest include energy policy and climate change, Schramm said at the December 10 international breakfast hosted by the CalChamber Council for International Trade and sponsored by CSAA Insurance Group.

Schramm took over the post of Germany's representative to the Pacific Northwest in August.

Examples of the ongoing efforts Schramm cited included:

- Six years ago, Germany and California established a regular dialogue on energy policy. The most recent fifth bilateral energy conference took place in Sacramento in November with a focus on hydrogen and offshore wind energy.

- In early December, the German federal minister for transport and digital infrastructure visited Los Angeles, San Francisco and the Bay Area to talk about the newest trends and developments in the field of mobility in multimodal transport systems.

Climate Change

Success in fighting climate change will come only by working together, Schramm said. "The latest natural disasters have only underlined this fact — from the smoke and haze of the Dixie wildfire to the disastrous and deadly flooding in Western Germany earlier this year to ever-more-drier soils and emptier water reservoirs in both our countries," the Consul General explained.

"The clock is ticking, and we need more political fire power and technological solutions," he said.

Networks

Citing the importance of having and developing networks to connect people and projects with information and perspectives, Schramm said the German American Chamber of Commerce (GACC West) in San Francisco is a main center. The chamber shares space



Oliver Schramm, Consul General of Germany, San Francisco

with other German institutions, such as the trade promotion agency Germany Trade & Invest (GTAI), and the German American Business Association (GABA), which only recently has established more transatlantic links with its very active branch "Transatlantic AIU Xchange."

Last year, the German government allocated funds to open a new German Center for Science and Innovation in downtown San Francisco in spring 2022. The center is only the sixth worldwide, Schramm said, and will combine basic and applied research with new activities. One other important goal — apart from

strengthening research and academic contacts — will be in the end also to get young startups into shape to succeed in future markets.

Investment/Trade

Germany is California's fourth largest foreign investor. Examples of investments include manufacturing sites like the train factory of Siemens Mobility, research laboratories with an emphasis on the automotive sector, and lifestyle system pharmaceutical products.

As California's seventh largest export destination, Germany shares the state's interest in a rules-based international system with functioning dispute settlement mechanisms — also an important cornerstone of the coalition treaty that the new German government wants to put high on its agenda, Schramm said.

Coalition Government

He gave a rundown on the recent German election that resulted in a three-party coalition leading the country. The main message so far of the new foreign secretary, Annalena Baerbock, is that the new government will work to strengthen Europe's roles and capabilities, and wants to continue its excellent cooperation with its

close allies.

"Front and center will be our common fight against climate change and its catastrophic consequences," Consul General Schramm said.

To increase the share of renewable energies in electricity, he said, the new government wants to accelerate the termination of using coal to generate electricity, with the phase-out to be completed by 2030 instead of the previously planned exit of 2038. The plan is to expand use of solar power and wind turbines.

Hydrogen technologies also

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German Consul General Highlights Opportunities for California Businesses

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offer great chances, particularly for the German/California cooperation, Schramm said. The U.S.-European Union Trade and Technology Council launched a few weeks ago will provide a good platform to discuss tech-related issues and business opportunities between European and American friends and partners, he commented.

The Bay Area will play a pivotal role, he continued, and the list of transatlantic topics includes technology standards cooperation, climate and clean tech, secure supply chains, data governance and technology platforms, misuse of technology threatening security on human rights, export controls cooperation, and investment screening cooperation.

Turning to electro-mobility, Schramm reported that Germany aims at having 15 million registered electric vehicles (EVs) on the streets by 2030 and charging infrastructure will be “massively boosted” under the new government. Given California’s strength in EVs, its No. 2 commodity and good exported, there’s a lot of potential for Germany and the Golden State, Schramm said.

Staff Contact: Susanne T. Stirling



At the first in-person CalChamber Council for International Trade breakfast in two years are (from left) Gregory S. Bielli, Tejon Ranch Company; featured guest Oliver Schramm, Consul General of Germany in San Francisco; Thomas M. Troy, CSAA Insurance Group; and Council Chair Stuart P. Woolf, Woolf Farming and Processing.

Shipping Association Head Offers Perspective on Supply Chain Woes



John McLaurin, president of the Pacific Merchant Shipping Association, outlines for the CalChamber Board of Directors on December 10 his views on the supply chain crisis and its impact on ocean carriers and marine terminal operators. Supply chain congestion is an international, not just a West Coast problem, he says, and there doesn’t appear to be any slack in the system, which involves container ships, railcars, chassis, warehouse space and personnel — from truckers to dock workers and warehouse persons. To deal with the surge in cargo volume (the ports of Los Angeles and Long Beach are processing 20% more cargo now than in 2019, before the pandemic), the industry has begun a multi-year process of acquiring more ships, containers, land on which to park the containers, chassis and other equipment.

Economy's Fundamentals Remain Firm; Household/Corporate Balance Sheets Solid

Overview

Economic recoveries and expansions never go as planned. This one is no exception. It has been marred by two major COVID outbreaks, supply shortages, supply chain bottlenecks, and higher prices.

These impediments will linger for some time. But despite these headwinds, the economy's underlying fundamentals remain firm, supported by solid balance sheets of households and corporations.

Gross Domestic Product

The pace of economic growth took a breather in Q2, growing just 2%, following stellar gains of 6.3% in Q1 and 6.7% in Q2. It was widely known that the pace of economic growth in the first half of the year was not sustainable.

Long gone are the stimulus checks, the excitement of a reopening economy, and an increase in vaccinations that came together and drove intense levels of consumer spending.

In Q3, the economy was also hampered by increased COVID cases and was plagued by continued shortages and supply chain snags.

Looking ahead, the early read on Q4 growth should show an increase of 5%. The higher growth rate will come from more robust personal spending and further improvements in building back depleted inventories.

Slower Growth

Stagflation is not a concern

The slower rate of growth in Q2 and higher levels of inflation have led to some news articles about the return of stagflation. "Stagflation" left the lexicon a few decades back, but by definition, it is the endless combination of high unemployment and high inflation.

Famed economist Arthur Okun created a simple chart that shows how badly people are feeling during stagflation. It adds the unemployment rate and the annual inflation rate, and he called it the Misery Index. The current level is 10.2%, a little above the long-term average of 9.3%.

It usually is high following a recession, but tends to fall during an expansion. We expect it to decline as the unemployment rate continues to fall, supply chain problems get resolved, and inflation decreases. The level above the average will not be sustained.

Labor

Strong But Uneven Gains

Labor growth has been vital in the recovery/expansion, but the monthly gains have been volatile, due heavily to COVID. Overall, the pace of hiring has been much stronger than the past expansions, due heavily to the type of recession (stay-at-home mandates), and the enormous amount of monetary and fiscal stimulus policy.

wages, which implies a certain degree of flattening in the income distribution.

For example, leisure and hospitality workers earned just \$17.15/hour in December 2020, and have enjoyed 11% wage growth since then. In contrast, the highest-paid workers in the information sector have enjoyed very modest wage gains that lag inflation.

Thus, the inflation squeeze disproportionately impacts higher-income households that are better positioned to absorb it, given their ample savings and wealth. This is why inflation has not led to demand destruction so far.

Inflation

Fed action not effective at this type of inflation

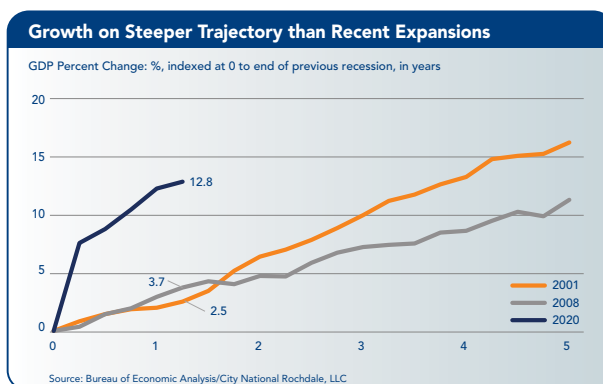
As for inflation, it is much higher — consumer price index (CPI) at 6.2% year-over-year — than the Federal Reserve's target rate of averaging 2%. But there are different types of inflation, each requiring a different response from the Fed.

In most economic expansions, excessive demand causes higher prices, so the Fed comes in and raises short-term interest rates to quell the strong demand and prices fall.

The inflation in this cycle is caused primarily by production and distribution disruptions; this expansion has been marked by COVID shutdowns of factories, disruptions in semiconductor production, port closures and congestion, and widespread labor shortages.

The Fed raising interest rates will not fix any of those problems, and will run the risk of slowing demand, which in turn would slow the pace of hiring, delaying the economy in reaching the Fed's goal of maximum employment.

Staff Contact: Dave Kilby



That said, we expect the pace of job growth to be held back by labor availability in the coming months, but workers should continue to trickle back into the hiring pool. More discernable improvement should come next spring. Constraints such as health concerns and unpredictable childcare should ease on the other side of the winter season.

The financial importance of returning to work should be more significant with the increasing amount of time between fiscal support and the inflation gnawing away at individuals' spending power. These factors should help the hiring to continue at a robust pace and keep the level of employment on track to recover fully around the end of next year.

So far in this expansion, wage gains have been led by industries with the lowest



This economic outlook report to the CalChamber Board of Directors was prepared by Paul Single, managing director, senior portfolio manager, City National Rochdale.

CalChamber Urges Congress to Pass Tariff Relief Bill by End of Year



Congress must support U.S. jobs, competitiveness and growth by passing the Miscellaneous

Tariff Bill (MTB) by the end of the year.

That is the message that the California Chamber of Commerce and many other associations and businesses in manufacturing and other sectors of the economy emphasized in a December 2 [letter to congressional leaders](#).

The letter was addressed to U.S. House Speaker Nancy Pelosi (D-Calif.), U.S. Senate Majority Leader Chuck Schumer (D-N.Y.), House Republican Leader Kevin McCarthy (R-Calif.) and Senate Republican Leader Mitch McConnell (R-Ky.)

Passing a comprehensive MTB by the end of the year will support at a critical time the competitiveness and growth of manufacturers and other businesses in the United States and the millions of American workers they employ, the letter stated.

Daily Cost

The MTB temporarily reduces or suspends tariffs on goods that are not

made domestically or are not available in sufficient quantities in the United States. The previous MTB expired after December 2020, and since then, manufacturers and other businesses have been paying \$1.3 million per day in anti-competitive tariffs. As manufacturers and businesses work to lead the U.S. economic recovery in the face of supply chain constraints, shipping challenges, rising prices and other COVID-19-related issues, Congress can lift one hurdle by passing the MTB.

It is critical that Congress pass a comprehensive MTB into law with substantial retroactivity, the letter pointed out. Congress also must renew the American Manufacturing Competitiveness Act of 2016, thereby retaining a process that includes robust analysis of a broad range of MTB petitions by the U.S. International Trade Commission and other U.S. government agencies, as well as the ability of Congress to object to the inclusion of individual MTB petitions, as can be done currently.

Based on analyses by the National Association of Manufacturers, the MTB would eliminate import tariffs of more

than \$1.5 billion over three years (with full retroactivity to January 2021), bolstering manufacturers and other businesses in the United States, especially small and medium-sized manufacturers.

Economic Growth

This tariff relief translates into U.S. economic growth: According to the U.S. International Trade Commission, tariff relief under the previous MTB boosted U.S. gross domestic product (GDP) by as much as \$3.3 billion annually and annual output by as much as \$6.3 billion.

In 2018, the MTB passed both chambers of Congress unanimously. In June 2021, the U.S. Senate voted by a margin of 91-4 to include the MTB and other trade priorities in the United States Innovation and Competition Act.

Lack of action on the MTB adds yet another hurdle to the challenges facing manufacturers, other sectors of the U.S. economy and the workers they employ. Passing the MTP as soon as possible this year will help U.S. competitiveness and job growth.

Staff Contact: [Susanne T. Stirling](#)

Cal State Chancellor Comments on Higher Education, Workforce Issues



Dr. Joseph I. Castro, the eighth chancellor of the California State University (CSU), shares with the CalChamber Board of Directors on December 10 his journey to becoming the first Californian and first person of color to serve as chancellor. His remarks were the start of a continuing exchange with the CalChamber Board on how business leaders can work with the CSU to make sure students know how to best prepare themselves to fill the skilled jobs employers have available.

The Workplace

California Holiday Pay, Time Off Rules



In **Episode 140** of The Workplace podcast, CalChamber employment law experts Matthew Roberts and Bianca Saad

discuss California holiday wage and hour issues, including holiday pay, policy best practices, employees calling out sick, and handling vacation requests.

Around this time of year, many employees are ready for rest and relaxation and will ask for time off, Roberts says in kicking off the podcast.

Wage and hour issues are hot topics right now, and what employers should keep in mind first is that “California... doesn’t require employers to provide holiday pay, even for holidays that are recognized at the state or federal level,” Saad says.

Do Employers Have to Pay for Holidays?

When the federal government recognized Juneteenth as a holiday earlier this year, many employers called into the CalChamber Labor Law Helpline asking whether they needed to close the business for the day and if they had to pay their employees for the holiday, Roberts says.

Holidays, he explains, are the exclusive province of the employer, and so a business doesn’t have to shut down for a holiday nor are employers required to pay employees for that holiday.

“Whatever you do with the holidays is going to be based upon your policy,” Roberts stresses.

Holiday Policy

When creating a holiday policy, employers may consider differentiating between the classes of employees who are going to receive holiday pay, Saad suggests. For example, full-time employees might receive holiday pay, but part-time employees don’t.

The holiday schedule is also up to the employer. Employers can set up the schedule at the start of the year and send

the schedule to employees to let them know what holidays will be paid.

Lastly, Roberts says, employers may include in their holiday policy other considerations, such as whether an employee’s holiday pay may be denied if they don’t work the day before or after a holiday.

Pitfalls

If an employer chooses to deny holiday pay for employees who fail to work the day before or after a holiday, the employer should be careful to abide by California’s paid sick leave law, Saad warns.

The state’s paid sick leave law includes a discrimination provision that forbids employers from taking retaliatory or punitive actions against an employee who is using their paid sick leave as protected time.

“So, if an employee were to call out sick and they’re using their protected, paid sick leave time under California law, then they cannot be punished, so to speak, in being denied that holiday pay,” Saad explains.

If, however, an employee is absent for reasons not covered by the paid sick leave law, or has no sick leave available, the employee is not protected and could be denied holiday pay.

Holiday Pay on Top of Hours Worked

Not all businesses can shut down for the holidays, so some grant additional benefits in order to encourage employees to work during the holidays, Roberts points out. The Labor Commissioner takes the position that if an employer grants holiday pay, then it is a form of contract with the employees to provide them that pay in some form.

What can employers do to handle holiday pay issues when employees actually have to work on employer-designated holidays?

Employers have different options, Saad answers. Employers can pay for all hours worked, plus holiday pay at straight time or pay for all hours worked and provide them another day off instead. Moreover, employers do not have to pay

the premium rate (time-and-a-half). So, ultimately, it’s up to the employer and what is stated in the company’s policy.

Setting these details in the company’s policy is a best practice because when it’s spelled out, there’s no confusion, Roberts says. Oftentimes employees have misconceptions because they will hear about employees at other companies getting time-and-a-half for working during certain holidays. But this isn’t required under California law and is up to the employer’s policy.

Exempt Employees

Paying exempt employees for holiday work is a bit different.

“...exempt employees are going to be paid for the whole week, if they have performed any work in that week, even if the employer shuts down for the holiday,” Saad explains.

As long as the exempt employee worked any day within the week, they are going to be paid for the whole week, even though there was that closure for the holiday, she says.

Overtime

Roberts explains that because the hours paid for holidays are not hours that are actually worked, they don’t go toward overtime.

“So, an employee could work five days a week, 40 hours in a week and get an additional eight hours of holiday pay. And there will be no overtime there because they didn’t actually work those eight hours of holiday pay,” he says.

Vacation Requests

If employers have a busy season, where certain quotas or deadlines need to be met, they may adopt policies that limit the amount of vacation that employees can request, so long as the policy is applied consistently and is clearly communicated in the company’s policy, Saad says.

If, however, an employee is asking to take time off and have protected leave time or is asking for time off related to a religious accommodation, then the employer will need to engage in the interactive process with the employee.

CalChamber Board Takes Positions on Initiatives Aiming for 2022 Ballot

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frivolous claims, and provides a pathway for employees to pursue claims for wages and penalties, where the employee keeps 100% of the recovery,” said CalChamber President and CEO Jennifer Barrera.

The proposed initiative would:

- Repeal the current process that allows attorneys to file frivolous claims;
- Create a process for employees to efficiently recover any unpaid wages and penalties through the Labor Commissioner’s office;

- Double penalties for willful violations; and

- Provide the employee with 100% of the recovery, rather than having to share it with an attorney and the State.

The initiative also creates a Consultation and Publication Unit to provide confidential consultation to employers and binding compliance letter advice to be posted on the unit’s website.

Finally, this initiative would prohibit arbitration of hearings before the Labor Commissioner.

Lawsuits filed under PAGA have increased more than 1,000% from the law’s first year in effect with the Labor and Workforce Development Agency (LWDA) receiving approximately 4,000 PAGA notices each year since 2014. The profusion of PAGA lawsuits has been driven by significant monetary awards that can be leveraged against an employer for minor violations.

These lawsuits, however, have not increased the recovery amount employees receive or protected their interests. These lawsuits primarily benefit the attorneys. After reviewing more than 1,500 PAGA settlements, the LWDA gave plaintiff’s attorneys “a fail or marginal pass,” at adequately protecting the interests of aggrieved employees.

“Voters should approve this important reform measure for the benefit of workers and employers. This initiative will ensure legitimate claims are resolved in a timely fashion with workers receiving awards, rather than trial attorneys. In addition, the measure will allow employers to invest more revenue in their employees and operations rather than defending themselves against frivolous lawsuits,” Barrera said.

Ballot Measure Transparency

On the Ballot Measure Transparency

Act, Barrera commented that voters “should have the expectation of clear, accurate and useful descriptions of ballot measures to help them make an informed decision when they vote” and that the act “will take bias and politics out of official descriptions of ballot measures.”

The CalChamber Board of Directors supports this change because many voters see and consider only the titles, summaries, and ballot labels when casting their votes. This places a high premium on objective and accurate ballot information, according to the CalChamber.

“The LAO has delivered consistent, objective and high-quality work products over decades as an independent, nonpartisan, trusted source of policy analysis,” Barrera said. “Moving the ballot information process to the LAO will ensure greater integrity in the initiative process.”

In addition to transferring responsibility for preparing ballot materials to the LAO, the initiative also requires the LAO to:

- Remain independent, nonpartisan and guided solely by the interests of voters;

- Use clear, concise terms that are easily understood by voters;

- State clearly whether a measure increases taxes, including what type and by what amount; and

- Consult with an independent panel of readability experts to ensure its ballot descriptions are easy to understand.

A recent CalChamber poll found that voters, after being read a description of this measure, supported it by a 68% to 6% margin.

Split Roll Property Tax

In contrast to its name, the Tax Cut and Housing Affordability Act of 2022 is a tax increase that will raise between \$13 billion to \$17 billion in new property taxes, according to the Legislative Analyst.

This revenue would be redistributed to property taxpayers and renters and used to reimburse counties for their administrative costs.

“Ever since voters approved Proposition 13 in 1978, government employee unions and spending advocates have sought a split roll to raise taxes on businesses,” said Barrera. “But voters have recognized the danger of such a massive tax increase and have rejected

split roll taxes when given the opportunity to vote against them. This year, voters must again reject this proposed enormous tax increase, particularly given the state’s projected second year of record budget surplus.”

If the split roll initiative passes, the tax increases on residential, commercial and industrial properties would cost taxpayers billions. It would double property taxes immediately for most targeted properties, and would be the largest tax increase in California — ever.

Supporters of the measure must collect at least 997,139 valid signatures by mid-April 2022 to qualify the initiative for the November 2022 ballot.

Dialysis Clinics

The dialysis clinics initiative would require dialysis clinics to maintain, at the dialysis clinic’s expense, at least one licensed physician, nurse practitioner or physician assistant on site during all times that in-center dialysis patients are being treated. The on-site physician, nurse practitioner or physician assistant shall have at least six months of experience providing care to patients with end-stage renal disease.

The CalChamber Board opposed the dialysis clinics initiative because the physician on-site requirement is unnecessary given that dialysis treatment is prescribed by a patient’s personal physician and administered by specially trained nephrology nurses and patient care technicians. Moreover, the initiative would increase costs dramatically.

Analysis of Proposition 23, a nearly identical 2020 initiative, by the Berkeley Research Group estimated that nearly half of all dialysis clinics in the state would become financially unsustainable. Proposition 23 was rejected by 63% of voters.

The CalChamber opposed both Proposition 23 and a similar 2018 initiative that also was rejected by voters.

Both initiatives were sponsored by the Service Employees International Union – United Healthcare Workers West (UHW).

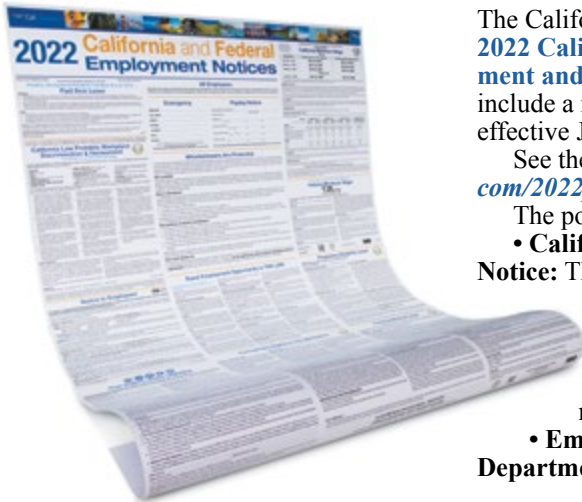
The UHW also sponsored legislation during the 2017–2018 legislative session, SB 349, which mandated a staffing ratio in dialysis clinics. The CalChamber and other groups opposed the bill and it failed in the Legislature.

Willie Brown Shares Insights at CalChamber Board Dinner



Former Assembly Speaker Willie Brown (left), also two-term mayor of San Francisco, was the featured guest at the December 9 dinner gathering of the CalChamber Board of Directors, chaired by Donna Lucas (center) of Lucas Public Affairs. In response to questions from retiring CalChamber President and CEO Allan Zaremberg (right), Brown entertained listeners with comments on changes in the California political landscape since his time as the longest-serving Assembly Speaker, emerging leaders in national politics, and other subjects.

Pre-Order 2022 CalChamber All-in-One Poster with Required Changes



The California Chamber of Commerce **2022 California and Federal Employment and Labor Law poster** will include a number of mandatory updates effective January 1, 2022.

See the [video](http://www.calchamber.com/2022poster) at www.calchamber.com/2022poster.

The poster updates include:

- **California's Minimum Wage Notice:** The state minimum wage will increase to \$14/hour for employers with 25 or fewer employees and to \$15/hour for employers with 26 or more employees.
- **Employment Development Department (EDD) Notice to**

Employees: EDD is simplifying its notice to better serve employees.

- **Family Care and Medical Leave and Pregnancy Disability Leave**

Notice: Employees can take family and medical leave to care for a parent-in-law with a serious health condition.

- **Cal/OSHA's Safety and Health Protection on the Job Notice:** This notice has recommended updates dated March 2021.

Pre-Order Now

To preorder the 2022 CalChamber all-in-one poster with required changes, visit the CalChamber store.

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Minimum Wage Hikes Effective January 1 Include Local Rate Increases

From Page 2

Further, most of these rates increase annually on either January 1 or July 1, depending upon the ordinance. Following are the new minimum wages for local jurisdictions that increase their minimum wages every January 1:

- Belmont: \$16.20.
- Burlingame: \$15.60.
- Cupertino: \$16.40.
- Daly City: \$15.53.
- East Palo Alto: \$15.60.
- El Cerrito: \$16.37.
- Half Moon Bay: \$15.56.
- Hayward: \$15.56 for employers with 26 or more employees; \$14.52 for employers with 25 or fewer employees.
- Los Altos: \$16.40.
- Menlo Park: \$15.75.
- Mountain View: \$17.10.
- Novato: \$15.77 for employers with 100 or more employees; \$15.53 for employers with 26 to 99 employees; \$15 for employers with 25 or fewer employees.

- Oakland: \$15.06.
- Palo Alto: \$16.45.
- Petaluma: \$15.85.
- Redwood City: \$16.20.
- Richmond: \$15.54.
- San Carlos: \$15.77.
- San Diego: \$15.
- San Jose: \$16.20.
- San Mateo: \$16.20.
- Santa Clara: \$16.40.
- Santa Rosa: \$15.85.
- Sonoma: \$16 for employers with 26 or more employees; \$15 for employers with 25 or fewer employees.
- South San Francisco: \$15.80.
- Sunnyvale: \$17.10.

Each minimum wage ordinance also has notice and posting requirements that are updated every time the minimum wage increases.

Exempt Employee Salaries

An important note is that the minimum wage also affects most exempt

employee salary requirements. The minimum salary for administrative, executive, and professional exempt employees is two times the applicable *statewide* minimum wage.

So, if you are paying your exempt employees the minimum salary required to maintain the exemption, you will need to ensure those employees receive an increase as well on January 1. In 2022, the minimum exempt salary will be \$62,400 for employers with 26 or more employees, and \$58,240 for employers with 25 or fewer employees. You do not use local minimum wages for this purpose.

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.



LIVE WEBINAR | JANUARY 27, 2022 | 10 AM - 11:30 AM PT

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