

# ALERT

## May Budget Revise Focuses on Use of Record Surplus



The strong economic performance by key California industry sectors and entrepreneurs was reflected last week in the upward revision of the state's general revenues in Governor Gavin

Newsom's May budget plan.

The increase — \$55 billion greater than the January budget proposal — means that discretionary surpluses for three consecutive fiscal years together will top \$100 billion.

Noting the toll that inflation has taken recently on individual family budgets (not to mention the already-high cost of living endemic to California), the May

Revision calls for more than \$18 billion in various tax relief or rebate programs.

The Governor made no changes to his January proposal to transfer \$3 billion to the Unemployment Insurance Fund to offset future employer tax liabilities.

### CalChamber Statement

“We appreciate the Governor calling attention to the cost pressures facing all Californians, including small business employers,” California Chamber of Commerce President and CEO Jennifer Barrera said in a statement following the release of the Governor's May Budget Revision.

“Like all Californians, employers are very concerned about inflation as well as the spiraling costs of housing, energy, water and food,” Barrera said.

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## CalChamber Backs Effort to Keep Child Care Available to Workers



### SUPPORT

for legislation to maintain the availability of child care to the state's workers.

**AB 1649 (Quirk-Silva; D-Fullerton)** preserves access to quality, stable child care for working families.

Speaking in support of AB 1649 at the May 17 press conference on the State Capitol steps, CalChamber Policy Advocate Ashley Hoffman noted that the employer community recognizes the importance of a robust child care system to help working families.

Other statewide and regional business organizations also supporting AB 1649 include the California Hotel and Lodging Association, the California Retailers Association, the California Grocers Association, the National Federation of Independent Business (NFIB)-California, the United Chamber Advocacy Network and the Orange County Business Council.

“We all want California's economy to recover and come back strong, but we can't do that without fair and equal access to quality child care,” Hoffman

*See CalChamber Backs: Page 3*

## California Approaches Driest Year Yet; Help Conserve Water with These Steps



California is on the cusp of the worst drought in its history. Today, more than 95% of

the state is in “severe drought,” and there is simply not enough water to meet the needs of California's homes, businesses, farms and wildlife.

The Office of Governor Gavin Newsom and the California Department of Water Resources are urging residents and businesses to prepare for record hot weather and water supply shortages by learning how they can help to conserve the

state's limited water supplies. Small and consistent changes to reduce water use daily will make an impact in the long run.

Approximately 50% of home water use is dedicated to outdoor purposes, but there are ways to significantly reduce water usage outside.

Easy, actionable steps businesses and Californians can take today include:

- **Turn off your sprinklers and other irrigation systems when rain is in the weather forecast.**

- **Prioritize watering your trees when faced with watering restrictions: Remember, trees are an investment. It will take more water, time and money to**

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## Labor Law Corner

# A Look at Drug Testing, Privacy Rights and Last Chance Agreements



**Matthew J. Roberts**  
Labor Law Helpline  
Manager

*My employee provided a doctor's note for recent time off that included information that he was out due to "cocaine poisoning." With this information, can we require the employee to sign a last chance agreement and submit to weekly drug testing?*

Putting aside the medical information that the employee disclosed voluntarily, the employer here is presented with a few issues related to drug testing and potentially drug rehabilitation leave.

Due to the right to privacy enshrined in the California Constitution, drug testing in California workplaces can be a tricky issue to navigate to avoid violating the privacy rights that employees still maintain in the workplace.

### Drug Testing and Last Chance Agreements

In most circumstances, employers are limited to testing their employees only once the employer has a reasonable suspicion that the employee is violating a drug- and alcohol-free workplace policy. That is, the employee is under influence while at work.

Conversely, random drug testing is allowable only in very rare circumstances, such as employees in professions that are pervasively regulated by the government where the expectation of privacy is reduced; or the position is critical to public safety or protection such as truck drivers, aviation personnel and correctional officers.

Last chance agreements, however, may allow an employer to set up a regular drug testing program for indi-

vidual employees based upon specific circumstances. Last chance agreements are contracts between employers and employees that are used in lieu of terminating an employee.

In this specific example, an employer may terminate this employee for admitting to illicit drug use. However, the employer may not want to terminate the employee but instead give the employee the chance to correct the behavior and maintain their employment subject to the employee meeting the conditions of the last chance agreement.

Because the employer is granting the employee continued employment, the agreement can set conditions overriding an employee's privacy rights such as regular or random drug testing.

Last chance agreements should be drafted by legal counsel but should expressly include any conditions that the employee must meet. If they are not expressly provided in the agreement, such as expressly describing what type of drug testing the employee will be subject to, the employer may not be able to carry

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### California Chamber Officers

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## CalChamber-Sponsored Seminars/Trade Shows

More at [www.calchamber.com/events](http://www.calchamber.com/events).

### Labor and Employment

HR Boot Camp Virtual Seminar.

CalChamber. May 26–27: SOLD OUT, June 23–24, August 11–12, September 8–9, Online. (800) 331-8877.

Leaves of Absence: Making Sense of

It All Virtual Seminar. CalChamber. June 9–10, August 25–26, September 29–30, Online. (800) 331-8877.

Managing CFRA Leave Requests at Your Small Business: Intensive Webinar.

CalChamber. June 16–17, Online. (800) 331-8877.

### Business Resources

Resilient Workplace Webinar. DRB Toolkit, California Office of Emergency Services (CalOES), Federal Emergency Management Agency (FEMA). May 25, Online. (877) 563-5628.

### International Trade

2022 Taiwan Trade Shows. Taiwan External Trade Development Council. Through October 30, Online and

In-Person. +886-2-2725-5200.

From Local to Global: Celebrating Diversity. Showcasing International Success of Asian American & Pacific Islander-Owned & Led Businesses. U.S.

Commercial Service. May 25, Online. Future Sport Israel: Discovering

*See CalChamber-Sponsored: Page 7*

## CalChamber Calendar

### Capitol Summit:

June 1, Sacramento

### International Forum:

June 1, Sacramento

### Water Committee:

June 1, Sacramento

### ChamberPAC:

June 1, Sacramento

### Board of Directors:

June 1–2, Sacramento

### Host Breakfast:

June 1–2, Sacramento

## California Minimum Wage Projected to Increase to \$15.50



On May 12, Governor Gavin Newsom announced that California's

minimum wage is projected to increase to \$15.50 per hour for all employers, regardless of size, on January 1, 2023.

The current minimum wage is \$15 per hour for employers with 26 or more employees and \$14 per hour for employers with 25 or fewer employees. Small businesses anticipated increasing their minimum wage to \$15 per hour in 2023; however, when inflation exceeds 7%, a provision in the law triggers the accelerated increase.

The California Department of Finance projects inflation for the 2022 fiscal year (which ends June 30) will be 7.6%. As such, California's minimum wage for all employers, regardless of size, will likely rise to \$15.50 per hour starting January 1.

The minimum wage increase will also increase the minimum salary for exempt employees in California. Currently, for employers with 25 or fewer employees, the exempt employee salary threshold is \$58,240 per year (\$4,853.33 per month), while the salary threshold for employers with 26 or more employees is \$62,400 per year (\$5,200 per month).

Beginning January 1, 2023, under the projected minimum wage increase to \$15.50, the new exempt salary threshold will be \$64,480 per year (\$5,373.33 per

month) for all employers, regardless of size.

Lastly, another minimum wage development that employers should keep an eye on is a possible November 2022 ballot measure that could further increase the state minimum wage.

Proponents of the measure announced last week that they have enough signatures to put the measure on the ballot. If the ballot measure passes, the minimum wage would be \$16 per hour on January 1, 2023, increasing annually until it reaches \$18 per hour.

**Staff Contact: James Ward**

## CalChamber Backs Effort to Keep Child Care Available to Workers

*From Page 1*

said. "Without AB 1649, many workers will have no choice but to leave the workforce. We cannot let that happen. California's employers and our economy need more workers, not fewer."

The COVID-19 pandemic caused hundreds of thousands of child care slots to disappear in California, Hoffman pointed out, resulting in many workers being forced to leave the workforce. Women left at a rate four times greater than men.

Even before COVID-19, the high cost of child care acted as a barrier to many parents being able to work, she said.

AB 1649 continues a policy put in place by the Governor's Executive Order N-45-20 that ensures subsidized child care providers are paid a guaranteed rate for their services, enabling them to

provide care for families with variable work schedules and be reimbursed based on the certified number of hours needed, not the number of hours of care provided.

That policy allows the subsidized child care centers to operate like private market counterparts where a family pays for their child's slot regardless of attendance.

Without legislative action, the policy is set to expire June 30, resulting in subsidized care providers being required to absorb a revenue shortfall for any days a child is absent. The financial risk would be significant, considering providers' ongoing costs for rent, staff and operating expenses.

Hoffman commented that California employers are doing their best to help increase investment in workers' child care needs and be flexible where possi-

ble, but it is a significant cost, especially for the smallest businesses.

A study by the U.S. Chamber of Commerce Foundation found that smaller employers do not have the funds or resources to cover these costs.

AB 1649 will help address the systemic issue of child care affordability in California, she said. Without AB 1649, many workers will once again be left with few to no choices for child care, forcing adults — primarily women of color — back out of the workforce.

Investments in California's child care system will benefit families, the business community and the economy as a whole.

AB 1649 was held on the Assembly Appropriations Committee Suspense File on May 19.

**Staff Contact: Ashley Hoffman**



### CalChamber Member Feedback

*"When it comes to my company's time, resources or choices, the CalChamber is unrivaled in its ability to produce results at the State Capitol."*

Maryam S. Brown  
President  
Southern California Gas Company



## California Works

# McWong International: Leader in Manufacturing, Lighting, Innovation



*This article is part of a series of profiles of CalChamber member companies that are contributing to the state's economic strength and ability to stay competitive in a global economy. Visit [www.calchamber.com/californiaworks](http://www.calchamber.com/californiaworks) to learn more about this series and read past and future profiles.*



For more than 30 years, McWong

International, Inc. has been bridging the best of East and West to provide quality and innovation to its customers. A California corporation, McWong has grown to become a leader in the design and manufacture of high-quality lighting control equipment and related electrical components.

McWong has engineered Internet of Things (IoT) solutions for today's rapidly changing marketplace. With advanced design and manufacturing facilities, McWong offers extensive component choices for original equipment manufacturers (OEMs), as well as robust solutions for contractors, energy service companies (ESCOs) and facility managers.

### 'Business Empress'

McWong International was founded in 1984 by Margaret Wong, a global entrepreneur who has launched several other highly successful enterprises forged on creating multimillion-dollar businesses and mastering international trade between the U.S. and China.

A Hong Kong native and American citizen, Wong has won the prestigious President's "E" Award and "Export Businesswoman of the Year" – U.S. Department of Commerce/MBDA. She has led numerous successful delegations from the United States to China, including several with California Governors and U.S. agencies. Her expertise in the field is why *The Sacramento Bee* and *Comstock's Magazine* dubbed her the "Business Empress."

Wong serves on boards for the California Chamber of Commerce, California Asian Chamber, Themed Entertainment Association, and as a Governor's Appointee. Under President Barack Obama, Wong was selected for the Presidential Trade Mission to China. She also helped to bring the NBA to China, promoting sports and education.

Earlier this month, Wong was welcomed as one of eight new members into the prestigious Committee of 100. A nonpartisan leadership organization of prominent Chinese Americans in business, government, academia and the arts, the Committee invites individuals who are pioneers in their respective fields across the arts, science, technology, business, and finance to join based on their extraordinary achievements.

### McWong's Latest Collaboration

In February, McWong International announced a new collaboration with LA Lighting to create an LED lighting installation with fingertip wireless control for light level and white color tuning.

The lighting system is controlled by TruBlu™, a Bluetooth mesh wireless network to bring to life a one-acre car exhibition, event and storage complex in downtown Los Angeles, owned and operated by Auto Conduct.

The Auto Conduct space hosts events ranging from special model launch events to community toy drives and "roll in" events for car clubs. To create a responsive lighting system capable of showcasing a range of vehicles during different times of day and night, the project team created a flexible, white-tunable LED

lighting system with embedded Bluetooth mesh controls in each fixture.

After close consultation with All-Phase, the project partner for product support and distribution, and the end user, a total of 12 lighting zones were created with four luminaires in each zone. Each zone as well as each fixture can be controlled independently from the TruBlu mobile app.

Two wireless switches were installed at opposite ends of the event space for convenient white tuning, manual ON/ OFF and dimming control. The LA Lighting fixtures are white tunable from 2700–6500K, and their integrated McWong TruBlu controllers enable event managers to highlight specific zones or individual fixtures with color changes within this range.

One of the key drivers for selecting a wireless control system was the ability of event producers to effortlessly change the ambience of the event with light level and white tuning on a moment's notice.

"We wanted to instantly change the mood of an event or be able to showcase a specific area of the floor for a specific vehicle. The goal was to make anyone's car feel special. This system allows us to do just that," Auto Conduct's Founder and CEO Ezekiel Wheeler said.



## McWong International, Inc

President and CEO: **Margaret Wong**

Company headquarters: **1921 Arena Blvd., Sacramento, CA 95834**

Company business segments:

- **Design and manufacturing**
- **Engineering**
- **Internet of things**
- **Lighting and controls solutions**
- **Technology**

# Extending CalCompetes Incentive Program Key to Job Growth, Statewide Investments



Dee Dee Myers

The COVID-19 pandemic triggered the deepest recession since the Great Depression. But just as the economic toll was steep, so is our economic recovery.

Much of the remarkable rebound was made possible by state and federal actions to support individuals and small business through the initial period of economic distress and the subsequent economic recovery.

- According to the U.S. Bureau of Economic Analysis, in 2021, California's gross domestic product (GDP) grew by 7.8%, ranking third in the nation and ahead of Florida (6.9%) and Texas (5.6%). In the fourth quarter alone, GDP growth increased to 9.5%, well ahead of the U.S. national rate.

- During this same period, the state produced \$3.36 trillion of goods and services, earning the top spot in the nation's \$23 trillion economy. California's output continues to be larger than every national economy outside of the United States, China, Japan and Germany.

- Since January 2021, California has created more than 1.3 million jobs — more than any other state — and has now regained nearly 90% of the nonfarm jobs lost during the COVID-19 pandemic.

## State Actions

The state's actions have been key to that success.

Last year, Governor Newsom's \$100 billion California Comeback Plan made historic investments across the state, including a **\$6.2 billion tax cut** for small businesses, an additional **\$4 billion in COVID-19 Relief Grants** for small businesses, a **\$12 billion tax rebate** from the Golden State Stimulus, and **\$5.2 billion in rent relief**.

And most recently, in February, the Governor and the Legislature enacted additional support for small businesses, including restoring the use of research and development (R&D) tax credits and net operating loss (NOL) provisions one year early, providing \$5.5 billion in savings for our most innovative businesses; conforming state and federal tax laws to provide nearly \$500 million in savings to restaurants and performance venues, among the businesses hardest hit by the pandemic; and allocating an additional \$150 million for the California Small Business COVID-19 Relief Grant Program, bringing the total to approximately \$4.2 billion.

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## Guest Commentary By Dee Dee Myers

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The **Governor's May Revision**, announced last Friday, builds on these earlier investments to drive our ongoing economic recovery. New proposals include an additional \$500 million in COVID-19 Relief Grants to hard-hit industries, \$75 million to agriculture-related businesses that have been impacted by severe drought conditions and additional tax relief to small businesses.

## CalCompetes

In particular, the May Revision also proposes to continue and build on the success of **California Competes** (CalCompetes), one of the state's most successful incentives.

Since its inception in 2014, CalCompetes has been an indispensable tool, helping businesses to locate or stay in California and invest, grow, and create quality full-time jobs here. Under the direction of the Governor's Office of Business and Economic Development (GO-Biz), the program has awarded tax credits and grants to more than 1,150 businesses committing to create nearly 145,000 new, full-time jobs and make over \$29 billion in capital improvements in the state. Among its many successes:

- Stripe, an innovative, industry-leading company, received two awards over the past seven years in exchange for commitments to create 3,110 high-road jobs and invest more than \$122 million.

- Last year, EnerVenue committed to create at least 1,692 full-time jobs as they develop and manufacture super high-capacity nickel hydrogen batteries. The batteries will be used to store large amounts of solar and wind-generated electricity in homes, businesses, and other venues, helping the state transition to 100% green, sustainable energy.

- Just last month, awards went to Hawthorne-based Ampaire to develop and manufacture electric aircraft; Universal Hydrogen Co., to create technology to replace standard aircraft fuel with hydrogen systems; and Viridos, Inc., to make environmentally friendly, low-emission fuel from algae in Imperial County's Calipatria.

These investments not only bring family-supporting jobs and investment to our state but also help California achieve its zero-carbon emission goals.

Building off the success of the tax credit program, the 2021 Budget Act included \$120 million one-time General Fund monies for a CalCompetes Grant program aimed at businesses that cannot benefit from the nonrefundable tax credit. In April 2022, eight companies received grants, providing commitments to create more than 7,615 new, full-time jobs and bring over \$3.3 billion in new capital investments to the state.

## Extending Programs

CalCompetes is currently set to expire at the end of the 2022–23 fiscal year, but there's more work to be done. That's why Governor Newsom's revised budget proposes extending it for another five years through 2027–28, while also adding a second year of funding for the CalCompetes Grant program.

The Governor is also proposing to make statutory adjustments to both programs to give additional consideration to companies that relocate from states

*See Extending: Page 7*

## May Budget Revise Focuses on Use of Record Surplus

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“CalChamber urges elected leaders to offset additional costs on employers, including paying down the Unemployment Insurance Fund debt. CalChamber looks forward to working with the administration and lawmakers to address the underlying causes of rising prices and provide relief to employers and their employees.”

### One-Time Increases

Experience with the California budget teaches that what goes up must come back down, so the Governor prudently sets aside \$37 billion into various reserve funds, and calculates that 94% of all spending from surplus funds is dedicated to one-time purposes.

Because the state budget is pushing against the so-called Gann Limit, which caps annual expenditures from the state budget, the Governor targeted several of his initiatives toward spending exempt from the limit, in particular, infrastructure and tax relief.

Tax relief or rebate programs in the May budget include:

- A \$400 rebate to households based on registered motor vehicles.
- A temporary reduction to the diesel sales tax.
- Funding for rental assistance and payments for outstanding utility arrearages built up during the pandemic.
- Covering all family fees for subsidized child care programs as well as continued health care subsidies for the middle class if federal subsidies expire.
- Retention bonus payments to approximately 600,000 workers in hospitals and nursing homes.

### Targeted Tax Benefits

The Governor is also proposing some targeted tax benefits for businesses, including:

- Extending the CalCompetes tax credit program for five years at \$180 million per year, and extending the CalCompetes grant program for another year at \$120 million.
- Fully conforming California law to the extended federal Paycheck Protection Program (PPP), which prevents these federal grants from being subject to state taxation.
- Another \$500 million for a grant program administered by the Small Business Advocate to provide additional relief to small businesses most affected by the pandemic, focusing on the top 10 industries hardest hit by the pandemic.

California will receive \$13.9 billion in new federal funds from the Infrastructure Investment and Jobs Act that will support transportation, broadband and other projects over the next five years.

On top of that, the May Revision will target another \$17 billion (on top of \$20 billion from the January budget proposal) for electric vehicle infrastructure and clean energy innovation, transportation projects, broadband build-out, and reducing wildfire risk and supporting drought resiliency.

### Education

Schools automatically receive a portion of every new general tax dollar, courtesy of a 1988 ballot measure, Proposition 98. The May Revision includes total funding of \$128.3 billion

for all K–12 education programs — more than \$20,000 per student.

This is \$20 billion more than the Governor proposed in January, and \$35 billion higher than the current year budget. Some \$8 billion of this amount is a one-time allocation that schools can use to address the continuing effects of the pandemic by supporting students’ mental health and learning challenges and to take actions to preserve staffing levels.

The Governor made good on his pledge to give annual budget increases of 5% to the University of California and California State University systems over the next five years. In exchange, the systems will be expected to make progress and report annually on goals including improved graduation rates, growing enrollment, making college more affordable and preparing more students for high-demand careers.

### Climate Change/Drought

Governor Newsom increased his spending commitment for programs related to climate change and drought mitigation, adding \$9.5 billion to a \$23.5 billion multi-year commitment made in January.

The spending will cover drought relief and water projects, investments in clean energy, and subsidies for electric vehicle purchases and charging infrastructure.

More information on items in the Governor’s budget proposal is available at [www.ebudget.ca.gov](http://www.ebudget.ca.gov).

Contact: Loren Kaye

## A Look at Drug Testing, Privacy Rights and Last Chance Agreements

From Page 2

out that weekly or random drug testing.

### Rehabilitation Leave

Private employers with 25 or more employees anywhere also should be aware that Labor Code Section 1025 requires employers to accommodate their California employees who wish to voluntarily enter and participate in an alcohol or drug rehabilitation program.

If the employee in this example presented the doctor’s note with information about substance abuse and also asked

the employer for time off to allow for participation in a rehabilitation program, an employer with 25 or more employees would have to consider and provide that accommodation unless it imposes an undue hardship on the employer.

Undue hardship is a high burden for employers to meet and thus employers should consult with legal counsel before denying rehabilitation leave due to an undue burden.

Notwithstanding this provision of the Labor Code, employers do not have to accommodate active drug use and can

take disciplinary steps, up to and including termination, under their drug- and alcohol-free workplace policy.

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



## California Approaches Driest Year Yet; Help Conserve Water

From Page 1

replace a mature tree lost to drought than to keep one alive.

• **Replace grass with drought-resistant landscaping or turf:** *Water-wise plants and landscaping use little or no water once established.*

• **Install automatic shut off valves for your outdoor sprinkler systems:** *Installing a drip irrigation system and a smart controller can save 15 gallons each time you water.*

• **Plant water-wise plants:** *Check with your local water agency on the best plants for your climate. It is best to use*

*water-wise, California-native plants where possible.*

• **Lay mulch around your plants and yard:** *Laying 2–4 inches of organic mulch around your yard can keep the soil moist and reduce water use.*

Learn more about how to help conserve water at [saveourwater.com](https://saveourwater.com).

## Extending CalCompetes Key to Job Growth, Statewide Investments

From Page 5

with anti-LGBTQ+ and reproductive rights laws and to allow semiconductor businesses to use the grant program to help obtain federal incentives.

Importantly, the CalCompetes program is a recognized model of transparency and accountability among job incentive programs. A recent [study by the University of California, Irvine](#) concluded, “When controlling for other variables, the

researchers found evidence of a significant local multiplier effect — two and a half times — from CalCompetes Tax Credit-incentivized jobs.”

As California continues its comeback, the CalCompetes Tax Credit and Grant programs are models of the invaluable role the state can play by making targeted investments that help businesses create high-paying jobs, increase investment in California, and grow our economy. They

are two more reasons why California leads the nation and the world, as we continue on the path to an inclusive, sustainable and prosperous future.

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*Dee Dee Myers is senior advisor to Governor Gavin Newsom and director of the Governor’s Office of Business and Economic Development (GO-Biz).*

## CalChamber-Sponsored Seminars/Trade Shows

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Game-Changing Technology. Israel Export Institute. May 30–June 1, Tel Aviv, Israel. +972-3-5142907.  
Maritime Transportation Data Summit. Federal Maritime Commission. June 1,

Washington D.C. (202) 523-5725.  
Enlit Africa 2022. U.S. Commercial Service, Governor’s Office of Business and Economic Development (GO-Biz), Power Africa, U.S. Small Business Administration. June 7–9, Cape Town,

South Africa. (279) 666-8635  
Technology Empowering Women in Trade. Women in International Trade Los Angeles. June 8, Los Angeles. (213) 545-6479.



# 2022 HR SYMPOSIUM

Presented by CalChamber

Join us from the convenience of your computer or favorite device for two half-days on Thursday, November 3 and Friday, November 4. You’ll engage with top HR subject matter experts on relevant workplace issues.

Questions about this virtual event? Contact [seminars@calchamber.com](mailto:seminars@calchamber.com)