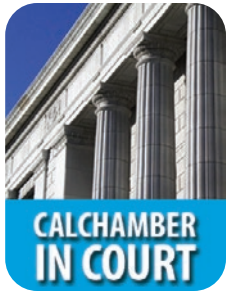


ALERT

Chamber Challenges Law Chilling Employer Speech



employer speech on a broad range of matters, known as **SB 399 (Wahab; D-Hayward)**.

“Throughout legislative deliberations, we repeatedly underscored the fact that SB 399 was a huge overreach,” said CalChamber President and CEO Jennifer Barrera. “SB 399 is clearly viewpoint-based discrimination, which runs afoul of the First Amendment. In addition, SB 399 is preempted by the NLRA.”

According to the complaint for declaratory and injunctive relief filed on December 31, 2024 with the U.S. Eastern District Court in California, SB 399 violates the First and Fourteenth Amendments to the U.S. Constitution by discriminating against employers’ viewpoints on political matters, regulating the content of employers’ communications with their employees, and by chilling and prohibiting employer speech.

SB 399 also is preempted by the National Labor Relations Act (NLRA).

“Employers have the right to express their views and opinions on many

The California Chamber of Commerce and the California Restaurant Association (CRA) are urging a federal court to stop the implementation of a new California law that chills

issues,” said CRA President and CEO Jot Condie. “SB 399 creates restrictions that are unworkable and the unintended consequences of this new law outweigh any perceived benefit.”

SB 399

SB 399 was signed into law last September and went into effect on January 1, 2025. Specifically, the law provides that: “An employer ... shall not subject, or threaten to subject, an employee to discharge, discrimination, retaliation, or any other adverse action because the employee declines to attend an employer-sponsored meeting or affirmatively declines to participate in, receive, or listen to any communications with the employer or its agents or representatives, the purpose of which is to communicate the employer’s opinion about religious or political matters. An employee who is working at the time of the meeting and elects not to attend a meeting described in this subdivision shall continue to be paid while the meeting is held.”

Moreover, SB 399, subdivision (b) (3) defines “political matters” broadly as: “matters relating to elections for political office, political parties, legislation, regulation, and the decision to join or support any political party or political or labor organization.”

When SB 399 was being considered by the state Legislature last year, the CalChamber’s position was that the

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New 2025 Employment Laws Reminder



2025 brings numerous employment law updates, so here’s a quick reminder of

the new changes that employers should be prepared for, including:

- **Updated employment notices**, including the updated minimum wage notice as well as updated whistleblower and workers’ compensation notices plus two poster updates from the California Civil Rights Department — *California Law Prohibits Workplace Discrimination and Harassment and Family Care & Medical Leave & Pregnancy Disability Leave*.
- Revision and expansion of leave for victims of crimes and other acts of violence.
- A new law restricting employer speech related to religious or political matters. While the California Chamber of Commerce and the California Restaurant Association have filed a lawsuit challenging the law for violating the First and Fourteenth Amendments to the U.S. Constitution and because it is preempted by the National Labor Relations Act, it’s important to note that the law is still in effect while litigation is pending.
- **State and local** minimum wage updates.

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Labor Law Corner

Paycheck Direct Deposit: Offer, But Don't Mandate



Lisa Guzman
Employment Law
Expert

In 2025, we would like to pay all our employees by direct deposit. We have a couple of employees who do not have direct deposit, and it can be challenging to get their paychecks to them on time. Can we require every employee to enroll in direct deposit?

The short answer is no. Although the vast majority of employees use direct deposit, there are some employees who prefer to receive wages by means of a traditional paycheck.

Employers in California may find themselves running afoul of the law if they attempt to make direct deposit mandatory for all employees.

In our increasingly digital working world, many businesses have gone paperless. Direct deposit of wages into employee bank accounts has many advantages; it eliminates the time and expense of producing and distributing paychecks each pay period. In addition, direct deposit eliminates the possibility of physical checks being lost or stolen.

Employer May Offer Direct Deposit

California Labor Code Section 212 requires that checks or other types of payment be negotiable and payable in cash at a place of business or bank in the state. Mandating that all employees receive payment of wages by direct deposit would require that an employee have a checking or savings account, and that is not required by the law.

Employers may offer employees the option of enrolling in direct deposit but cannot require it. California Labor Code Section 213(d) expressly authorizes employers to pay employees via direct deposit into an account of the employ-

ees' choosing (bank, savings and loan, or credit union with place of business in California) provided the employee has voluntarily authorized direct deposit.

Employers can utilize the forms available to CalChamber members on *HR California* ([Direct Deposit Authorization](#), [English](#) and [Spanish](#) versions).

A Division of Labor Standards Enforcement (DLSE) opinion letter states: "Employee choice is thus a fundamental condition for payment methods utilizing direct deposits under California wage payment law." (DLSE Opinion Letter 2008.07.07.)

The bottom line in this case is that the employer cannot mandate that all employees enroll in direct deposit.

If an employer requires that an employee use direct deposit, without the employee's voluntary consent, the employer may be subject to civil penalties.

Timely Payment of Wages Required

California Labor Code Section 204 requires that all wages earned in the current pay period be paid to an employee no later than the employer's designated payday.

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More information at www.calchamber.com.

Business Resources

Annual Governor's Director of Finance Update. CalChamber. January 17, Online. [Register](#).

Human Resources

2025 Employment Law Updates.

CalChamber. January 16, Sacramento; January 30, Online. Online sessions for January 9, 10, 23 SOLD OUT. January 14, Long Beach – phone orders only. Please call Customer Service to inquire about being added to the waiting list. (800) 331-8877.

Employee Handbooks and Policies.

CalChamber. February 20, Online. (800) 331-8877.

International Trade

Canada-California Energy Collaboration: Advancing Carbon Removal & Hydrogen Innovation. Government of Canada, Province of Alberta,

CalChamber. January 14, Sacramento.

intlevents@calchamber.com.

TIMTOS Show — A Global Leading Smart Manufacturing & Machine Tool Expo. Taiwan External Trade Development Council and Taiwan Association of Machinery Industry. March 3–8, Taipei City, Taiwan. (415) 362-7680 #500.

2025 Sports and Fitness Taiwan (TaiSPO) Exhibition. Taiwan External Trade Development Council. March 26–29, Taipei City, Taiwan.

Exim 2025 Annual Conference.

Export-Import Bank of the United States. April 29–30, Washington, D.C. In-person only. Registration will open later.

14th World Chambers Congress. World Chambers Congress. September 2–September 4, Melbourne, Australia. <https://wcc.iccwbo.org/>.

Port Employers, Union Dockworkers Reach Tentative Deal at East Coast, Gulf Ports



This week, the International Longshoremen's Association (ILA) and United States

Maritime Alliance (USMX) reached a tentative agreement on all items for a new six-year Master Contract.

The two sides agreed to continue to operate under the current contract until the union can meet with its full Wage Scale Committee and schedule a ratification vote, and USMX members can ratify the terms of the final contract.

In a joint statement on January 8, the two sides said the agreement is a win for both sides and would avert any work stoppage on January 15, 2025.

"This agreement protects current ILA jobs and establishes a framework for implementing technologies that will create more jobs while modernizing East and Gulf coast ports — making them safer and more efficient, and creating the capacity they need to keep our supply chains strong," they said. "This is a win-win agreement that creates ILA jobs, supports American consumers and businesses, and keeps the American economy the key hub of the global marketplace."

Details of the new tentative agreement will not be released to allow ILA rank-and-file-members and USMX members to review and approve the final document.

CalChamber, Coalition Support

Last month, the California Chamber of Commerce joined a coalition of 267 federal, state and local trade associations in urging East/Gulf Coast labor and management leaders to resume port labor negotiations. In a letter to the ILA and USMX, the coalition acknowledged that automation and technology continues to be the biggest issue of disagreement between the ILA and USMX but argued there is a path forward for the parties to address this issue.

The coalition asserted that it is critical

that ports and terminals have the ability to modernize their systems and processes to remain globally competitive and be able to handle the continuing rise of trade volumes, both imports and exports, through the nation's ports.

Modernization can happen only through true partnership between labor and management, as well as the other supply chain stakeholders that rely on these ports. Modernization efforts will benefit all parties and are essential to address current and future issues.

Past Strike

On Thursday, October 3, 2024, three days after the strike began, [joint statements from the ILA](#) and the [USMX management group](#), representing shipping lines, terminal operators and port authorities, announced a tentative agreement that extended the current master contract to January 15, 2025.

The tentative agreement included a 61.5% wage increase over the life of the six-year contract — raising average wages from \$39 an hour to about \$63 an hour. The ILA originally had requested 77%, and the USMX countered with 50% earlier in the week.

The ILA strike affected 45,000 dockworkers at 36 container ports from Texas to Maine — including New York/New Jersey, Houston, and Savannah, Georgia. The contract in question covered six of the 10 busiest U.S. ports, which collectively handle more than 13 million containers annually.

The strike had the potential to disrupt U.S. supply chains, pose national security implications, and in general terms, paralyze as much as half the nation's seaborne trade volumes.

Products Potentially Affected

Perishable food imports, wine, auto parts and pharmaceuticals from Europe could have been greatly affected. Ports on the East and Gulf coasts handle roughly 75% of the bananas that enter the United States. There is a no strike pledge for U.S. military goods and passenger cruise

vessels would not have been affected. The ILA had not gone on strike since 1977.

Potential West Coast Impact

A prolonged shutdown could have affected West Coast ports, eventually leading to capacity and empty container shortages.

A potential strike would have come at a challenging time for ocean supply chains, which already have faced significant disruptions with the drought in the Panama Canal, the Baltimore Bridge collapse, and the Red Sea conflict. There was talk of West Coast workers being unwilling to unload cargo originally bound for the East Coast and a worst-case scenario if the West Coast dock workers walked out in solidarity.

The Federal Maritime Commission (FMC) had warned carriers and operators against imposing excessive detention and demurrage fees during the strike, to protect shippers from unfair charges such as occurred during the pandemic-related port congestions.

Shipping Data

Nearly 70% of U.S. exports and 56% of containerized U.S. imports come through East Coast and Gulf Coast ports, [according to data](#) cited by the National Association of Manufacturers. More specifically:

- More than 68% of all containerized exports and more than 56% of containerized imports flow through East and Gulf Coast ports, representing an average daily trade value of more than \$2.1 billion.

- They handle more than 91% of containerized imports and 69% of containerized exports of pharmaceutical products.

- They also process more than 76% of containerized vehicle exports and more than 54% of containerized vehicle imports.

- For aircraft and spacecraft, more than 77% of containerized exports and more than 51% of containerized imports go through these ports.

Staff Contact: Susanne T. Stirling

CalChamber Challenges Recent Law Chilling Employer Speech

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proposal effectively prohibits discussions regarding “political matters” in the workplace.

“As we saw during the COVID-19 pandemic, it is often crucial that employers be able to communicate with their workers on pending new rules and what it would mean for the workplace. Similarly, if there is legislation pending that

would have either a positive impact or detrimental impact on the business or workers’ job security, this is something workers would want to know about. This bill will chill that speech and is sure to make companies fearful of weighing in support of or opposition to legislation, candidates, ballot measures, and more,” the CalChamber warned in an opposition letter sent to legislators.

Other State Laws and Litigation

Laws similar to SB 399 have been unsuccessfully put forward in other states. One local ordinance was struck down, one was repealed because the state agreed that the provision was preempted by the NLRA, one lawsuit was dismissed solely based on a ripeness issue, and two more are presently in litigation.

A copy of the lawsuit is available [here](#).

New 2025 Employment Laws Reminder

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- [Local ordinance updates](#).

And that’s not all — new laws, regulations and court decisions affected additional areas of employment law. For CalChamber members, CalChamber’s employment law experts have updated *HRCalifornia* library content, forms, checklists, Q&As, local ordinances and tools for those new laws.

For instance, *HRCalifornia* has an [Employer Political/Religious Meetings and Communications — Opt Out](#) form

(with [instructions](#)). Employers may use this form to record an employee’s affirmative declination of participating in employer-sponsored meetings and/or other communications that the purpose of which is to express the employer’s opinion on political or religious matters.

And CalChamber’s [Local Minimum Wage, Paid Sick Leave and Other Employment Ordinances](#) chart has been updated with all the January 1 local minimum wage changes.

So, grab some coffee and start review-

ing all these new developments. Look in our content for the flags that indicate new 2025 laws or important court rulings.

Want to learn about the new laws’ requirements directly from CalChamber’s compliance experts? Register now for our annual January [Employment Law Updates](#) seminars, which will provide expert analysis, clear explanations of compliance obligations, and a comprehensive review and discussion of recent state and federal laws and regulations.

Staff Contact: James Ward

Paycheck Direct Deposit: Offer, But Don’t Mandate

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It can be more difficult to ensure that employees receive their pay on time without direct deposit. The employer must print and issue a traditional paper paycheck and either hand it out to employees or mail it to the employee’s home address. There is the risk that first class mail delays may result in an employee receiving their paycheck late.

Employers who are having difficulty mailing paychecks to employees on time may wish to consider using some form of overnight mail service. Whatever payment method they use, employers must ensure that employees have timely access to their wages on the designated payday to avoid stiff penalties.

Employers should always consult with legal counsel about their pay methods to

ensure they are complying with all the California wage payment laws.

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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