

ALERT

Rushed Climate Change Bill Earns Job Killer Tag



The California Chamber of Commerce has labeled a last-minute greenhouse gas (GHG) emissions reduction proposal a job killer. The bill, [AB 2133](#)

([Quirk; D-Hayward](#)), was gutted and amended on Tuesday, August 23, eight days before the end of the legislative session, to require statewide greenhouse gas emissions to be reduced to at least 55% below the 1990 level by December 31, 2030, which is a dramatic increase from the State's current goal of 40%.

A coalition of more than 110 organizations, including business, agriculture, industry groups and local chambers of commerce, joined the CalChamber in opposing AB 2133.

In a statement released on August 24, CalChamber President and CEO Jennifer Barrera reiterated the CalChamber's support of climate change laws and regulations that are "cost-effective, technology-neutral and promote the use of market-based strategies to reduce greenhouse gas emissions."

This new proposal, however, does not take any of these considerations into account and will actually lead to excessive costs, hurting both California residents and businesses, she said.

"At a time when Californians are suffering from high prices and the threat of a recession looms, increasing costs is the wrong approach to take," said Barrera. "Rushed consideration of this proposal robs everyone of the chance for thoughtful consideration about costs and consequences."

Last week, the CalChamber and a coalition of business groups and local chambers of commerce sent a [letter to](#)

Governor Gavin Newsom pointing out that the time remaining in the legislative session is inadequate for the necessary full discussion of the climate proposals he issued the week prior, which included the more aggressive 2030 GHG reduction target.

Reduction Is 'Economically and Technically Infeasible'

AB 2133 undermines the existing public and transparent process at the California Air Resources Board (CARB), where hundreds of stakeholders have been engaged in a months-long inclusive Scoping Plan review.

Increasing the GHG 2030 emissions reduction target from 40% to 55% below the 1990 level would require the state to remove an additional 17 million gasoline vehicles off the road by 2030, according to data developed by CARB.

Additionally, CARB data shows that CARB's initial modeling of scenarios in this range concluded them to be "economically and technically infeasible due to the current lack of low-carbon energy infrastructure, unavailability of technology, large job loss and high implementation costs."

In a [letter sent to legislators](#), the CalChamber stressed that it is vital to reconcile the recently released proposal with the proposals being vetted by the Board.

"Naturally the Legislature sets overall policy on these matters but has traditionally given great deference to the formal processes undertaken by the Air Board, which would be upended by a rushed consideration of this proposal," the CalChamber said.

Staff Contact: Ben Golombek

CalChamber Adds Threat to State Oil/Gas Employment to Job Killer List



Legislation threatening state oil and gas development operations and employment in related industries has been added to the job killer list.

[SB 1137 \(Lena Gonzalez; D-Long Beach\)](#), as amended on August 24, threatens to eliminate thousands of high-paying California jobs and force California to import even more foreign oil by politicizing and undermining the California Geologic Energy Management (CalGEM) Division's ongoing regulatory process regarding new requirements near oil and gas extraction sites by predisposing what setback requirements should be before the agency even begins its analysis.

The bill proposes a 3,200-foot minimum setback, prohibiting oil and gas activities within a specified proximity of homes, schools, and parks, and pollution controls surrounding active oil wells. This policy completely undermines the Governor's own three-year process to enact rules for health and safety around oil and gas extraction facilities.

SB 1137 threatens approximately 8,000 jobs, including 3,000 high-paying jobs in the oil and gas industry, and another 5,000 jobs in supplying industries such as construction and trades.

"The approach offered in SB 1137 will do nothing to reduce California's

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Cal/OSHA Corner

Standards Board Moving to Adopt Non-Emergency COVID Regulation



Mel Davis
Cal/OSHA Adviser

I hear that the Cal/OSHA Standards Board will be presenting for public comment and future adoption a final version of the Emergency Temporary Standards (ETS) regarding the hazards related to COVID-19 on September 15, 2022. How are these new requirements going to affect my operations?

Unless the Standards Board adopts into Title 8 a regulation addressing COVID-19, all requirements contained in the ETS will fade into the twilight on December 31,

2022. After three iterations of the ETS, the emergency regulation process is no longer a viable option. The regulation must be formally adopted into Title 8.

On November 19, 2020 the Standards Board adopted sections 3205 and 3205.1-3205.4 of Title 8, the ETS, which went into effect on November 30, 2020.

What is being presented for discussion and comment next month is a massive rewrite of sections 3205 through 3205.3. Section 3205.4 has been incorporated into the other sections where appropriate. To quote from the Standards Board memo:

“The Board is proposing new sections 3205 through 3205.3 to provide clear and specific requirements to employers so that they may better protect employees from the harmful effects of COVID-19; avoid a potential increase in COVID-19-related fatalities, serious illnesses, and long-term disabilities; and reduce related financial costs to employees, employers, insurers, public benefit programs,

and taxpayers. The proposed regulations will mitigate costs associated with COVID-19-related company shutdowns, employee absences, hospitalizations, death, responding to agency investigations, increased workers’ compensation insurance rates, personnel replacement expenses, and lost production.”

Brief Summary

The following is a brief summary of some of the revisions:

- The regulation will not be permanent as there is a two-year sunset provision. (This is based on the premise that COVID-19 is now endemic.)
- Exclusion pay is gone as related to COVID-19.
- The testing and notification after exposure remains in the requirements.
- Records will be maintained for three years.
- The proposed regulation will

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CalChamber-Sponsored Seminars/Trade Shows

More at www.calchamber.com/events.

Labor and Employment

HR Boot Camp Virtual Seminar.

CalChamber. September 8–9, December 8–9, Online. (800) 331-8877.

Best Practices for Compliant Paid Time Off Policies. CalChamber. September 15, Online. (800) 331-8877.

Leaves of Absence: Making Sense of It All Virtual Seminar. CalChamber. September 29–30, Online. (800) 331-8877.

Virtual HR Symposium. CalChamber. November 3–4. (800) 331-8877.

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 the International Success of Rural Businesses. U.S. Commercial Service. August 31, Online. (213) 342-7855.

ANDICOM 2022. AmCham Colombia. August 31–September 2, Cartagena, Colombia. (601) 587-7828.

Untangling the Supply Chain. National Association of District Export Councils. September 14, Online.

Concrete Show South East Asia 2022.

MEREBO GmbH Messe International. September 14–17, Jakarta, Indonesia. 49-40-399 99 05-15.

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CalChamber Calendar

Water Committee:

September 8, Laguna Niguel

ChamberPAC Advisory Committee:

September 8, Laguna Niguel

Board of Directors:

September 8–9, Laguna Niguel

International Trade Breakfast:

September 9, Laguna Niguel

ChamberPAC Legislative Roundtable:

September 9, Laguna Niguel

International Luncheon Forum:

September 22, Sacramento

Public Affairs Conference:

November 29–30, Laguna Niguel

Next Alert: September 9

The Workplace

School's Back in Session: Recap of Leaves Available to Working Parents



In Episode 159 of The Workplace podcast, CalChamber Labor and Employment Vice President Bianca Saad and CalChamber

employment law expert Matthew Roberts provide a refresher on school-related leaves of absence and labor laws, including school activities leave, school appearance leave, sick leaves, and accommodating flexible schedules.

Summer recess is over and for many kids, it's back-to-school time, Roberts says. After two years of COVID-19-related pandemic school closures, now is a good time for employers to refresh their knowledge of the school-related leaves of absence working parents are entitled to under the law.

School Activities Leave

Saad explains that school activities leave, which applies to employers with 25 or more employees working at the same location, allows employees to take protected time off to participate in a child's school or childcare-related activities, such as searching for or enrolling children in school, kindergarten through grade 12.

This type of leave also may be used for employees to participate in their child's school activities or activities with a licensed childcare provider, Saad says. For example, this leave could be used for school field trips, teacher conferences, award ceremonies, school plays, etc.

An employee also may use this time off to deal with a childcare provider or school emergency, such as if a child needs to be picked up from school due to an emergency, behavioral or discipline problems, natural disaster (fire, earthquake, flood, etc.), or due to the closure or unexpected unavailability of that school or childcare provider, Saad explains.

School activities leave is limited to 40 hours a year and can be limited to eight

hours a month, she says. This monthly limitation does not apply, however, if the reason for the leave is due to an emergency. Employers are not required to pay for this leave, but employers may require that employees use their vacation time or time off bank when they use the leave.

Roberts points out that this leave sounds like it could be ripe for abuse, especially because it provides 40 hours of job-protected leave. Can employers require documentation?

Saad answers that employers can require documentation of the activity from the school or childcare provider. Employers also can require advance notice as is reasonable, given the reason for the leave.

School Appearance Leave

Under California's Education Code, schools can require a parent or guardian to appear at the school with a child who has been suspended. If presented with this situation, an employer must allow the employee to take unpaid time off under school appearance leave, Saad explains.

Employers can require that the employee provide documentation to verify the need to appear at the school, but this is protected, so employers cannot discipline an employee for needing that time, she stresses.

Listen to the podcast to learn about what sparked this question. Hint: it involves the host's surprising past transgression.

Sick Leaves Related to School

Unless it is extended, COVID-19 supplemental paid sick leave (SPSL) will expire on September 30. This type of leave is available when a school or childcare center closes due to COVID-19 on the premises. SPSL also can be used to care for a child who is subject to quarantine rules or who contracts COVID-19, Saad explains.

Saad notes that because SPSL has been around for so long, employers might see a situation where an employee has already used the 80 hours allowed under this

leave, and the employee might not have time available by this time in the year.

In this case, a potential option would be to use an available sick leave, such as California's mandatory paid sick leave or traditional sick leave. Of course, 100% of the employee's bank could be used to care for a sick child.

Accommodating Flexible Scheduling

Flexible scheduling has been around for a while, but due to the pandemic and the workplace realities we've had for the last two years or so, it's become a really hot topic, Roberts says.

"To what extent do employers have to accommodate an employee's childcare or school schedule outside of these leaves that we've already discussed?" he asks Saad.

Saad replies that employers do not have a legal obligation to accommodate an employee's childcare or school schedule. This does not mean, however, that an employer can't work with the employee so long as they keep a few things in mind.

Employers must remember that there could be employee equity issues. If an employer is giving flexibility to employees with school-aged children, what are they doing for flexibility with employees who don't have school-aged children? What sort of precedent is being set?

Employers also should think about employees who may need flexibility for other reasons, such as caregiving obligations, that are not eligible for protected leave.

Finally, employers should consider wage-and-hour issues. If an employer allows an employee to work 10-hour days, there will be overtime obligations, unless an alternative workweek schedule is agreed upon, but this can be a complicated process.

Ultimately, Saad says, having a clearly drafted and consistently enforced policy around schedule flexibility is going to help an employer avoid some of these equity issues.

Now Permanent: California's Streamlined Work Sharing Program Process



Initially a temporary fix to a COVID-19-related economic slowdown,

the Employment Development Department's (EDD) online, streamlined Unemployment Insurance (UI) Work Sharing program process is officially permanent.

As a temporary alternative to layoffs during a reduction in production or services, employers have, for decades, had access to the UI Work Sharing program, which allows them to reduce employee work schedules and have affected employees collect partial unemployment benefits for the time reduced.

To take advantage of the program, however, employers had to mail a paper application — the *Work Sharing Unemployment Insurance Plan Application (DE 8686)* — to the EDD.

Program Changes

In 2020, in response to the COVID-19 pandemic, Governor Gavin Newsom approved changes to this program on two separate occasions:

- On April 15, 2020, the Governor signed Executive Order (EO) N-50-20, which directed the EDD to establish an electronic means of expediting access to the work sharing program and gave the EDD discretion to suspend certain application requirements for that purpose.

- On September 28, 2020, Newsom signed legislation (CalChamber-supported AB 1731; Boerner Horvath; D-Encinitas) that allowed employers to submit and be approved for work sharing plan programs completely online, further streamlining the process.

But AB 1731 included a January 1, 2024, sunset date for the program's online application process. So, during this legislative session, Assemblymember Tasha Boerner Horvath (D-Encinitas) introduced

AB 1854 (also supported by CalChamber), which extends the provisions under AB 1731 indefinitely, and requires the EDD to accept electronic signatures on all work sharing plan documents.

Sunset Date Repealed

On July 19, 2022, Newsom signed AB 1854, repealing that sunset date and effectively making the new online process permanent.

"EDD's work sharing program helps employers keep employees on the payroll and be in a better position to recover once conditions improve," Boerner Horvath said in a press release. "AB 1854 simply ensures that employers can continue to make use of the streamlined online application to retain their talent."

Employers can access the EDD's Work Sharing Program, including requirements and restrictions, online.

Staff Contact: Jessica Mulholland

CalChamber Adds Threat to State Oil/Gas Employment to Job Killer List

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oil and gas energy demands," said CalChamber President and CEO Jennifer Barrera. "Instead, it will drive production out of California and force the state to rely on even more foreign oil imports that are produced in locations with less environmental protections than California."

Arbitrary minimum setback requirements and pollution controls prescribed in the bill would affect 15,338 active and idle wells in California located within 3,200 feet of specified receptors in California. According to an Assembly Appropriations Committee analysis of a previous setback bill (also a job killer — AB 345; Muratsuchi; D-Torrance), the bill's requirements could cost up to \$4 billion in lost state revenue and subject the state to

significant risk of legal liability under the takings clause of the U.S. Constitution.

AB 345 was similar to SB 1137 and was stopped by the Legislature in 2020.

According to the California Energy Commission, California is relying more on foreign oil than at any time since the agency started tracking it in 1982. In 2018, California imported 370 million barrels, or 57% of the state's crude oil supply, from foreign nations like Saudi Arabia (37%), Colombia (13%), and Iraq (8%). By comparison, in 1992, California imported 33 million barrels, or just 5% of its supply.

Banning in-state oil and gas production naturally increases the state's dependence on foreign oil regimes with abysmal environmental and human-rights records. This approach would

have no effect on greenhouse gas (GHG) emissions, because it merely trades a reduction in California GHGs for GHGs emitted in less-environmentally protective foreign regimes.

CalGEM has a current process underway — where they have conducted seven local and virtual workshops across the State and received 45,000 public comments. The Governor and CalGEM have repeatedly said they want to rely on the best available science to determine any potential setback and ensure all stakeholders have input into the process.

This bill forces CalGEM to adopt arbitrary setback requirements, with very little legislative input, at the detriment of good jobs and California's energy needs.

Staff Contact: Ben Golombek

CalChamber-Sponsored Seminars/Trade Shows

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British Politics After Boris Johnson. Institute of European Studies, University of California, Berkeley. September 19, UC Berkeley Campus and Online. (510) 643-4558.

Discover Global Markets: The Blue

Economy: A New Age in Ocean Technology, Sustainability and Logistics. U.S. Commercial Service. September 20–22, Providence, Rhode Island.

Arabian Adventures with the Los Altos Chamber of Commerce. October 4–11, Dubai and Abu Dhabi. (866) 978-2997.

Exporting 101: Pathways to Developing International Markets. California Centers for International Trade Development. November 9, February 22, 2023, Online. (559) 243-7280.

U.S., Taiwan Begin Formal Negotiations for Initiative on 21st-Century Trade



The United States and Taiwan have begun formal negotiations on the U.S.-Taiwan Initiative on 21st-Century Trade.

The two sides **announced** on August 17 that they have reached consensus on the negotiating mandate for the initiative. They announced their intent to pursue the framework on June 1.

The negotiating mandate lays out broad objectives shared by the two sides, covering 11 trade areas. The negotiations for the framework are expected to follow an ambitious schedule with the first round of negotiations anticipated to take place this fall.

Amidst discussions, the two sides also agreed on what will not be reviewed during negotiations, which includes the possibility of tariff cuts.

U.S. and Taiwanese representatives **met** for the first time at the end of June in Washington, D.C., laying out an outline for the framework's negotiations. Topics of discussion then covered many of the same areas as the Indo-Pacific Economic Framework (IPEF), including digital trade, expanding agriculture trade, aligning technological standards, and responding to non-market economies in the region, like China.

Negotiating Mandate

The **negotiating mandate** for the U.S.-Taiwan Initiative on 21st-Century Trade includes addressing the following 11 trade areas, at a minimum, during the negotiations.

- **Trade facilitation.** Seek to harness best practices with respect to facilitating trade.

- **Good regulatory practices.** Seek to reflect shared values of good governance and respect for the rule of law through adopting sound and transparent regulatory practices.

- **Anticorruption.** Seek to adopt strong anticorruption standards to prevent and combat bribery and other forms of corruption.

- **Small and Medium-Sized Enterprises (SMEs).** Seek to support

and enhance trade by U.S.-Taiwan small and medium-sized enterprises, including those owned by underrepresented groups and women entrepreneurs, and those in disadvantaged communities.

- **Agriculture.** Seek to facilitate agricultural trade through science- and risk-based decision making, and adopting sound and transparent regulatory practices.

- **Standards.** Seek to collaborate on standards, technical regulations, conformity assessment processes, and trade barriers.

- **Digital Trade.** Seek to advance outcomes in digital trade that benefit workers, consumers, and business.

- **Labor.** Seek to adopt provisions that support international labor rights, increase worker opportunity, and increase trade as a force for good through promoting gender equity and equality.

- **Environment.** Seek to deepen cooperation and joint approaches on trade and the environment.

- **State-owned enterprises.** Seek to address distortions that occur to international trade and investment from the non-market practices of state-owned and state-controlled enterprises and government-designated monopolies.

- **Non-market policies and practices.** Seek to adopt provisions that promote collaboration on ways to address harmful non-market policies and practices.

Taiwanese officials released their own set of goals for the negotiations, including: strengthening Taiwan's economy; strengthening U.S.-Taiwan investment; strengthening the institutionalized connection between Taiwan and other countries, specifically the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) countries; and strengthening the island's market-based economic system.

The negotiations for the framework will continue under the auspices of the American Institute in Taiwan (AIT) and the Taipei Economic and Cultural Representative Office in the United States (TECRO) because of the 1979 terms for U.S. diplomatic recognition of the People's Republic of China which required the U.S. to sever formal diplomatic links with self-governing Taiwan.

Deputy U.S. Trade Representative Sarah Bianchi, who is leading the U.S.-Taiwan negotiations, expressed hope that the new pact will "build a fairer, more prosperous and resilient 21st-century economy" and "deepen our trade and investment relationship, advance mutual trade priorities based on shared values, and promote innovation and inclusive economic growth for our workers and businesses."

U.S.-Taiwan Trade

Taiwan is the 11th largest importer of U.S. goods. In 2021, the United States imported \$77.13 billion in goods from Taiwan and exported \$36.94 billion in goods to Taiwan. Top export categories included computer and electronic products, non-electrical machinery, oil and gas, and chemicals.

The United States is Taiwan's second largest trading partner and a key choice for Taiwanese investors.

California-Taiwan Trade

California exported more than \$8.94 billion worth of goods to Taiwan in 2021. Top categories included computer and electronic products, transportation equipment, waste and scrap, and chemicals.

California has the second highest amount of exports to Taiwan within the United States and Taiwan is the sixth largest importer of California goods and services, the fourth largest in Asia.

Foreign Direct Investment

U.S. foreign direct investment (FDI) in Taiwan was \$16.76 billion in 2021, while Taiwanese FDI into the United States was \$23.37 billion in the same year.

In 2020, Taiwan was the ninth fastest growing source of FDI into the United States. Taiwanese FDI in the United States supported 21,000 jobs through workers employed by U.S. affiliates of majority Taiwan-owned firms and \$178 million in research and development in 2019. Taiwan also contributed \$1.5 billion to expanding U.S. exports.

The top industry sectors for Taiwanese FDI were semiconductors, communications, business machines, software and

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U.S., Taiwan Begin Negotiations for Initiative on 21st-Century Trade

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information technology (IT) services, electronic components, and transportation. (Select USA)

Taiwan supports an estimated 323,456 jobs in the United States through trade and investment from Taiwanese companies and exports of U.S. goods and services to Taiwan. Almost 90,000 of these jobs are in California.

In California, Taiwan is the 10th largest source of FDI through foreign-owned enterprises (FOEs). In 2021, Taiwanese

FOEs in California provided 16,956 jobs through 405 firms, amounting to \$1.65 billion in wages. The top jobs by sector are leisure/hospitality, other services, professional/business services, manufacturing, and wholesale trade (World Trade Center Los Angeles FDI Report, June 2022).

CalChamber Position

The California Chamber of Commerce supports expansion of international trade and investment, fair and equitable market access for California products abroad,

and elimination of disincentives that impede the international competitiveness of California business.

The Indo-Pacific region represents nearly half of the Earth's population, one-third of global gross domestic product (GDP) and roughly 50% of international trade. The large and growing markets of the Indo-Pacific already are key destinations for U.S. manufactured goods, agricultural products, and services suppliers.

Staff Contact: Susanne T. Stirling

Standards Board Moving to Adopt Non-Emergency COVID Regulation

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not apply to work locations with one employee where no contact occurs; employees working from home; and employees teleworking from a location of the employee's choice, which is not under the control of the employer.

Visit Website to Review

This is just a small portion of the proposed revisions. I would highly recommend a visit to the Standards Board

website to compare the proposal with the repealed ETS. The comparison draft can be found at www.dir.ca.gov/osh/sb/documents/COVID-19-Prevention-Non-Emergency-txtcourtesy.pdf.

There are 30-plus pages, a large percentage being deleted regulations. Many of the proposals are the existing ETS regulations, some with additional amendments that are being incorporated into the proposed new regulation. Some changes, such as the definition of "close

contact," are the result of California Department of Public Health rewrites.

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 | SEPTEMBER 15, 2022 | 10 AM TO 11:30 AM PT

Best Practices for Compliant Paid Time Off Policies

Paid time off (PTO) is an optional job benefit many employers use as a recruitment and retention incentive.

Due to California's complex compliance requirements, PTO is commonly misunderstood and inconsistently applied. Learn what you need to know if you choose to offer PTO to employees.

Preferred and Executive Members receive their 20 percent member discount.



We'll apply existing laws to common workplace situations.

LEARN MORE at calchamber.com/sept15