

ALERT

California Japan Trade Mission

CalChamber Member Firms Strengthen Ties to Japan



California's trade mission to Japan last week

included sizable representation from California Chamber of Commerce member companies as part of the 100+-member business delegation.

The March 12–17 mission to advance business, collaboration and partnership between California and Japan was led by Lieutenant Governor Eleni Kounalakis and Dee Dee Myers, director of the Governor's Office of Business and Economic Development (GO-Biz). Mission activities centered around partnerships in four areas: the global supply chain, clean energy, tourism, and trade/investment — including agriculture.

Six CalChamber Board members made the journey to Tokyo and Osaka, along with representatives from six other CalChamber Board firms, and other CalChamber member companies; a total of 20 CalChamber member firms were represented on the mission roster.

"The California Chamber of Commerce was delighted to work alongside the Lt. Governor's Office and GO-Biz on this important and successful mission to Japan," said Susanne Stirling, CalChamber vice president of international affairs. "The business leaders in our delegation greatly appreciated the unique opportunities to visit with Japanese businesses, tour factories, and learn more about Japan's centers of innovation. The meetings we took part in brought us a renewed sense of optimism for successful partnerships with Japanese companies and supported CalChamber's long-held goal of expanding international trade and investment to bolster California's economy and prosperity."

Mission Highlights

Highlights of the mission included:

- Panel discussion on decarbonizing ports and critical infrastructure, featuring CalChamber Board Member Kerry Hattevik, vice president of development, NextEra Energy Resources, LLC.
- Luncheon at the American Chamber of Commerce in Japan (ACCJ), including a panel discussion with (among others) CalChamber Board members Margaret Wong, president and CEO, McWong International, and Sandra Floyd, president and CEO of OUTSOURCE Consulting Services, Inc.
- The World Smart Energy Week Trade Show, the largest renewable energy trade show in Japan. The California pavilion at the trade show featured technological innovations by CalChamber members and other California companies.
- Travel on the Shinkansen bullet train to Osaka for the final two days of the mission, with site visits to Toyota City, Panasonic, Daikin, Iwatani and the Port of Kobe.
- A farewell reception to celebrate the Osaka-California sister state relationship. Osaka will host a world expo for the third time in 2025.

Trade Overview

Japan is the world's third largest economy and the United States' fourth largest export partner. The U.S. is a large supplier of chemicals, transportation equipment, and computer and electronic products to Japan. Japan is also one of the largest U.S. foreign markets for agricultural products.

U.S. exports to Japan were \$80.317 billion in 2022, a 7.7% increase from 2021.

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Assembly Committee Passes Job Killer Bill Expanding Litigation



A job killer bill exposing employers to a potential flood of employment-related lawsuits passed the Assembly Judiciary Committee this week despite the

objections of the California Chamber of Commerce.

AB 524 (Wicks; D-Oakland) creates a broad new protected class under the Fair Employment and Housing Act (FEHA) for employees with family caregiver status. This broadly defined group would include any employee who "contributes" to the care of any person of their choosing.

The definition would encompass essentially every worker and creates an automatic basis for an individual in that new classification to challenge any adverse employment action. Further, this new classification would be used to essentially require employers, including small businesses, to accommodate all caregiving needs beyond what is already required under existing law or else they may face a discrimination claim.

Between litigation exposure and forced accommodations, AB 524 will increase the cost of doing business in California and the costs of goods and services.

Because FEHA includes a private right of action for any alleged discrimination against a protected classification, AB 524 exposes employers, including small businesses, to costly litigation. Liability includes compensatory damages, injunctive relief, declaratory relief, punitive damages, and attorney fees.

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Inside

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Cal/OSHA Corner

Nonwork-Related Death at Work Still Must Be Reported to Cal/OSHA



Mel Davis
Workplace Safety
Expert

An employee died of a heart attack while at work. It was not caused by his employment. Do I have to report this to Cal/OSHA?

Section 342, Employer Requirement to Report, was codified in 1974 into Title 8. At that time, it was required that fatalities were to be reported to Cal/OSHA within 8 hours. Several revisions and amendments have since occurred, the last major revision happening in January 2015. Nonwork-related deaths or serious

injuries now also are to be reported to Cal/OSHA within 8 hours.

Notification Processes

There actually are two notification processes involved when a fatality or serious injury occurs. Typically, an emergency response entity is contacted by the employer to render aid to the injured party. This can be the state, county, local fire department, or police agency. This results in what could be the first notification.

Section 342 (b) requires that: “Whenever a state, county, or local fire department or police agency is called to an accident involving an employee covered by this part in which a serious injury, or illness, or death occurs, the nearest office of the Division of Occupational Safety and Health shall be notified by telephone immediately by the responding agency.”

The second notification and by far the most important to the employer is their contacting the Division (Cal/OSHA) within 8 hours of the incident. Cal/OSHA has been notified by the first responders about the time and location of the incident, and particulars regarding injuries to

the victim so it is a matter of Cal/OSHA waiting for the employer’s notification.

If not received within the 8-hour time frame, the wheels are set in motion for the issuance of a citation and subsequent penalties.

Delayed Notification

The employer may encounter circumstances that could delay notification to Cal/OSHA. Due to the federal Health Insurance Portability and Accountability Act (HIPAA) and medical privacy laws, hospitals will not give out patient information casually to anyone who requests it, including employers. As a result, the employer must search for someone — such as a relative, representative or the like — who can give the employer information about the condition of the employee/victim. The employer is trying to get information so they can give Cal/OSHA a relatively accurate description and prognosis of the victim and accident.

Cal/OSHA has written into the regulation means that the employer can use to request an extension of the 8-hour notification time to 24 hours. The regulation

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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 Proffit.

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CalChamber-Sponsored Seminars/Trade Shows

More at www.calchamber.com/events.

Business Resources

California’s Recycling Overhaul: A Breakdown of SB 54’s Circular Economy. CalChamber. April 28, Online. (800) 331-8877.

California Privacy Rights Act (CPRA) Compliance. CalChamber and Mariner Strategies. May 24, Online. (800) 331-8877.

Labor and Employment

Leaves of Absence: Making Sense of It All Virtual Seminar, April 13–14, August 24–25, September 21–22, Online. (800) 331-8877.

Paying Employees in California, CalChamber, Online, April 20. (800) 331-8877.

HR Boot Camp Virtual Seminar. CalChamber. May 4–5, Online. (800) 331-8877.

International Trade

2023 Taiwan Trade Shows. Taiwan Trade Center, San Francisco. March 6–November 8, Taiwan and Online.

(408) 988-5018.

How to Sell into the Middle East and North Africa (MENA) Market via the Cross-Border Digital Sales Channels. International Trade Administration, Getting to Global and U.S. Commerce
See CalChamber-Sponsored: Page 7

CalChamber Calendar

Capitol Summit:

May 17, Sacramento

International Forum:

May 17, Sacramento

Sacramento Host Reception:

May 17, Sacramento

Sacramento Host Breakfast:

May 17, Sacramento

Next Alert: April 14

The Workplace

Four 2023 Bills That Would Negatively Affect California Employers



In Episode 171 of The Workplace podcast, CalChamber employment law expert Matthew Roberts and CalChamber Policy Advocate

Ashley Hoffman discuss four bills that, if passed, would significantly affect California employers — and not in a good way: SB 809, AB 747, SB 399 and SB 525.

SB 809: Replaces Fair Chance Act

In the podcast, Roberts and Hoffman start by discussing SB 809, which Hoffman says would, at its core, replace the Fair Chance Act, which prohibits employers from asking about an applicant's conviction history during the hiring process and allows employers to run a background check only after making a conditional job offer.

SB 809 goes quite a few steps past that, according to Hoffman, who says that it essentially prohibits employers from inquiring about conviction history and running background checks — or considering such information even if it's voluntarily disclosed or readily available online.

"So even if you saw an article about your employee or an applicant and something they did, you could not consider it when you're deciding whether to hire or promote someone," she says, adding that the only exception is if existing law specifically grants the right to do a background check, "or essentially grants you the right, by saying something like, 'You can't hire someone who has had a DUI for this position,' or something along those lines" (as

seen in certain health care-, banking- or transportation-related positions).

This concept raises many red flags with employers, Roberts says, adding that SB 809 also would affect the federal Fair Credit Reporting Act (FCRA) and California's Investigative Consumer Reporting Agencies Act (ICRAA), both of which mandate that employers follow certain disclosure and authorization requirements when running criminal background checks.

The bill, Hoffman explains, would amend the ICRAA to require that any investigative consumer report notice also include:

- All specific job duties for the position that may have a direct or adverse relationship to a potential conviction; and
- A statement that includes all of the laws and regulations that impose restrictions or prohibitions for employment on the basis of a conviction that would prohibit the employer from hiring a certain person.

And the big issue here, she notes, is that ICRAA/FCRA cases are brought all the time, so if an employer were to forget one regulation, one law — or forget or not realize one job duty should be included — they could face serious litigation for a violation.

The biggest concern, however, is the prohibition on background checks and conviction history, Hoffman says, because many laws out there allow employers to run a background check or say some individuals can't be hired for certain positions. But many industries — like restaurants and other customer-facing industries, or businesses that aren't banks but handle sensitive financial information — aren't covered by such laws, and

not being able to run a background check could put those businesses in a vulnerable position.

And that vulnerability extends to workplace violence, sexual harassment, sexual assault. "You don't want to be hiring someone who has a record of that, and then put them in a position where they may be working alone with a coworker," she says, "and, unbeknownst to you, that coworker's now vulnerable."

AB 747: 'Restricts' Already-Prohibited Noncompete Clauses

Noncompete agreements — agreements that essentially prohibit an employee from working for a competitor within a certain timeframe — are unenforceable in California. But because the Federal Trade Commission (FTC) recently declared it was going to work toward restricting their use and President Joe Biden made remarks about the practice, the California Legislature is attempting to "tighten the screws a bit further" with a few bills, one of which is AB 747, Roberts says.

Despite state statute being interpreted to outlaw noncompete agreements and California courts for decades holding them unenforceable, Hoffman says, technically nothing in the Labor Code specifically bans them. "So, [AB] 747 wants to codify that," she says, "as well as include an enforcement mechanism by which there could be penalties if you're including these agreements in your employee contracts."

This bill also includes a training component that Hoffman says is concerning. Currently, under Labor Code section 2802, employers are required to reimburse employees for any reasonably

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CalChamber Member Feedback

"CalChamber gives our Management Team access to extensive experience and expertise through their policy team, as well as a solid reputation at the State Capitol."

Craig D. Gott
President
Suburban Water Systems

CalChamber Board Members on California Japan Trade Mission



CalChamber Board members and CalChamber member firms were a significant component of the 100+-member business delegation on last week's trade mission to Japan. From left are CalChamber Board members Sandra Floyd, OUTSOURCE Consulting Services, Inc.; Margaret Wong, McWong International, Inc. and Kerry Hattevik, NextEra Energy Resources LLC; mission leader Dee Dee Myers, director of GO-Biz; Susanne T. Stirling, CalChamber; mission leader Lieutenant Governor Eleni Kounalakis; CalChamber Board members Maryam Brown, SoCalGas; Jennifer Haley, Kern Energy; and Sima Patel, Ridgemont Hospitality; and Nikki Ellis, CalChamber. Another six board member companies also sent representatives on the trade mission, and there were representatives from other CalChamber member companies for a total of 20 CalChamber members.

CalChamber Member Firms Strengthen Ties to Japan

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U.S. imports from Japan to the United States were \$148.33 billion in 2022, representing a 9.9% increase from 2021.

Trade and Investment with California

Japan is also California's fourth largest export partner. California exports totaled \$11.607 billion in 2022, representing a 1.6% decrease from 2021. Imports into California from Japan were \$29.367 billion in 2022, representing a 31.21% increase from 2021.

In California, Japan is the largest source of foreign direct investment (FDI) through foreign-owned enterprises (FOEs). Japanese FOEs in California in 2021 provided 105,053 jobs through 3,523 firms, amounting to \$10.978 billion in wages.

Sponsors

Mission sponsors include United Airlines, Alaska Airlines, Iwatani, NextEra Energy, Southern California Edison, Blue Diamond Growers, with

special recognition to California ports: the Port of Long Beach, the Port of Los Angeles and the Port of Oakland.

Mission Website

For a day-by-day summary of mission activities, including the state's recap and photos of events and sights, visit the [2023 California Japan trade mission page](#).

Staff Contact: Susanne T. Stirling

Nonwork-Related Death at Work Still Must Be Reported to Cal/OSHA

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states: "If the employer can demonstrate that exigent circumstances exist, the time frame for the report may be made no longer than 24 hours after the incident."

Exigent isn't defined in the regulation.

The importance of the notification requirement cannot be understated. An employer put into the position of having to notify Cal/OSHA of an incident that meets the designated criteria of Section 342 (a) should document what is obvious at the incident site as soon as possible

and notify Cal/OSHA within 8 hours.

If different or additional and relevant evidence is found subsequent to further investigation, and Cal/OSHA has yet to make an inspection, Cal/OSHA can be notified if necessary.

The requirement for the employer to notify Cal/OSHA of a fatality or serious injury of a nonwork-related incident, even though it occurred at the work site, runs counter to the federal requirement. Federal OSHA is specific that the reporting is to be related to a work-caused

injury or death only. Further, work related serious injuries, amputations, serious illnesses, inpatient hospitalization, or loss of an eye are to be reported within 24 hours, not the 8 required by Cal/OSHA.

Column based on questions asked by callers on the Labor Law Helpline, a service to California Chamber of Commerce preferred members and above. 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.

Celebrating Women's History Month

Past Women Chairs of CalChamber Board: A Cross-Section of California Economy



Shirley Chilton (1982)



Amy McCombs (1998)



Donna F. Tuttle (2006)



Larree M. Renda (2010)



Anne L. Buettner (2014)



Susan Corrales-Diaz (2017)



Grace Evans Cherashore (2019)



Donna L. Lucas (2021)



The eight women to hold the top volunteer position at the California Chamber

of Commerce represent a cross-section of industries in the state with a slight tilt toward smaller operations.

• **Shirley R. Chilton**, who in 1982 was the first woman to chair the CalChamber Board, founded and chaired Clavis Corporation, a small business in Marina del Rey that specialized in financial and real estate consulting.

• **Amy McCombs**, CalChamber chair in 1998, was at that time the president and CEO of Chronicle Broadcasting

Company as well as president and general manager of KRON-TV in San Francisco, then an NBC affiliate owned by Chronicle Broadcasting.

• **Donna F. Tuttle**, CalChamber chair in 2006, was co-owner and chairman of Elmore Tuttle Sports Group, owner of minor league sports teams. In California, that was the Seattle Mariners' single A farm club in San Bernardino.

• **Larree M. Renda**, 2010 CalChamber chair, was executive vice president, chief strategist and administrative officer for Safeway, Inc., at that time one of the largest food and drug retailers in North America.

• **Anne L. Buettner** chaired the CalChamber Board in 2014 while serving as a senior vice president at The Walt Disney Company, leading the tax

legislative policy function at the diversified worldwide media and entertainment company.

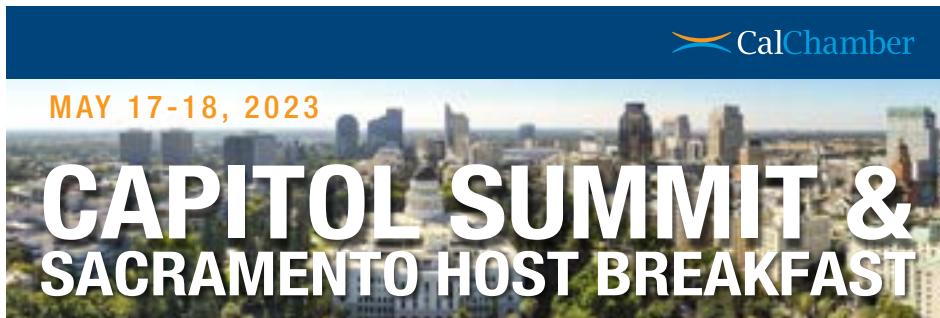
• **Susan Corrales-Diaz**, 2017 chair of the CalChamber Board, is president and CEO of Systems Integrated, an Orange County-based technology firm.

• **Grace Evans Cherashore**, 2019 CalChamber chair, is executive chairwoman of Evans Hotels, provider of San Diego waterfront resorts.

• **Donna L. Lucas**, CEO and founder of Lucas Public Affairs, was CalChamber chair in 2021.

To read more about these outstanding women business leaders, see [A Look Back at Careers of Women Who Chaired CalChamber Board](#).

Registration Opens for CalChamber Capitol Summit



Registration is open now for the California Chamber of Commerce Capitol Summit, set for May 17 in Sacramento.

CalChamber President and CEO Jennifer Barrera and the CalChamber policy team will present legislative and election updates at the Summit, set for 10 a.m.–2:15 p.m. at the SAFE Credit Union Convention Center.

The keynote luncheon speaker will be Dee Dee Myers, senior advisor to the Governor, director of the Governor’s Office of Business and Economic Development (GO-Biz) and former White House press secretary.

Also on the agenda is a session focusing on housing and homelessness with

panelists Maria Salinas, president of the Los Angeles Area Chamber of Commerce; and Amanda Blackwood, president and CEO of the Sacramento Metro Chamber of Commerce. Moderating the discussion will be Micah Weinberg, CEO of California Forward, a nonprofit organization that leads a movement to make the economy and government of California work for everyone in all the state’s regions.

Other Events

After the Summit, attendees have the option to stop by the CalChamber International Forum (a separate RSVP is required).

Scheduled for the evening of May 17

is the Sacramento Host Reception. This event is co-sponsored by the CalChamber and the Sacramento Host Committee to provide networking opportunities for business leaders from industries throughout the state.

The reception also gives attendees the opportunity to discuss key issues facing the state with other business leaders and elected officials. The evening event is a prelude to the 97th Annual Host Breakfast the next morning, May 18.

Featured speakers at the breakfast traditionally have been the Governor of California and the chair of the CalChamber Board of Directors.

Registration

The fee to register for the Capitol Summit is \$100 per person. Once registered, registrants have the option to RSVP at no additional cost for the International Forum, the Host Reception, and Host Breakfast. The deadline to register is Friday, April 28 or until sold out. Space is limited.

To register for the Summit, visit <https://event.me/80kLmE>. Lunch is included in the registration fee.

Recycling Compliance for 1-Use Packaging Makers, Distributors, Sellers



An upcoming CalChamber webinar will explain all the recycling compliance mandates following the passage of last year’s circular economy law.

Anyone who manufactures, distributes or sells products with single-use packaging in California will be affected by the new law, SB 54 (Allen; D-Santa Monica).

California’s Recycling Overhaul — A Breakdown of SB 54’s Circular Economy is set for Friday, April 28, 10 a.m.–11 a.m. (Pacific).

This webinar is designed for government affairs professionals, sustainability teams, attorneys, and business owners of any company that manufactures, produces or distributes single-use packaging in or to California.

The webinar will be presented live by Adam Regele, CalChamber’s recycling

and extended producer responsibility expert and lead negotiator for the business community on SB 54, known as the Plastic Pollution Prevention and Packaging Producer Responsibility Act. Regele will answer questions submitted via Zoom.

Regele will discuss the history of SB 54, the author’s intent on important provisions in the bill, compliance hurdles businesses face, potential pitfalls to avoid, and other related recycling laws that interact with SB 54.

New Recycling Framework

SB 54 updates California’s existing recycling framework for all single-use packaging, including paper, plastic, glass, aluminum, and single-use plastic food service ware, including, but not limited to, plastic-coated paper, plastic-coated paperboard, paper or paperboard with plastic intentionally added, and multi-layer flexible material.

SB 54 interacts with other California

laws, such as SB 343 (Allen; D-Santa Monica) to create a circular economy framework that is the nation’s most complex extended producer responsibility program.

Failing to comply may result in product and packaging bans and/or fines up to \$50,000 per violation per day with no cap, among other enforcement actions.

Webinar Details

- Formatted so participants can submit questions during the webinar.
- Provided: Downloadable webinar slides and a recording of the live event.
- Optimized for mobile viewing on tablets and smartphones.

The \$299 course is approved for 1.0 MCLE credit hour.

To register or for more information, visit the [CalChamber Store](#) or call (800) 331-8877.

Four 2023 Bills That Would Negatively Affect California Employers

From Page 3

necessary business expense, which has been interpreted to also include employer-mandated training — but *doesn't* include something like a license. Under AB 747, essentially any training an employee would need to do their job is included as reimbursable, and the bill really exempts licensure only before someone is in the position.

“A lot of the impetus for this came from some reports about employers who sometimes will pay for an employee to have certain training, and then they say, ‘Oh, if you leave before two years, you have to pay us back,’” Hoffman says. “And that is being viewed, I think, by the author as a form of a noncompete.”

The key with this bill, according to Hoffman, is to strike a balance in this legislation between employer-mandated trainings and not hindering employers’ willingness to pay for employees to get, say, a master’s degree or something along those lines.

SB 399: Political Communications

Since the start of the pandemic, Roberts says, employers have become more and more comfortable finding their voices around political issues — and SB 399 addresses their ability to share their opinions with employees.

More specifically, Hoffman says the bill states that employers aren’t allowed to require employees to attend a meeting or “participate in communications” regarding political or religious matters — and “political matters is really where the heart of the bill is,” she says. “It’s essentially where the employer is expressing their viewpoint on political matters, which could include legislation, a polit-

ical party, a candidate, whether or not to join or not join a labor organization.”

This bill, Hoffman continues, essentially takes away the employer’s right to have what are sometimes referred to as “captive audience” meetings, where they require employees to attend and could express their opinion on unionization, for example. But the way the bill is written, she says, could have a chilling effect on any discussion regarding politics or unionization.

“If you’re standing in the hallway with your supervisor and they start talking about something, or maybe someone else comes up and asks a question — you could see an employee saying, ‘Oh, I felt like I couldn’t leave,’” Hoffman says. “I think the consequence of the bill is that it’s going to make employers feel like they can’t ever talk about these subjects. ... When you have a bill out there like this, it makes you feel like you really can’t say anything to your workers.”

One thing to note is that other states have attempted to pass this type of bill and local jurisdictions have attempted to pass such ordinances — most of which have been struck down when challenged, as they were preempted by the National Labor Relations Act (NLRA). Concerns about the First Amendment and an employer’s right to talk about some of these issues also exist.

Interestingly, California already prohibits forcing an employee to engage in politics and retaliating against employees based on engaging or not engaging on certain issues, Hoffman says, and a lot of rules already exist around what employers can do as far as discussing unionization: They can’t threaten someone, promise something in exchange or

spy on them. “A lot of these protections, from our point of view, really are already in place.”

SB 525: Health Care Facility-Based Minimum Wage

Over the last few years, the California Legislature has moved into crafting rules and regulations that apply only to particular industries, Roberts says, and this year’s SB 525 would require health care facilities to pay all of their workers a minimum of \$25 an hour, which would mean \$50 per hour minimum for salaried workers.

But SB 525 isn’t limited solely to health care employees.

“If you read the language, this \$25-per-hour requirement actually applies to anyone who steps foot on the premises of a health care facility or does work for a health care facility,” Hoffman says, noting that a delivery driver would qualify for this minimum wage while making deliveries at the hospital, as would caterers for an event held on hospital grounds. “It’s actually putting this really significant minimum wage increase and the obligations from that on quite a few companies that are not, themselves, health care facilities.”

For Roberts, this bill is akin to how local ordinances in California operate.

“With the local ordinances, where you’re performing the work is within the city limits,” he says. “And as you’ve explained with this health care minimum wage, you’re just performing the work at a health care facility — you’re not an actual health care employee, which I think is a problem here.”

CalChamber-Sponsored Seminars/Trade Shows

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cial Service. April 13, Online. (800) 872-8723.

11th Annual Pan African Global Trade and Investment Conference. Center for African Peace and Conflict Resolution. April 26–30, 2023, Sacramento. info@panafricanglobaltradeconference.com.
The Stockholm Model — Creating Sustainable Impact for Society through

Collaboration and Innovation. KTH Royal Institute of Technology. May 8–9, San Francisco. 46-8-790 65 50.

Annual Export Conference. National Association of District Export Councils (NADEC). May 9–10, Washington, D.C. aburkett@naita.org.

U.S. to EU: How to Sell into European Union via eCommerce. International Trade Administration, Getting to Global and U.S. Commercial Service.

May 18, Online. (800) 872-8723.

NAFSA Annual Conference & Expo.

National Association of International Educators. May 30–June 2, Washington, D.C. (202) 737-3699. *Early bird registration through April 14.*

Smart City Expo World Congress (SCEWC). Smart City Expo World Congress. November 7–9, Barcelona, Spain. (704) 248-6875.

Assembly Committee Passes Job Killer Bill Expanding Litigation

From Page 1

Committee members of both parties voiced concern that the bill could prove troublesome for small businesses, but ultimately the Democrats voted to keep AB 524 moving while Republicans declined to vote.

New Protected Class

AB 524 proposes to add any individual with “family caregiver status” as a new protected class under FEHA. That term is defined to include any worker who “contribut[es] to the care of one or more family members.” A “family member” is not limited to an actual family member. Rather, it includes **any person who the employee subjectively considers to be like family**. This could include a neighbor or an employee’s child’s friend. Every employee could arguably fall into the category of a family caregiver.

Although proponents of AB 524 claim that adding family caregiver status to FEHA simply clarifies existing laws, the bill actually is a significant expansion of FEHA and provisions like AB 524’s have been rejected by the Legislature for the last two years.

Because whether an employee contributes to the care of another or

whether someone is like family to them are subjective determinations, the employer has no ability to dispute an employee designating themselves as having family caregiver status. Any dispute would open up the employer to costly litigation. Adding this broad, new classification to the list under FEHA would limit an employer’s ability to enforce employment policies, including attendance policies. Any action taken by the employer could be challenged as discrimination based on “family caregiver status.”

Further, the bill creates a *de facto* accommodation requirement because if an employee requests a schedule change or time off that is denied and they subsequently violate an attendance policy or are terminated for refusing to work a different schedule, they will surely sue, alleging discrimination.

Existing Leaves

Many existing laws contain parameters that provide employees time to act as a caregiver, such as leave where a school or childcare center is unavailable; the California Family Rights Act (leave to care for a family member or other designated person of the employee’s choice);

the Healthy Workplace Healthy Family Act and related “kin care” statutes also allow sick time to be used to care for someone else. Any employer who retaliates against an employee for using these leaves is liable for unlawful retaliation.

If the Legislature finds these leaves insufficient, rather than imposing new burdens on employers it should provide more flexible work options to workers by revising California’s overly rigid wage and hour laws that prohibit workplace flexibility.

Key Vote

AB 524 passed Assembly Judiciary on March 21:

Ayes (8): Maienschein (D-San Diego), Connolly (D-San Rafael), Haney (D-San Francisco), Kalra (D-San Jose), Pacheco (D-Downey), Papan (D-San Mateo), Reyes (D-San Bernardino), R. Rivas (D-Hollister).

Not voting (3): Essayli (R-Riverside), Dixon (R-Newport Beach), Sanchez (R-San Marcos).

The bill will be considered next by the Assembly Labor and Employment Committee.

Staff Contact: Ashley Hoffman

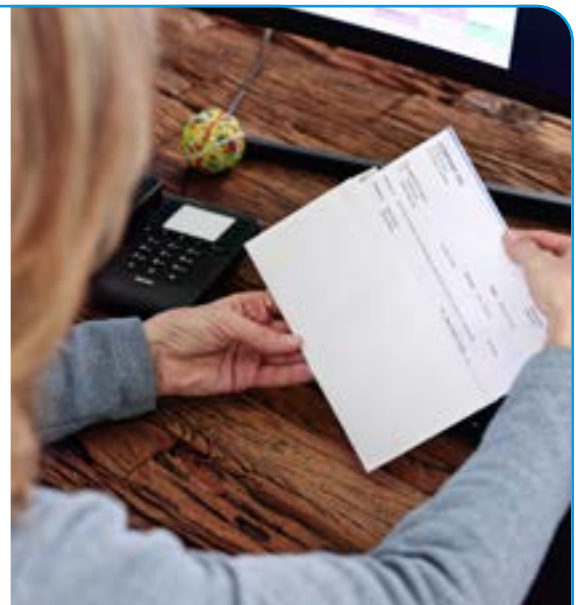


LIVE WEBINAR | APRIL 20, 2023 | 10 AM - 11:30 AM PT

Paying Employees in California

California has some of the toughest, most complex wage and hour laws in the nation, many of which go above and beyond federal law and are often the subject of costly litigation.

CalChamber’s employment law experts are here to help. Join us for a discussion on the common issues related to properly paying employees in California.



Preferred Members and above receive their 20% member discount.

LEARN MORE at calchamber.com/apr20