

# ALERT

## CalChamber Asks Governor to Veto Job Killer Bills



The California Chamber of Commerce is asking Governor Gavin Newsom to veto the six job killer bills sent to him by the Legislature this month.

The bills include proposals that expose employers — including small businesses — to costly litigation and one that in effect forces employers to pay for strikes at unrelated companies.

- **AB 524 (Wicks; D-Oakland)**

### Expansion of Litigation Under FEHA.

Exposes employers to costly litigation under the Fair Employment and Housing Act by allowing an employee to assert that any adverse employment action was in relation to a new and broadly defined “family caregiver” status, which includes any employee who provides direct care to any person of their choosing, and creates a *de facto* accommodation requirement that will burden small businesses.

- **AB 647 (Holden; D-Pasadena)**

**Grocery Workers.** Significantly expands statute related to successor grocery employers, including disrupting ability for independent small stores to join together and creating a significant new private right of action.

- **SB 365 (Wiener; D-San Francisco)**

**Undermines Arbitration.** Discriminates against use of arbitration agreements by allowing trial courts to continue trial proceedings during any appeal regarding

the denial of a motion to compel, undermining arbitration and increasing court, party time and resources spent on cases that ultimately are sent to arbitration.

- **SB 616 (Gonzalez; D-Long Beach)**

**Costly Sick Leave Expansion on All Employers.** Imposes new costs and leave requirements on employers of all sizes by increasing existing sick leave mandate, which is in addition to all other enacted leave mandates that small employers throughout the state are already struggling with to implement and comply.

- **SB 627 (Smallwood-Cuevas; D-Los Angeles)** **Onerous Return to Work Mandate.** Imposes an onerous and stringent process to hire employees based on seniority alone for public-facing and health care businesses, including hospitals, retail, restaurants and movie theaters, which will delay hiring and eliminates contracts for at-will employment.

- **SB 799 (Portantino; D-Burbank)**

**Increased Unemployment Insurance Taxes to Subsidize Striking Workers.** SB 799 will allow striking workers to claim UI benefits when they choose to strike. Because the UI Fund is paid for entirely by employers, SB 799 will effectively add more debt onto California employers. Moreover, SB 799 will effectively force employers to subsidize strikes at completely unrelated businesses because the UI Fund’s debt adds taxes for all employers, regardless of whether they’ve had a strike.

## Governor Signs CalChamber-Supported Bills



## SUPPORT

by Governor Gavin Newsom.

**AB 30 (Ward; D-San Diego; Chapter 134, Statutes of 2023)** supports improved reservoir operations by integrating forecast-informed reservoir operations into water supply operations to better store water during storms and to reduce flood risk.

The bill expands the state Department of Water Resources (DWR) atmospheric rivers program (created by 2015 legislation) to include forecast-informed reservoir operations and integrate those operations into DWR water supply operations and flood and hazard risk mitigation efforts.

The bill also advances DWR’s atmospheric river forecast capabilities and includes refined climate projections for various environmental conditions. Codifying these components of the atmospheric rivers program will enhance the state’s ability to leverage ongoing funding from federal agencies.

Statewide annual precipitation in California is highly variable as up to 50% of total annual rainfall and 90% of flood impacts are caused by atmospheric river

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## Labor Law Corner

# Exempt Employees Can Be Required to Work Specific Hours



**Sharon Novak**  
Employment Law  
Expert

*Our company's business hours are from 8 a.m. to 5 p.m., Monday through Friday. The payroll manager, who is classified as an exempt employee, often arrives at work around 10 a.m. and regularly leaves the office before we close. When this has been discussed with her, she tells us she is exempt and can set her own hours. Is that true?*

No, your payroll manager's status as an exempt employee does not entitle her to set her own hours and to declare that

she may come and go as she pleases. As her employer, you may establish a work schedule for her and require her to abide by it.

### Exempt/Nonexempt Employees

Both California and federal law require that employees be paid overtime when they work hours beyond their regular schedules. California law also requires employers to provide meal and rest breaks to nonexempt employees.

To be considered exempt from the overtime pay requirements, employees must meet specific salary and duties tests. The most common "white-collar exemptions" generally refer to an executive, administrative or professional employee. Certain salespeople and computer professionals also may be classified as exempt in California.

Properly classified exempt employees don't receive overtime pay and aren't obligated to take meal or rest breaks on a set schedule. Exempt employees often are expected to work longer hours, such as nights and weekends. Their employer may allow exempt employees some flexibility because of the higher demands of their jobs.

Exempt status, however, does not mean that exempt employees are free to ignore work requirements and disregard the established business hours of their companies or the work schedules set by their employers.

### Schedules, Hours, Employer Expectations

Classifying workers as exempt does not remove a company's right and discretion to impose structure, rules, and employee schedules in the furtherance of its business interests.

It is reasonable for an employer to align the work hours of its exempt employees with business operations. It is certainly in a company's best interests, for example, that its exempt managers are present and available to supervise and guide the staff they manage during the work hours of those nonexempt staff members.

There are sound business reasons for a company to require exempt employees to work regular schedules. Exempt employees frequently are critical to the day-to-day operations of the business. In addition, they often are looked to as "leaders" within the company and are

*See Exempt Employees: Page 7*

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## CalChamber-Sponsored Seminars/Trade Shows

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

### International Trade

2023 Taiwan Trade Shows. Taiwan

Trade Center, San Francisco. March 6–November 8, Taiwan and Online. (408) 988-5018.

2023 ASEAN Outbound Mission to Thailand. Western U.S. Agricultural Trade Association and U.S. Department of Agriculture Foreign Agricultural Service. October 2–6. [michelle.silva@isda.idaho.gov](mailto:michelle.silva@isda.idaho.gov).

7th U.S.-UK Small and Medium Enterprise (SME) Dialogue. Office of the U.S. Trade Representative, U.S. Department of Commerce, U.S. Small Business Administration with UK Department for Business and Trade. October 5, Indio, CA. [eduard.roytberg@trade.gov](mailto:eduard.roytberg@trade.gov).

Discover the Taste of Future: B2B Agrifood Matchmaking Event. Enterprise Greece and Enterprise Europe

Network Hellas. October 8–10, Cologne, Germany. (415) 775-2102.

2023 Taiwan Innotech Expo. Taiwan External Trade Development Council (TAITRA) and Industrial Technology Research Institute (ITRI). October 12–14, Taiwan. (415) 362-7680.

EXIM 2023 Annual Conference. Export-Import Bank of the U.S. October 19–20, Washington, D.C. (800) 565-3946.

Build Expo Greece. Rota Exhibitions Greece. October 19–22, Athens, Greece. (415) 775-2102.

Canada Hot Sauce Mission and Trade Show. Western U.S. Agricultural Trade Association. October 22–26, Toronto, *See CalChamber-Sponsored: Page 8*

## CalChamber Calendar

*Public Affairs Conference:*  
October 24–25, Laguna Niguel

## *The Workplace*

# California Legislature Passes Bills on Discrimination in Employment, Paid Sick Leave Expansion, Reproductive-Related Bereavement Leave



In Episode 184 of The Workplace podcast, employment law expert Matthew Roberts and Chris Micheli, adjunct professor at

the University of the Pacific, McGeorge School of Law and a partner with Aprea & Micheli, Inc., give an update on important labor and employment-related bills that passed the California Legislature in the final week of the session.

Among the proposals approved were bills on discrimination in the workplace (**SB 403 (Wahab; D-Hayward)**, CalChamber job killer **AB 524 (Wicks; D-Oakland)**, CalChamber-opposed **AB 2188 (Quirk; D-Hayward)** and **SB 700 (Bradford; D-Gardena)**); expansion of paid sick leave (CalChamber job killer **SB 616 (Gonzalez; D-Long Beach)**); and reproductive-related bereavement leave (CalChamber “Oppose Unless Amended” **SB 848 (Rubio; D-Baldwin Park)**).

The CalChamber will be requesting that the Governor veto AB 524, SB 616 and SB 848 because these bills add significant costs and litigation exposure for employers. The Governor has until October 14 to act on the bills passed by the Legislature in the final days of the session.

Below is a condensed summary of the bills discussed in today’s episode. Readers are encouraged to also listen to the podcast to learn about these bills in more detail.

## **SB 403: Discrimination on the Basis of Ancestry**

The first bill Roberts and Micheli discuss is SB 403, a bill that adds “caste” to the list of protected classes under the Fair Employment and Housing Act (FEHA). The bill clarifies that the “ancestry” protected class in FEHA includes caste. The bill also provides legislative findings and declarations to help provide definition and guidance.

This bill seeks to address the issue of caste discrimination, which is particularly prevalent within some communities, particularly those out of Southeast Asia and elsewhere, Micheli explains.

## **AB 524: Discrimination on the Basis of Family Caregiver Status**

The next bill discussed is one designated by the CalChamber as a job killer, AB 524. The bill makes a substantial change to FEHA by adding another protected class called “Family Caregiver Status.”

Specifically, AB 524 exposes employers to litigation under FEHA by asserting that any adverse employment action was in relation to the employee’s “family caregiver status,” which is broadly defined to include any employee who provides direct care to specified family members, but also to any person of their choosing, and the bill would create a *de facto* accommodation requirement.

Adding additional protected classifications to FEHA is always concerning to

those in the employer community because there’s substantial liability under the law. Potential liability is not just damages and attorneys’ fees, but includes punitive damages as well, Micheli points out.

There are two concerning issues about AB 524, he says. First, the definition of “family caregiver status” can apply to any designated person, such as a friend or neighbor.

Second, a family caregiver is defined as someone who provides “direct care to a family member.” But what does “direct care” mean, exactly? The bill doesn’t say, Micheli says.

“My concern is, if you’re going to create this new classification, let’s give great specificity so that there’s no dispute between the employer and the employee as to what constitutes family caregiving,” he stresses.

A problematic aspect of AB 524 that the CalChamber has pointed out from the start is the *de facto* accommodation issue, Roberts says.

Rather than use the term “reasonable accommodation,” which is defined in the FEHA statute and is a commonly understood term in the labor and employment world, AB 524 uses a new undefined term: “special accommodation.” This is problematic because “special accommodation” is not previously used in FEHA, Micheli says.

This may lead the courts to believe that the Legislature meant something other than reasonable accommodation, he says.

*See California Legislature: Page 8*



## 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



## *The Workplace*

# Key Employment Law Bills Awaiting Gubernatorial Action, Part 2



In **Episode 185** of The Workplace podcast, employment law expert Matthew Roberts and Chris Micheli, partner with **Aprea &**

**Micheli, Inc.**, join up again to give a second update on remaining key labor and employment-related bills that await the Governor's pen.

The proposals discussed include a bill setting a workplace violence standard, **SB 553 (Cortese; D-San Jose)**; a WARN Act expansion, **AB 1356 (Haney D-San Francisco)**; a notice requirement to return remote employees to the workplace, **SB 731 (Ashby; D-Sacramento)**; a CalChamber-opposed bill setting an onerous return to work mandate, **SB 723 (Durazo; D-Los Angeles)**; and a CalChamber-opposed bill establishing a 90-day retaliation presumption, **SB 497 (Smallwood-Cuevas; D-Los Angeles)**.

The CalChamber will be requesting that the Governor veto SB 723 and SB 497. The Governor has until October 14 to act on the bills passed by the Legislature in the final days of the session.

Below is a condensed summary of the bills discussed in today's episode. Readers are encouraged to also listen to the podcast to learn about these bills in more detail.

### **SB 553: Workplace Violence Standard**

SB 553 creates a workplace violence statutory scheme, including training and logging of workplace violence incidents.

Micheli explains that the bill was modeled after a workplace violence standard that was very specific to hospitals. The problem with this is that many businesses do not have the level of resources and access to services that hospitals typically have. Efforts by the CalChamber helped to secure significant amendments and removed various infeasible requirements.

What is before the Governor right now is a workplace violence standard

that applies to all employers, and requires employers have several things in place, such as a prevention plan and violent incident log for record keeping. Employers also will be required to provide training to specified employees, including providing appropriate materials to them, Micheli says.

SB 553 has a delayed implementation date and, if signed into law by the Governor, would go into effect on July 1, 2024 for the workplace violence prevention standards and January 1, 2025 for the workplace violence restraining order amendments.

### **SB 723: Return to Work Mandate**

SB 723 is a former job killer bill but is still opposed by the CalChamber. The proposal continues an onerous and stringent recall process for specific employers to return former employees to the workforce for specified industries, including hotels and restaurants, that have been disproportionately impacted by this pandemic by extending the current law past the previously imposed sunset date.

### **SB 731: In-Person Return to Work Notice**

If signed into law, SB 731 requires employers to give remote workers a 30-day notice to return to in-person work, Micheli says. The bill also specifically prohibits the employee from being required to return to work at the jobsite if the employer has not provided a written notice.

Notices must be in written form and sent by mail or email. The notice must also contain specified language.

### **AB 1356: WARN Act Expansion**

AB 1356 originally amended the Worker Adjustment and Retraining Notification (WARN) Act to require employers to provide notification 90 calendar days in advance of planned closings and mass layoffs of employees. Thanks to efforts by the CalChamber, the requirement was reduced to 75 days, Micheli says.

Another problematic aspect of this bill is that it requires that a contract worker who has performed labor with the client

employer for at least 6 of the 12 months and performed at least 60 hours of work be included in the group of workers that would fall under the WARN Act requirements.

The bill also changes the definition of "covered establishment" so that, instead of applying to single locations with 75 or more employees, it now covers any business that employs 75 or more employees between all of their locations.

Roberts recommends that employers looking into future workforce reductions consult with their legal counsel.

"Get [legal] counsel quickly if you're just even thinking about it so that way you can address how your WARN and CalWARN notices are going to look, when you're going to deliver them, and who you're going to deliver them to in an effort to...comply with the law," Roberts says.

### **SB 497: Retaliation Presumption**

The last bill discussed on the podcast is CalChamber-opposed SB 497. The bill implements a 90-day retaliation presumption for certain claims.

Micheli explains that if SB 497 is signed into law, if an employee is engaged in protected activity, such as a harassment or discrimination complaint or they engaged in some sort of whistleblowing, and there is any form of disciplinary action against that individual within 90 days, it's the presumption that the employer retaliated against the employee for engaging in some sort of protected lawful activity.

As a legal presumption, the burden of proof will lie with the employer to prove that any disciplinary conduct or termination was 100% lawfully based, and in no way was based upon the employee's exercise of their lawful protected rights.

"If this comes into play, unfortunately, what we might see is a general uptick in litigation," Micheli says.

Roberts stresses that SB 497 is another reminder for employers to work hard to document their employment decisions, adverse actions, disciplinary actions, and terminations because relying on objective, legitimate business reasons is the gold standard in these laws.

## California Works

# Golden State Water Company: Investing in California Communities and Our Future



*This article is a 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 [California Works](#) to learn more about this series and read past and future profiles.*



**Beth McDonough, director of capital programs,** stands in front of a construction site in Golden State Water's Southwest service area where the company is replacing an aging water main.

Golden State Water Company, a wholly owned subsidiary of American States Water Company, has been thriving for more than 90 years and is one of California's largest investor-owned water utilities, recognized for its role as an economic engine, a great workplace and a company that actively supports the communities it serves.

Water providers play a pivotal role in people's lives. It's no ordinary job to provide safe, reliable water service every day — in homes, businesses, and communities across California. This foundational relationship creates a fabric that connects Golden State Water to the people, families, and businesses that it serves. It's why Golden State Water continuously plans for the infrastructure needs for the next generation.

## Partnerships

To support and spur economic activity in the communities it serves, the

company fosters and grows partnerships with a host of diverse suppliers and small businesses. Golden State Water is committed to expanding its work with diverse business enterprises that will enrich its supply chain.

It is the policy of Golden State Water to encourage and afford opportunities to diverse suppliers, including, but not limited to, Women Business Enterprises, Minority Business Enterprises, and Disabled Veteran Business Enterprises, while simultaneously ensuring the best combination of quality, service and price is provided in accordance with the highest ethical and professional standards.

## Speakers Bureau

Golden State Water also offers a speakers bureau where engineers, hydrogeologists, water quality scientists and water system managers speak to schools, organizations and community groups as a way to connect with communities and to share important and timely information.

Golden State Water speaks on a wide variety of topics ranging from learning about where water comes from to infrastructure investments and water quality.

## Infrastructure Investments

Golden State Water is committed to responsibly maintaining the local water infrastructure to ensure it can continue providing customers with premium water service, so they never have to think twice about the quality of their water and customer service.

This commitment is reflected through the company's investments in infrastructure, aimed at maintaining the high-quality treatment and distribution of water to create sustainable, long-term value for its customers.

Over the last five years, Golden State Water has invested more than half

a billion dollars in water infrastructure projects across 10 counties in Northern, Central and Southern California.

Delivering drinking water from its source to more than 1 million customers in California requires a complex system of approximately 2,800 miles of pipe, 200 groundwater wells, 400 booster pump stations, 25,000 hydrants and four surface-water treatment plants that must be maintained properly.

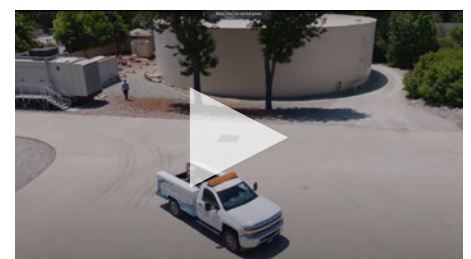
Golden State Water proactively updates its aging water pipes on a replacement schedule of approximately 100 years. Proactive system investments are critical to protect the local water system and avoid the costly and sometimes dangerous effects of deferring maintenance.

## Sustainable Future

In addition to robust maintenance of its systems, Golden State Water is also proud to help address the challenges facing the state. Customers have cooperatively embraced calls for a sustainable future and chosen to cut their water usage per customer by 36.5%.

Golden State Water is proud that together with its customers, the company has been effective in meeting or exceeding the state water conservation objectives, and in many cases, achieving greater water conservation results than other adjacent water purveyors.

## Investments in Water Infrastructure



# San Francisco to Host Asia-Pacific CEOs Alongside Leaders' Meeting in November



The Asia Pacific Economic Cooperation (APEC) CEO Summit will take place in San Francisco, November 15–17, overlapping with the Leaders' Summit.

The CEO Summit will bring approximately 1,200 CEOs, thought leaders, and other stakeholders together with political leaders from the Asia-Pacific for two days of robust dialogue and engagement on global opportunities and challenges that are shaping economic, environmental, and societal trends in the region, including sustainable energy transition, inclusive growth, resilient systems and societies, and the promise of innovation in building a better future world.

The CEO Summit represents the most important gathering of Asia-Pacific business leaders each year and will include amongst its attendees CEOs of multinational corporations and leading companies in the Indo-Pacific, as well as leading figures from media outlets in the region. Confirmed private sector speakers include CEOs of Visa, Mastercard, Pfizer, PwC, FedEx, ExxonMobil, and more.

More information on the CEO Summit can be found at [APEC CEO Summit 2023](#).

To request an invitation to the CEO Summit, please [click here](#).

## 2023 Leaders' Meeting

The CEO Summit will take place alongside the Leaders' Meeting, which is expected to draw approximately 1,000 media representatives, and nearly 30,000 delegates from across APEC's member economies.

The November APEC meeting will be

the largest convening of world leaders in San Francisco since the United Nations Charter was signed in 1945 during the UN Conference on International Organization. President Joe Biden and Vice President Kamala Harris will be in attendance alongside leaders from around the Asia-Pacific region, including President of China Xi Jinping.

The APEC 2023 theme is "Creating a Resilient and Sustainable Future for All," which the forum plans to achieve through three drivers of economic growth: trade and investment; innovation and digitalization; and strong, balanced, secure, sustainable, and inclusive growth.

For more information about the APEC 2023 Leaders' Week, visit [www.APEC2023SF.org](http://www.APEC2023SF.org).

## APEC Facts

Formed in 1989, APEC serves as a multilateral forum in which Asian and Pacific economies can solve economic problems and cooperate in developing key economic sectors. The APEC economies are: Australia, Brunei Darussalam, Canada, Chile, People's Republic of China, Hong Kong, Indonesia, Japan, Republic of Korea, Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, Republic of the Philippines, Russia, Singapore, Chinese Taipei, Thailand, United States and Vietnam.

The 21 APEC economies represent approximately 60% of world gross domestic product (GDP), nearly 50% of world trade and 40% of the global population.

APEC commitments to promoting regional economic integration and trade, making trade and business easier across borders, supply chain connectivity, energy efficiency and renewables, and making sure growth is inclusive for everyone have seen great benefits for the region thus far as regional trade has increased multifold, with tariffs falling dramatically.

According to APEC, growth has

soared in the region with real GDP and per capita income increasing, lifting millions out of poverty and creating a flourishing middle class.

## California-APEC Trade

In 2022, California exported \$129.89 billion to APEC, 10.4% of the national total. Of total California exports to APEC, 22.8% consisted of computer and electronics (\$29.66 billion). Other top exports included non-electrical machinery, transportation equipment, processed foods and chemicals. California imported \$406.13 billion from APEC in 2022, 30.8% of which was made up of computers and electronic products.

Other top imports included transportation equipment, electrical equipment, miscellaneous manufactured goods, and non-electrical machinery. In 2022, California was the top importing state from APEC and the second largest exporting state to the region.

## CalChamber Position

The CalChamber, in keeping with longstanding policy, enthusiastically supports free trade worldwide, 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. New multilateral, sectoral and regional trade agreements ensure that the United States may continue to gain access to world markets, resulting in an improved economy and additional employment of Americans.

The APEC is important as a vehicle for all Asia-Pacific economic integration.

This regional group sets a high standard that will enhance the competitiveness of the countries that are part of it and help facilitate trade and promote investment among them, increasing their economic growth and development.

**Staff Contact: Susanne T. Stirling**



## Governor Vetoes CalChamber-Opposed Autonomous Vehicles Bill



### OPPOSE

**AB 316 (Aguiar-Curry; D-Winters)** would have codified an arbitrary date by which heavy duty autonomous vehicles must keep a human safety operator within the vehicle, bypassing the state's current regulatory process.

In his September 22 veto message, the Governor said AB 316 is unnecessary because existing law provides sufficient authority to create the appropriate regulatory framework.

In 2012, the Legislature provided the state Department of Motor Vehicles

Governor Gavin Newsom has vetoed a California Chamber of Commerce-opposed bill relating to autonomous trucks.

**AB 316 (Aguiar-Curry; D-Winters)**

(DMV) with the authority to regulate the testing and deployment of autonomous vehicles on California public roads.

The DMV consults with the California Highway Patrol and the National Highway Traffic Safety Administration (NHTSA) and others to determine what regulations are needed for autonomous vehicles to operate safely on public roads. DMV has the authority to suspend or revoke autonomous vehicle operating permits as needed to protect public safety.

DMV held public workshops earlier this year with interested stakeholders as a prelude to developing rules for light duty and heavy duty autonomous vehicles.

The Governor's message noted that autonomous vehicle technology is evolving and that the DMV remains committed to keeping state rules up-to-date to reflect the continued development of the technology in California.

The CalChamber has commented that AB 316 would not add safety to California roadways. According to the NHTSA, 1 in 3 long-haul truck drivers will experience a serious crash in their careers. Many such incidents are due to personal issues/decisions, such as drunk driving, texting while driving, or falling asleep at the wheel. None of those factors are issues for autonomous vehicles.

In other states, autonomous trucks have been operating safely.

The Governor's veto of AB 316 allows the stakeholder-focused, public DMV rulemaking process to continue, giving participants the opportunity to discuss key questions, including how to integrate heavy duty autonomous vehicles into the California economy without disrupting the current job market in the trucking industry.

**Staff Contact: Brady Van Engelen**

## Exempt Employees Can Be Required to Work Specific Hours

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expected to set examples for nonexempt employees.

An exempt manager's view that she is not required to adhere to the regular work schedule of the company is likely to result in resentment and lowered morale.

### Unpredictable Attendance May Be Disciplinary Issue

It is critical for a company to recognize that the payroll manager here, who believes she is entitled by her status to set her own work hours, presents them with a

*discipline issue. It is not a pay deduction issue.*

The fact that her self-imposed light schedule results in her working fewer than 40 hours in a week or less than eight hours in a day is not relevant. She is entitled to be paid her regular salary as an exempt employee.

An employer should never link an exempt employee's salary to the number of hours the employee works in a week. By dealing with attitude and attendance issues as a pay issue, the company jeopardizes the employee's exempt status and risks trans-

forming her into a nonexempt employee.

Because unpredictable, unreliable attendance is not a feature of an exempt employee's status, this employer can discipline the payroll manager for missing work.

*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](http://www.hrcalifornia.com).*

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## California Legislature Passes Bills on Discrimination in Employment, Paid Sick Leave Expansion, Reproductive-Related Bereavement Leave

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### **AB 2188, SB 700: Discrimination on the Basis of Use of Cannabis**

AB 2188 was enacted in 2022 and will take effect on January 1, 2024. This new law makes it unlawful for an employer to discriminate against anyone in hiring, firing or disciplining for their use of cannabis off the job and away from the workplace, Micheli explains.

While employers may still require a pre-employment drug screening and drug testing at the worksite, starting on January 1, 2024, employers may only test for active impairment, Roberts says.

Similar to AB 2188, SB 700 also tackles the issue of cannabis-use discrimination. SB 700 was passed by the Legislature and awaits the Governor's final decision.

If the bill becomes law, it will be

unlawful for an employer to ask a job applicant about their history of cannabis use.

### **SB 616: Expansion of Paid Sick Leave**

Another CalChamber job killer bill awaiting the Governor's pen is SB 616. This bill imposes new costs and leave requirements on employers of all sizes, by increasing California's existing sick leave mandate.

The bill originally proposed to increase the minimum mandated paid sick leave days from three days to seven, but this requirement has been amended to five paid sick leave days.

Unfortunately, Micheli says, SB 616 has no guardrails. The law is enforceable under the Private Attorneys General Act (PAGA), and the bill prohibits employers from asking for documentation for the leave.

### **SB 848: Reproductive-Related Bereavement Leave**

The last bill discussed on the podcast is SB 848, which requires employers in California to provide five days of reproductive-related bereavement leave for specified reasons such as fertility, adoption, surrogacy, etc.

Roberts explains that this type of bereavement leave functions just like bereavement leave—employees get five days for each qualifying event and employees have three months to use those five days.

Unlike bereavement leave, however, this reproductive-related bereavement leave does not permit employers to ask for documentation.

Micheli says that legislators did not want to impose a documentation burden on those claiming leave to prove their inability to conceive or to prove the loss of a child.

## CalChamber-Sponsored Seminars/Trade Shows

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Canada. [export@wusata.org](mailto:export@wusata.org).  
Smart City Expo World Congress (SCEWC). Smart City Expo World Congress. November 7–9, Barcelona, Spain. (704) 248-6875.  
Cambodia Business Expo. Cambodian Chamber in California. November 9, Long Beach. [normarikawa@gmail.com](mailto:normarikawa@gmail.com).  
MEDICA CEO Program. Governor's Office of Business and Economic Development (GO-Biz). November 13–16, Düsseldorf. [patricia.utterback@gobiz.ca.gov](mailto:patricia.utterback@gobiz.ca.gov).

APEC CEO Summit 2023. National Center for APEC (Asia-Pacific Economic Cooperation). November 15–16, San Francisco. (206) 441-9022.  
2023 Cosmoprof Asia. GO-Biz. November 15–17, Hong Kong. (916) 447-7946.  
Arab Health. GO-Biz. January 9–February 1, 2024. [patricia.utterback@gobiz.ca.gov](mailto:patricia.utterback@gobiz.ca.gov).  
California Pavilion at the Singapore Airshow. GO-Biz. February 20–25, 2024, Singapore. (916) 447-7946.  
Hannover Messe: California Pavilion.

GO-Biz. April 22–26, 2024, Hannover, Germany. [patricia.utterback@gobiz.ca.gov](mailto:patricia.utterback@gobiz.ca.gov).  
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Farnborough International Air Show: California Pavilion. GO-Biz. July 18–22, 2024, Farnborough, United Kingdom. [patricia.utterback@gobiz.ca.gov](mailto:patricia.utterback@gobiz.ca.gov).

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## Governor Signs CalChamber-Supported Bills

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storms. Climate models indicate there will be an increase in the variability and magnitude of such storms.

AB 30 broadens the atmospheric rivers program to include research, development and implementation of new observations, prediction models and novel forecasting methods to continue improving the program's prediction capabilities.

To demonstrate how forecast-informed reservoir operations could work, the state invested federal resources at Lake Mendocino. During the 2020 water year, the third driest on record, Lake Mendocino's water supply increased by 20% due to the forecast-informed reservoir operation program.

With improved precipitation and snow-level forecasting, full implementation of the forecast-informed reservoir operations program could allow the conservation of an additional 500,000 acre-feet of water in some years throughout the state, significantly enhancing the

reliability of California's water supply while mitigating flood risk.

The water supply benefits will enhance community drought preparedness and support natural ecosystem management.

Another CalChamber-supported bill awaiting action by the Governor will provide a policy framework to improve the state's water supply reliability. **SB 659 (Ashby; D-Sacramento)** requires the state to plan for creating new groundwater recharge storage by 2028.

### Also Signed

The following CalChamber-supported bills also were signed recently:

- **SB 293 (Grove; R-Bakersfield; Chapter 177, Statutes of 2023) Student Achievement Data.** Requires information from the annual California Assessment of Student Performance and Progress (CAASPP) to be posted online annually by a specified date. The results of the CAASPP are important for teachers, academics, researchers and other groups to try to understand the state's

academic pipeline. Ensuring the data is available in a timely manner will help all stakeholders to analyze and improve California's educational system.

- **AB 857 (Ortega; D-San Leandro; Chapter 167, Statutes of 2023) Vocational Training information for Inmates.**

Requires the Department of Corrections and Rehabilitation, upon the release of an individual from prison, to provide a form to sign up for the vocational rehabilitation and independent living services provided by the Department of Rehabilitation (DOR). The bill also expands the scope of vocational rehabilitation services offered by DOR to include services provided to former inmates with disabilities. AB 857 will help bolster California's workforce while improving opportunities for former inmates as they attempt to re-enter the workforce.

The signed bills will take effect on January 1, 2024.

**Staff Contacts: Brenda Bass, Robert Moutrie**



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