

ALERT

Senate Democrats Propose Higher Taxes on Businesses



California Senate Democrats this week unveiled a proposal that would

increase taxes on California businesses to compensate for budget shortfalls. If passed, certain businesses will see their corporate income tax rate increase to 10.99% to fund about \$5 billion for social programs.

CalChamber President and CEO Jennifer Barrera issued a statement on the proposal, pointing out that the tax increase is unnecessary and will further burden businesses:

“The tax increase proposed today by Senate Democrats is unnecessary because of the prudent build-up of the

rainy-day fund. Increasing taxes will send the wrong signals to job creators and investors in the state’s economy,” she said. “Now is not the time to test California’s ability to withstand the impact of an economic downturn or a recession by placing our economic success at risk.”

California businesses already pay some of the highest taxes in the country, and more recently have had to pay higher pandemic-related unemployment insurance taxes, higher workers’ compensation rates and other state-mandated costs of doing business.

The tax Senate Democrats are proposing is exactly the opposite approach to saving jobs and seeing the state through any economic downturn.

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COVID-19 Compliance Tax Credit Moves in Senate



Legislation to reimburse employers for the cost of complying with COVID-19 prevention regulations in 2023 and 2024 passed a Senate policy

SUPPORT

committee this week.

The bill, **SB 375 (Alvarado-Gil; D-Jackson)**, is **supported** by the California Chamber of Commerce and a coalition of employer groups and public agencies.

In a letter to the bill’s author, supporters noted that the state’s COVID-19 state of emergency was ended on February 28 by Governor Gavin Newsom. Similarly, President Joe Biden has announced the national emergency for the COVID-19 pandemic will be terminated on May 11.

The state’s COVID-19 regulations have transitioned to a **non-emergency version**, which went into effect on February 3, 2023 and will remain in effect through February 3, 2025, with record-keeping requirements in effect through February 3, 2026.

Public Health Purpose

Given the end and upcoming end of the California and U.S. states of emergency, the coalition said, the COVID-19 rule primarily serves a public health purpose rather than addressing an inherent health risk associated directly with the workplace.

See COVID-19: Page 3

Coalition Opposition Stops Warehouse Setback Rules Bill in Second Assembly Committee



Strong opposition by a California Chamber of Commerce-led coalition this week stopped a **job killer** bill that would have created a *de facto* ban of warehouses.

AB 1000 (Reyes; D-San Bernardino) originally mandated a statewide setback of 1,000 feet from sensitive receptors (housing, schools, parks, hospitals, jails, etc.) for all new or expanded logistics use facilities 100,000 square feet or larger, regardless of environmental impacts, establishing a *de facto* ban. The bill also would have created a new private right of action in California.

In an effort to gain support, Assembly

Majority Leader Eloise Reyes proposed amendments to the bill on April 26 to make the proposed setback requirement apply only in her district. She also adjusted the requirement from having a 750-foot setback to a 500-foot setback, as long as all 10 mitigation measures were completed.

Adam Regele, CalChamber vice president of advocacy and strategic partnerships, explained in testimony to the Assembly Local Government Committee that the new amendments failed to remove the basic flaws of the bill.

In the following discussion, committee members said there is an issue with pollution in the region and that something must be done, but commented that AB

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Labor Law Corner

Pay Data Reporting Depends on Usual Business of Client, Contractor



David Leporiere
Employment Law
Expert

I own a cabinet making and installation company. Last year, my employees spent several days installing cabinets in the offices of a large tech company. I recently received a letter from that tech company asking me for the wages of my employees that worked on the project at the tech company. My customer is claiming that under the new rules for pay data reporting, it must report to the state the wages

of all its labor contractor employees. I don't feel comfortable turning over this information to my customer. Does this new law require me to provide this information to my customer?

The Pay Data Reporting Act does require a company with 100 or more "labor contractor employees" to report those wages to the state. A "labor contractor employee," however, is an individual "who performs labor for a client employer within the client employer's usual course of business."

In this situation, your customer would be the "client employer," but because it is in the technology business, and your employees are in the cabinet installation business, your employees were not performing work in your customer's usual course of business, and therefore, they don't meet the definition of "labor contractor employees."

This has been a common misconception by businesses in preparing their pay data reports for the state. Businesses need report only the wages of employees of other companies when those employees are performing work in the usual course of business of the company where the services are being performed.

If you are unsure about whether you should disclose wage information of your employees to third parties, you should always consult legal counsel first in order to avoid any possible privacy issues with your employees.

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.

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CalChamber-Sponsored Seminars/Trade Shows

More at www.calchamber.com/events.

Business Resources

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

Labor and Employment

Avoiding Meal and Rest Break Traps. CalChamber. May 18, Online. (800) 331-8877.

HR Boot Camp 1-Day Seminar. CalChamber. May 25, Sacramento and Online. (800) 331-8877.

Leaves of Absence: Making Sense of It All Virtual Seminar. CalChamber. August 24–25, September 21–22, 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.

Access Africa Now Webinar Series. U.S. Commercial Service. April 11–September 27. (512) 936-0039.

14th Annual Mexico Advocacy Day: The Future of the California-Mexico Relationship: A Partnership for Growth. CalChamber Council for International Trade and Consulate General of Mexico, Sacramento. May 1, Sacra-

mento. (916) 444-6670, ext. 233. Export Week 2023. U.S. Commercial Service. May 1–5, Online. anthony.sargis@trade.gov.

97th World Trade Week: Global Trade: Building a Future Ready Supply Chain. Los Angeles Area Chamber. May 2, Los Angeles. (310) 985-0799. bedwards@edwardsglobal.com.

Emerging Trends in U.S. Indo-Pacific Strategic Policy. U.S. Commercial Service. May 3, San Bernardino. (202) 597-9797.

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.

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CalChamber Calendar

Capitol Summit:
May 17, Sacramento

International Forum:
May 17, Sacramento

Sacramento Host Reception:
May 17, Sacramento

Sacramento Host Breakfast:
May 17, Sacramento

Labor Contractor Employee Pay Data Report Deferral Available



This year, large employers must submit their California pay data reports by **May**

10, 2023 — a deadline that is quickly approaching. However, the California Civil Rights Department (CRD) recently announced that employers can apply for a two-month deferral to comply with pay data reporting — but only for labor contractor employee reports.

As [previously reported](#), in September 2022, Governor Gavin Newsom signed SB 1162 that, among other things, revised and expanded the state's pay data reporting requirements for employers with 100 or more employees.

This year, one of the most notable changes requires employers with 100 or more workers hired through labor

contractors to file separate labor contractor employee reports. These reports must contain much of the same information required in payroll employee reports, including each employee's establishment, job category, race/ethnicity, sex, pay, pay band, hours worked and hourly rates.

To gather all this information, employers have to work with their labor contractors, who are required by law to provide this information. However, this can be complicated, especially if a client employer uses multiple contractors and/or if those contractors use subcontractors, etc.

To help, the CRD recently updated its [pay data reporting FAQ](#) page to state that beginning April 18, 2023, it will consider an employer's request to defer their labor contractor employee report through Monday, **July 10, 2023**.

Note that deferrals are available only for labor contractor employee reports — not for reports covering an employer's

payroll employees. All deferral requests must be submitted by May 10, 2023.

Employers can submit deferral requests only through the CRD's [pay data reporting portal](#); the CRD will not consider requests submitted through any other methods, including a request submitted by a third party on behalf of the employer, such as a professional employer organization.

Employers are strongly encouraged to review the CRD's [pay data reporting website](#) and resources when compiling both their payroll employee and labor contractor employee reports, if applicable. There, employers can access the portal, a detailed user guide, and sample Excel and .csv templates. Also available are frequently asked questions that address many of the subtleties and nuances employers may encounter in this process.

Staff Contact: James Ward

COVID-19 Compliance Tax Credit Moves in Senate

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Therefore, the costs associated with that purpose should be borne by the state of California and not individual employers, the coalition declared.

California employers cannot continue to serve as the social safety net for a community-spread virus. Keeping that public policy approach is likely to put more employers out of business considering that many still are recovering from the pandemic and struggling to stay afloat.

The coalition letter notes that in rural communities and for small employers, the non-emergency COVID regulation is burdensome. Small public agencies

don't have the budgetary margins to incur two more years of COVID-19 regulatory compliance costs while federal and state COVID-19 financial support is ending.

Moreover, small employers don't have the ability to increase prices or expand markets to recover the cost of compliance. The challenges of the economic slowdown, global inflation, uneasy stock market and evolving monetary situation add to the troublesome mix.

SB 375 is an effort to make sure the state recognizes that employers cannot be the deep pockets that fund the public health public policy purpose of protecting against the community spread of COVID-19.

Key Vote

SB 375 passed the Senate Labor, Public Employment and Retirement Committee on April 26, 3-1:

Ayes: Cortese (D-San Jose), Laird (D-Santa Cruz), Wilk (R-Santa Clarita).

Noes: Durazo (D-Los Angeles).

Not voting: Smallwood-Cuevas (D-Los Angeles).

The bill will be considered next by the Senate Appropriations Committee.

Staff Contact: Ashley Hoffman



CalChamber Member Feedback

"CalChamber has a successful track record not only in the state Legislature, but with regulatory agencies, in the courts, and at the ballot box."

Christopher D. Howard
President and Chief Executive Officer
Sharp HealthCare

Bill Sets Out-of-State Emissions Reporting Requirements



OPPOSE

A California Chamber of Commerce-**opposed** bill that will financially impact small- and medium-sized businesses and create onerous reporting requirements on large businesses passed the Senate Judiciary Committee last week.

The bill, **SB 253 (Wiener; D-San Francisco)**, imposes a mandatory climate tracking, and auditing on climate emissions that will fall heavily on all California businesses, impacting competitiveness and increasing costs.

Specifically, the legislation would require that businesses that meet a specified financial threshold annually report greenhouse gas (GHG) emissions data from throughout the entire supply chain, regardless of who in the supply chain produces the emissions.

Harms All Businesses

In an [opposition letter](#) submitted to legislators, the CalChamber argued that the state should not be in the business of regulating out-of-state emissions. Rather, California should continue to implement and build upon existing programs and policies to regulate and monitor emissions in-state.

Harms All Businesses

In an [opposition letter](#) submitted to legislators, the CalChamber argued that the state should not be in the business of regulating out-of-state emissions. Rather, California should continue to implement and build upon existing programs and policies to regulate and monitor emissions in-state.

Moreover, reporting emissions associated with a company's entire supply chain will necessarily require that large businesses stop doing business with small- and medium-sized businesses. The CalChamber pointed out that those smaller businesses are likely under-resourced and will struggle to accurately measure their GHG emissions, leaving these companies without the contracts that enable them to grow and employ more workers.

A report prepared by Encina Advisors, LLC for the California Foundation for Commerce and Education estimates that a typical upstream firm will spend from \$38,500 to \$123,100 on calculating and documenting its emissions, resulting in a potential loss of \$1.0 billion to \$1.3 billion in state tax revenue.

These economic impacts will likely create inefficient supply chains that will further add costs to consumers, the CalChamber said.

Excessive Penalties

SB 253 imposes a burdensome penalty against a reporting entity, seeking penalties for violation of the legislation's provisions. Although the applicability of the penalty itself falls on reporting entities, it is highly unlikely that a reporting entity would take sole responsibility for the risk associated with the penalty, the CalChamber said.

While contracts vary by company and

sector, there likely will be indemnification clauses or shared cost recovery stipulations in contracts stemming from this measure. Under-resourced companies that cannot afford to share that risk will be left out, the CalChamber pointed out.

Additionally, the inherently flawed nature of calculating Scope 3 emissions (those resulting from activities not controlled directly by the reporting entity) means that virtually every reporting entity could be subject to a violation. And, again, reporting entities will look for ways to mitigate the risk associated with the penalty.

"This will only add to the cost of goods and services here in California as that risk mitigation makes its way through the supply chain," the CalChamber warned.

Key Vote

SB 253 passed Senate Judiciary on April 18, 8-1:

Ayes: Allen (D-Santa Monica), Ashby (D-Sacramento), Durazo (D-Los Angeles), Laird (D-Santa Cruz), McGuire (D-Healdsburg), Min (D-Irvine), Umberg (D-Santa Ana), Wiener (D-San Francisco).

Noes: Niello (R-Sacramento).

Not voting: Caballero (D-Salinas), Wilk (R-Santa Clarita).

SB 253 is scheduled to be considered on May 1 by the Senate Appropriations Committee.

Staff Contact: Brady Van Engelen

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Higher Deficit Numbers Expected Next Month

The Senate Democrats' proposal is a response to the budget numbers released in January, when Governor Gavin Newsom estimated the state would face

an estimated \$22.5 billion deficit. Deficit figures are expected to be steeper when the Governor releases his updated budget proposal next month. This is due to a suspected drop in projected tax revenue.

Moreover, the tax extension offered to California taxpayers earlier this year will complicate projections. According to the

Associated Press, Governor Newsom and lawmakers will have to pass a new spending plan before July 1 without knowing how much money the state has.

After the new business tax was announced, a spokesman for the Governor expressed their skepticism about that approach.

Coalition Opposition Stops Warehouse Setback Rules Bill

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1000 went too far, was not the right solution and stripped local governments of their authority.

Ultimately, the bill failed for lack of support: two committee members voted for the bill, one opposed and the remaining members declined to vote.

If AB 1000 had become law, it would

have led to the elimination of high-paying jobs, quashed critically needed housing associated with mixed use developments, increased vehicle miles traveled for heavy duty vehicles coming to and from California ports and incentivized frivolous litigation with the new private right of action in California law.

The bill threatened to disrupt

already-fragile supply chains and would have substantially increased the cost of goods movement, thereby increasing costs of goods for every Californian.

The persistence of the CalChamber coalition has succeeded in stopping the threat to California's economic competitiveness.

Staff Contact: Adam Regele

California Ports Sign Agreement on Data System Development



This week, California's five containerized ports signed a Memorandum of Understanding (MOU) in Sacramento launching the California Port Data Partnership alongside state and federal partners.

The MOU, signed on April 26, outlines an agreement between the five ports — Hueneme, Long Beach, Los Angeles, Oakland and San Diego — to jointly advance computerized and cloud-based data interoperability. The common goal is supporting improved freight system resilience, goods movement efficiency, emissions reduction, and economic competitiveness.

"California's ports are an essential link in the global supply chain. Thanks to the leadership of Governor Newsom and our state Legislature, California is establishing a first-of-its-kind, collaborative data system between all our state's containerized cargo ports," said California Lieutenant Governor Eleni Kounalakis. The historic agreement, she added, "will create a greener, more transparent, and more efficient supply chain — unlocking innovation in how cargo moves in California."

California's five ports and the state held biweekly roundtables to develop the framework for the MOU. The MOU and partnership will serve as the basis of cooperation for the \$27 million in grant funds from the Governor's Office of Business and Economic Development (GO-Biz) for port data system development.

The funds were included in the Budget Act of 2022, which contained an historic multibillion-dollar state investment in California's goods movement and supply chain sectors.

"The MOU is a first-of-its-kind agreement on data system development among containerized ports and outlines eleven areas of cooperation, ranging from developing data definitions to ensuring equitable access to data for users," said Dee Dee Myers, GO-Biz director and senior advisor to Governor Gavin Newsom. "This MOU and the funds that follow will build the basis for greater cooperation and standardization when it comes to data in our supply chain. I want to thank all of our partners across the supply chain as well as our ports for their leadership in this effort."

A [GO-Biz news release](#) highlighted other aspects of the MOU's importance to the five containerized ports and the partnership's opportunity to improve the collective supply chain and further innovation in the freight and goods movement sectors.

CalChamber-Sponsored Seminars/Trade Shows

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Annual Export Conference. National Association of District Export Councils (NADEC). May 9–10, Washington, D.C. aburkett@naita.org.
9th Annual Orange County World Trade Week Forum: Global Trade:

Transitioning, Resilient and Growing. District Export Council of Southern California. May 7, Irvine.
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.



LIVE WEBINAR | MAY 18, 2023 | 10 AM - 11:30 AM PT

Avoiding Meal and Rest Break Traps

California's meal and rest break laws are not only robust, they're also rapidly evolving — making it more challenging than ever to comply with all the rules.

Join CalChamber's employment law experts for a discussion of this important and highly litigated area of wage and hour law.



Preferred Members and above receive their 20% member discount.

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