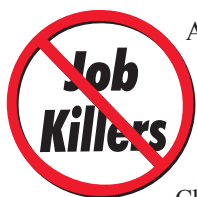


# ALERT

## UI Proposal Repeat Named First Job Killer of 2024



A bill that seeks to provide striking workers with unemployment insurance (UI) benefits has been tagged a **job killer** by the California Chamber of Commerce.

**SB 1116 (Portantino; D-Burbank)** will allow striking workers to claim UI benefits when they choose to strike. Because the UI Fund is paid for entirely by employers, SB 1116 will effectively add more debt onto California employers. Moreover, SB 1116 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.

### Overturns Precedent

By forcing employers to pay UI benefits to striking workers, SB 1116 would overturn more than 70 years of precedent and put California's UI program at risk of violating federal law.

This bill is a repeat of last year's **SB 799 (Portantino; D-Burbank)**, which was tagged as a job killer and was **vetoed** by Governor Gavin Newsom because of the debt it would add to California's UI Fund. This concern is even more pressing given this year's budget troubles.

SB 1116 would give striking workers the ability to claim unemployment after two weeks of striking—and thereby add the cost of those benefits to California's outstanding \$20 billion in federal loans.

### Historic UI Fund Debt

The California UI Fund is in historic debt—approximately \$20 billion—due to the COVID-19 pandemic and subsequent statewide shutdown. As a result, California employers already are paying increased UI taxes pursuant to federal law and are likely to face ongoing tax increases until approximately 2032.

In addition to adding to employers' tax burdens, SB 1116 will also add to the state's General Fund obligation regarding the UI Fund.

For example, in 2023–2024, the interest payment is expected to cost the state approximately \$300 million—and similar payments will continue until the UI Fund returns to solvency. In the proposed 2024–2025 budget, it is estimated to rise to \$331 million.

SB 1116 risks compounding UI's insolvency, which will weigh heavily on the State, California's employers, and California's unemployed.

**Staff Contact: Robert Moutrie**

## CalChamber Board Opposes ACA 1, New Gubernatorial Recall Effort



### OPPOSE

At their quarterly meeting last week, the California Chamber of Commerce Board of Directors voted to **oppose** both ACA 1 and a recently announced effort to recall Governor Gavin Newsom.

### ACA 1

The CalChamber Board voted on March 8 to oppose **ACA 1 (Aguiar-Curry; D-Winters)** because the measure makes it easier for local governments to increase various taxes, including sales taxes and property taxes. The measure would lower the supermajority vote requirement from a two-thirds vote (66.67%) to 55%.

The California Legislature passed ACA 1 during the 2023 legislative session, making the constitutional amendment eligible for the November 2024 ballot.

The CalChamber Board voted to oppose ACA 1 because it creates a significant exception to Proposition 13. If passed, it would open the door for property tax increases as well as local government special taxes, making California less affordable for working families and renters.

*See CalChamber Board: Page 7*

## CalChamber Women's Leadership Council Kicks Off Effort to Support Women Leaders



CALCHAMBER  
**Women's  
Leadership  
Council**

On International Women's Day, March 8, the California Chamber of Commerce launched the Women's Leadership Council (WLC), a subcommittee of the CalChamber Board of Directors.

*See CalChamber Launches: Page 3*

### Inside

**Digital Trade Opportunities in Latin America: See Page 5**

## Labor Law Corner

# Doctor's Note Not Always Automatic Excuse for Absences



**Ellen S. Savage**  
Employment Law  
Expert

*My employee has used up all her protected sick leave, but still calls out sick regularly and always returns with a doctor's note. Can we discipline her for missing too much work, or does the fact that she brings in a doctor's note mean we can't do anything?*

Despite what many employees believe, a doctor's note is not automatically a "Get Out of Jail Free" card when it comes to their job.

When an employee presents you with a doctor's note after an absence, you will need to determine whether the absence should be legally protected, such as under the disability accommodation or family leave laws, or whether the absences simply are unprotected sick days, such as for a cold or a medical appointment for a minor ailment.

### Consider Reason for Absence

When determining whether discipline is appropriate, the employer must first consider whether the employee's absence qualifies as either:

- a "serious health condition" protected under the federal Family and Medical Leave Act (FMLA) and/or the California Family Rights Act (CFRA); or
- a "disability" protected under the Americans with Disabilities Act (ADA) and/or California's Fair Employment and Housing Act (FEHA).

In making that determination, the employer should not only look to the information provided in the doctor's note, but also other information the employee may have provided to their supervisor, manager or human resources.

For example, an employee's note may simply say something like "Suzy was seen in our office on March 15, 2024," but Suzy told her supervisor she went to the doctor to seek treatment for her seizure disorder.

Because a seizure disorder can be

both a disability and a serious health condition protected under all four laws mentioned above, the employer is now on notice that it should consider which of these legal protections might apply.

### Employer Responsibility

It's important to remember that an employee does not specifically have to ask for "family leave" or walk into the human resources office saying, "I need a reasonable accommodation for my disability." The law essentially presumes that employees are not experts in these laws and focuses instead on whether the employer knew or should have known that the employee had a disability or serious health condition entitling them to legal protections.

If the employer knows (or should have known), then the responsibility falls to the employer to:

- engage in an interactive process to determine whether a disability can be reasonably accommodated, such as by excusing the absences related to the disability; or
- advise the employee that the time off may be designated as protected FMLA/CFRA.

### Medical Certification

Under either circumstance, the employer will be entitled to further medical certification beyond a simple note that

*See Doctor's Note: Page 3*

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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](mailto:alert@calchamber.com). Publisher: Jennifer Barrera. Executive Editor: Ann Amioka. Art Director: Neil Ishikawa. Capitol Correspondent: Sara Proffitt.*

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## CalChamber-Sponsored Seminars/Trade Shows

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

### Labor and Employment

Under the Influence: Drugs and Alcohol at Work. CalChamber. March 21, Online. (800) 331-8877.

HR Boot Camp. CalChamber. March 28–29, Online. (800) 331-8877.

Leaves of Absence. CalChamber. April 11–12, May 30–31, Online. (800) 331-8877.

### International Trade

Journey to Panama. San Diego Diplomacy Council. April 1–5, Panama. (619) 291-8105.

The Madrid Energy Conference 2024. Institute of the Americas and IPD

Latin America. April 9–11, Madrid, Spain. (858) 453-5560.

Partnering for Prosperity: Canada-U.S. Economic Security. Consulate General of Canada, San Francisco, and CalChamber. April 17, Sacramento. [xochitl.bartolome@calchamber.com](mailto:xochitl.bartolome@calchamber.com).

California Pavilion at Hannover Messe. Governor's Office of Business and Economic Development (GO-Biz). April 22–26, Hannover, Germany. [patricia.utterback@gobiz.ca.gov](mailto:patricia.utterback@gobiz.ca.gov).

World Trade Week Southern California. Los Angeles Area Chamber of Commerce. May 1, Long Beach. [cluna@lachamber.com](mailto:cluna@lachamber.com)

## CalChamber Launches Women's Leadership Council

*From Page 1*

Among other activities, the WLC will work to enhance the profile and contributions of California women business leaders and establish strong ties between them and elected officials, government appointees and other key decision makers in state government.

The WLC is chaired by Donna L. Lucas, CEO and founder of Lucas Public Affairs. The vice chair is Raji K. Brar, chief operating officer and co-owner of Countryside Corporation.

Serving as council advisor is Cassandra Pye, president, Lucas Public Affairs.

"I'm both proud of and excited for this new subcommittee of the CalChamber Board," said Lucas. "It recognizes that women leaders in the public and private sector continue to grow their influence and, together, we are making tremendous contributions that benefit California's economy."

### Council

Council members include:

- Jill C. Anderson, executive vice president and chief operating officer, Southern California Edison;
- Ted J. Balestreri, chairman and CEO, Cannery Row Company;
- Daniel Brill, president, Anheuser-Busch Sales and Distribution Company;
- Maryam S. Brown, president, Southern California Gas Company;
- Jason Carlson, chief operating officer, Green Diamond Resource Company;
- Susan Corrales-Diaz, president and CEO, Systems Integrated;
- Anne Descalzo, co-founder, Clutch;
- Sandra Floyd, president and CEO, OUTSOURCE Consulting Services, Inc.;
- Jennifer M. Haley, president and CEO, Kern Energy;
- Taylor Hathaway-Zepeda, partner,



Attendees at the first meeting of the Women's Leadership Council on March 7 include: (Front row, from left) Cassandra Pye, Rashmi Menon, Julie Kreger King, Donna Lucas, Raji Brar, Sima Patel, Jessica Word, Ariel Roblin, Fiona Hutton, Monica Lal. (Back row, from left) Kerry Tullis Hattevik, Jason Carlson, Denise Davis, Kevin Tilden, Jennifer Barrera, Jennifer Haley, Sandra Floyd, Susan Corrales-Diaz, Jill Anderson, Kailesh Karavadra, Diane Miller.

Gibson, Dunn & Crutcher LLP;

- Kerry Tullis Hattevik, vice president, development, NextEra Energy Resources LLC;
- Christopher S. Holben, president, Runyon Saltzman Inc.;
- Fiona Hutton, founder and CEO, Fiona Hutton & Associates;
- Kailesh Karavadra, partner, Ernst & Young LLP;
- Julie Kreger King, Greater Northern California operations leader, Antea Group;
- Monica Lal, president and CEO, Monterey Peninsula Chamber of Commerce;
- Rashmi Menon, vice president and general manager, Burns & McDonnell Engineering Co., Inc.;
- Diane D. Miller, president and CEO, Wilcox, Miller & Nelson;

- Sima Patel, CEO, Ridgmont Hospitality;
- Ariel Roblin, president and general manager, KCRA-TV;
- Kevin Tilden, president, California American Water;
- Jessica Word, CEO, Word & Brown General Agency;
- Michelle Wroan, office managing partner, KPMG LLP.

CalChamber staff members on the council are Jennifer Barrera, president and CEO; Denise Davis, executive vice president, communications; and Nick Ortiz, vice president, small business advocacy.

For more information about the WLC, its members and related news, visit the WLC page on the CalChamber website at [www.calchamber.com/wlc](http://www.calchamber.com/wlc).

## Doctor's Note Not Always Automatic Excuse for Absences

*From Page 2*

the employee was seen by the doctor on a particular date.

The certification will need to substantiate that the employee has a disability or serious health condition, and provide certain additional information depending on which law applies. Sample certifications are available on [HRCalifornia.com](http://HRCalifornia.com).

Note that there are different employer size thresholds that must be met for these

laws to apply to a business, and that the FMLA and CFRA require that the employee have one year of service and have worked at least 1,250 hours in the past year to be eligible for protected time off.

Keep in mind that there are a few other situations where a doctor's note may provide legal protection from discipline, such as pregnancy disability leave, organ or bone marrow donation leave, or

time off for medical treatment related to a crime or domestic abuse.

*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).*



## Campaign Strategists Share Primary Election Insights with CalChamber



At the CalChamber Board of Directors dinner on March 7, immediate past chair Greg Bielli of Tejon Ranch moderates as Rob Stutzman of Stutzman Public Affairs and Juan Rodriguez of Bear Strategies exchange comments and quips about the national and state political scene. The lively, entertaining discussion touched on topics such as voter attitudes toward the top-of-the-ticket rematch of the 2020 presidential candidates; party loyalties and whether there is a multi-cycle realignment of the political parties; the possibility of a viable third party or durable majority coalition emerging; how having multiple sources of information affects voters' decision making; the California candidates for U.S. Senate; and notable state legislative races.

## CalChamber Women Leaders Pause for Women's Day Photo



Taking a moment to gather for an International Women's Day photo on March 8 outside the CalChamber Board of Directors meeting are (*Seated, from left*) Sandra O. Floyd, OUTSOURCE Consulting Services, Inc.; Sima Patel, Ridgmont Hospitality; Jennifer Barrera, CalChamber; Donna L. Lucas, Lucas Public Affairs; Jessica Word, Word & Brown General Agency. (*Standing, from left*) Janet W. Lamkin, United Airlines; Taylor Hathaway-Zepeda, Gibson, Dunn & Crutcher; Diane D. Miller, Wilcox, Miller & Nelson; Julie Kreger King, Antea Group; Michelle Wroan, KPMG LLP; Margaret Wong, McWong International, Inc.; Fiona Hutton, Fiona Hutton & Associates; Raji K. Brar, Countryside Corporation; Grace Evans Cherashore, Evans Hotels; Susan Corrales-Diaz, Systems Integrated; Jill C. Anderson, Southern California Edison; Rashmi Menon, Burns & McDonnell Engineering Co., Inc.; Anne Descalzo, Clutch; Monica Lal, Monterey Peninsula Chamber of Commerce; Ariel Roblin, KCRA-TV.

# Digital Trade Offers Growth Opportunities for US, State Firms in Latin America



Shane Christensen



Richard Kiy



Shane Christensen (left), diplomatic fellow, Institute of the Americas; Sima Patel, chair, CalChamber Council for International Trade and CEO of Ridgemont Hospitality; and Richard Kiy, president and CEO, Institute of the Americas.



Growth in digital trade represents a great opportunity for U.S. and California companies to expand ties with

Latin America in general and Brazil in particular, according to speakers at a recent international breakfast meeting of the California Chamber of Commerce Council for International Trade (CCIT).

The speakers at the CCIT gathering on March 8 were Richard Kiy, president and CEO, and Shane Christensen, diplomatic fellow, both from the Institute of the Americas.

For 40 years, the [Institute of the Americas](#) — located on the University of California, San Diego campus in La Jolla — has promoted sound public policy and fostered cooperation between public and private sector stakeholders across the hemisphere.

Kiy commented that growth in digital trade doesn't get as much attention as goods, yet services accounted for more than 33% of U.S. exports in 2020. Digital trade-related exports — information and communications technology (ICT) — made up close to 60% of the services exports, according to information compiled by the [Harvard Growth Lab](#).

## Digital Trade Leaders

Latin America leaders in digital trade services, Kiy pointed out, are Brazil, Argentina and Costa Rica.

ICT services exports in 2020 accounted for 23.7% of total Costa Rican exports (\$6.8 billion), 7.14% of total exports from Argentina (\$7.1 billion), and 6.5% of total Brazilian exports (\$21.9 billion), he said.

By comparison, he commented, Mexico's total exports of ICT services was only \$0.78 billion in 2020, which represented 0.15% of total exports.

Kiy presented a color-coded slide showing that leading California ICT service companies have a presence in Latin America so they can develop digital products and solutions for local and regional markets, as well as export to international markets, including the United States.

Because of the gap between the number of U.S. college graduates with computer science skills and industry needs, companies are turning to other countries to fill those jobs. Workforce sources, he said, include India, Eastern Europe and Latin America.

## 'Nearshoring'

One factor driving investment in Latin America, Kiy explained, is "near-

shoring," the desire of U.S. companies to move some manufacturing closer to home.

Mexico is the preferred nearshoring choice because of its proximity to the U.S. market, the U.S.-Mexico-Canada Agreement and established supply chains across North America.

Concerns about Mexico, including its underinvestment in energy infrastructure and water scarcity, are causing companies to consider other countries in Latin America, such as Brazil and Colombia, Kiy said.

## Brazil

Christensen, who is the former U.S. Consul General for Porto Alegre with responsibilities for diplomatic relations with two southern Brazilian states (Rio Grande do Sul and Santa Catarina) from 2020 to 2023, described emerging opportunities in Brazil, the second largest democracy and second biggest economy in the hemisphere.

The value of total exports and imports between Brazil and China is greater than the exchange between Brazil and the United States. China's imports from Brazil are concentrated in "core commodities," such as soy, protein and agricultural products, that ultimately do little to

*See Digital Trade: Page 7*



## CalChamber Board Gets Briefing on Factors Affecting Insurance Rates



Sean Kevelighan, president and CEO of the [Insurance Information Institute](#), presents the CalChamber Board of Directors an overview of the many factors behind the “risk crisis” affecting the rise in insurance rates that has fueled consumer and media attention in recent years. Commenting that insurers don’t make money on the premiums charged but on investment returns from the huge amount of capital they must keep on hand to pay claims, he notes that it will take many years to rebuild the capital used to pay the rise in claims filed following the California wildfires in 2017 and 2018. He says elements in resolving the current crisis for the highly regulated property-casualty insurance industry include Proposition 103, an insurance rate regulation initiative passed by California voters in 1988; and a communal approach to managing risk and building resilience into community infrastructure.

## Consultant Recaps Current ESG Trends at CalChamber Board Meeting



Miriam S. Wrobel, senior managing director leading the global Environmental, Social and Governance (ESG) practice for [FTI Consulting](#), gives the CalChamber Board of Directors an overview of politics, litigation and best practices related to ESG at the board’s March 8 meeting. European regulation is driving much of FTI’s work, she says, particularly helping non-European Union companies get ready for upcoming reporting requirements. A major challenge, says Wrobel, is that companies have not been collecting and managing nonfinancial data in the same way as financial data, so pulling together all the required information from different segments of the company can be a “massive lift.” For some companies, the pending reporting requirements may necessitate a shift of resources away from action initiatives to data management to establish a baseline.

## Digital Trade Offers Growth Opportunities in Latin America

*From Page 5*

help Brazil develop its economy, Christensen explained.

The United States, however, is the largest destination for Brazilian value-added goods and services, which are important drivers of economic growth and jobs, he said. Moreover, the United States is the biggest source of foreign direct investment in Brazil.

Brazil's economic priorities, as outlined in the policies of President Luiz Inácio Lula da Silva, will generate new opportunities for California companies, which are national leaders in many areas Brazilian policy emphasizes, Christensen commented.

Among the six priority areas identified in President Lula's industrial policy in January were the digital transformation of the economy, and the bioeconomy,

including decarbonization and energy security.

California, Christensen said, can be an important partner with Brazil in areas such as technology, investment, capacity building, and an exchange of best practices and expertise.

Brazil has a thriving entrepreneurial ecosystem, including innovation hubs, such as São Paulo, Christensen commented. He also pointed out that:

- The country is a world leader in renewables — more than 80% of Brazil's electricity grid is supplied by renewables. Brazil is looking for private sector engagement to propel its clean energy transition, not only in solar and wind, but also clean hydrogen and sustainable aviation fuel.

- Opportunities exist to cooperate with the United States to increase the supply of

critical minerals in support of the energy transition; Brazil is a source for 17 of the U.S.-designated critical minerals.

- The United States and Brazil recently launched a clean hydrogen action committee as part of the U.S.-Brazil clean energy industry dialogue. There are efforts to expand bilateral cooperation in this area.

- The California Governor's Office of Business and Economic Development (GO-Biz) has organized a hydrogen development effort and is bringing together market participants.

- E-mobility also provides opportunities for collaboration due to California and Brazil having a shared interest in reducing greenhouse gas emissions. Deployment of electric vehicles and battery technology is one area to explore.

**Staff Contact: Susanne T. Stirling**

## CalChamber Board Opposes ACA 1, New Gubernatorial Recall Effort

*From Page 1*

Increasing property taxes would add significantly to the cost of owning or leasing business property. A March 2022 Public Policy Institute of California poll found that 62% of Californians believe state and local taxes are too high. By paving the way for higher housing costs

and consumer costs, this measure would harm those it seeks to help.

The author of ACA 1 has introduced a bill to potentially amend the measure before it goes to the voters.

### Recall Effort

The CalChamber Board of Direc-

tors also voted to oppose the recently announced effort to recall Governor Newsom. The basis for opposition was rooted in the timing of the effort, the cost to Californians and misuse of the recall process.



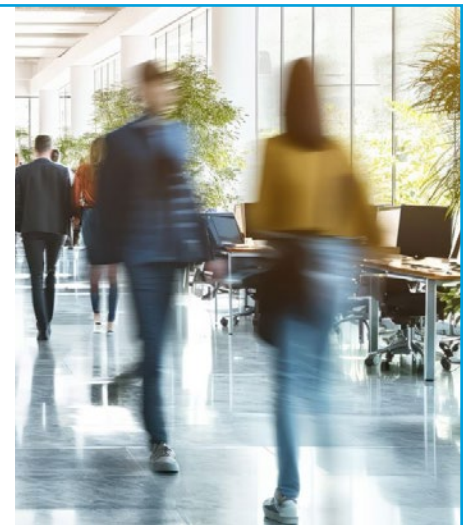
**WEBINAR | MARCH 21, 2024 | 10 AM - 11:30 AM PT**

### Under the Influence: Drugs and Alcohol at Work

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