

# ALERT

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## CalChamber Helps Fight Costly Workers' Comp Plan

*Co-Chairs Campaign Against Job Killer Initiative*



### OPPOSE

The California Chamber of Commerce is co-chairing a campaign against an initiative proposal to repeal nearly all the medical cost controls in the workers' compensation reforms enacted in 2004.

CalChamber President Allan Zaremberg co-chairs Californians Against the Job Killer Initiative, a broad-based coalition of small businesses, non-profit organizations and public entities, dedicated to preserving SB 899 (Poochigian; R-Fresno) and other reforms that have helped restore balance and efficiency

to California's workers' compensation system.

The initiative proposal was filed last month by applicant attorney William S. Morris.

### Multibillion-Dollar Cost

In its fiscal review of the initiative, the California Legislative Analyst's Office (LAO) concludes the magnitude of repealing the medical cost containment reforms, "would likely be significant — potentially in the billions of dollars annually for private and public employers."

The initiative would have a "major  
*See CalChamber: Page 3*

## CalChamber Urges Data-Driven Approach to Reviewing Workers' Comp Reform Impacts

Lawmakers and regulators need to take a data-driven approach to reviewing the impact of the workers' compensation reforms and deciding what to do next, the California Chamber of Commerce told an Assembly committee this week.

Jason Schmelzer, CalChamber policy advocate, cautioned against drawing firm conclusions from statistics comparing workers' compensation permanent disability benefits today versus those of 2004, the year comprehensive reforms were enacted.

Schmelzer spoke at a March 28 informational hearing of the Assembly Insurance Committee focusing on the impact

of reforms in CalChamber-supported SB 899 (Poochigian; R-Fresno) of 2004.

### Inflated Benefits

Before SB 899 was enacted, permanent disability claims in California were being filed at a rate of three times the national average, and 20 percent higher than the next highest state, Schmelzer said.

Moreover, permanent disability cases accounted for 82 percent of all indemnity benefits payments in California, well above the national average of 59 percent.

A study by the Commission on Health and Safety and Workers' Compensation  
*See Data-Driven: Page 4*

## CalChamber Network Generates Support for 4-Day Workweek Bill



### SUPPORT

Legislation sponsored by the California Chamber of Commerce to improve work scheduling flexibility for individual workers and their employers is generating enthusiastic support.

Supporters of **AB 510 (Benoit; R-Bermuda Dunes)** have written more than 6,000 letters to their elected officials using the CalChamber grassroots system.

Cathy Mesch, CalChamber grassroots coordinator, reports that AB 510 supporters also have written numerous letters to the editor. Mesch has been working to recruit volunteers to testify in support of AB 510, which permits *individual* workers and their employers to mutually agree to a four-day workweek.

"The support we've received for AB 510 illustrates the need for California employers and employees to have this flexibility made available to them," Mesch said. "Supporters from all over the state have cited school, child care, personal agendas, gas prices, commuting and general work/life balance as reasons this option will benefit their business."

### Supporters of AB 510

Tam Nguyen, a national billing analyst for CompIQ, wrote a letter to support  
*See Grassroots: Page 7*

### Inside

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## Labor Law Corner

# Employees Must Be Granted Access to Certain Personnel Records



**Gary Hermann**  
Labor Law Consultant

*What records must be provided to a former employee?*

Any employee is permitted, at reasonable times, to inspect his/her personnel files for records relating to the employee's performance or grievance, according

to Section 1198.5 of the California Labor Code.

This exempts records relating to possible criminal violations, letters of reference or records that were obtained before the employee's employment or in connection with a promotional exam.

Section 1198.5 applies both to employees and former employees, since it deals with, among other things, grievances that could have led to terminations. The prior statute used slightly different language, and from that language it could be implied that the protection was extended to ex-employees. The current language no longer can be read in that way.

Research by the state Division of Labor Standards Enforcement (DLSE), however, concludes that the statute did not intend to limit the protection only to current employees, and DLSE will enforce the statute in favor of ex-employees.

### Employee Access

Employers must afford current and former employees the right to inspect or copy their records upon reasonable request, but the employee may be charged the actual cost of any reproduction. An employer must provide this access within 21 days of any oral or written request, or be subject to a fine of \$750.

An employee has a right to a copy of any document he/she has signed relating to obtaining or holding employment.

There are prohibitions against disclosing medical information about a former employee without written authorization from the employee to do so, but these prohibitions would not apply to an employee who makes the request.

### Payroll Records

Employers also are required (by Section 226 of the California Labor Code) to maintain records from each employee to maintain records from each employee for each pay period, showing gross wages earned, hours worked, piece rate and

piece rate units, deductions, net wages, pay period dates, the name of the employee, his/her Social Security number, the name and address of the employer and all applicable rates of pay.

Section 226 does not reference the daily time records required by the Industrial Welfare Commission orders. A request by a former employee for such records therefore is not subject to the requirements of Labor Code Section 226.

*The Labor Law Helpline is a service to California Chamber of Commerce preferred and executive members. 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).*

## Seminars/Trade Shows

For more information on the seminars listed below, visit [www.calchamber.com/events](http://www.calchamber.com/events).

### Business Resources

Nonprofit & Faith-Based Tax Seminar.

California State Board of Equalization. April 13, Merced. (916) 341-7389.

You Asked for It, You Got It - More Networking. Wilcox, Miller & Nelson. April 11, Sacramento. (916) 977-3700.

### International Trade

State of the Ports in Northern California. Northern California World Trade Center and the Pacific Transportation Association. April 17, Sacramento. (916) 319-4277.

9th Annual Trade Policy Forum 2007. California Council for International Trade. April 19-20, Silicon Valley. (415) 788-4127.

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## CalChamber Calendar

*California Business Legislative Summit:  
May 21-22, Sacramento*

**Next Alert:  
April 13**



# State Greenhouse Gas Reporting Registry Helping Form Multi-State Registry

*California Companies Should Speak Out on Experience with State Registry*



On January 1, 2008, the California Climate Action Registry will officially open its doors to entities outside the state that want to voluntarily report their greenhouse gas

emissions to participate in a Multi-State Registry.

The Multi-State Registry is an effort supported by 30 states and tribes across the nation. This group has participated in discussions to standardize best practices in greenhouse gas emission data reporting and establish common protocols and a reporting system.

The state of California created the California Climate Action Registry to encourage businesses and other organizations to voluntarily measure and report their greenhouse gas emissions.

According to the California registry, member states and tribes that have existing mandatory greenhouse gas emissions reporting and reduction programs will work to incorporate the minimum quantification standards developed by the Multi-State Registry into their programs.

This Multi-State Registry will begin operating by supporting voluntary and mandatory programs, but ultimately is intended to support regulatory reduction programs, including allowance tracking and project reporting needs. This new system could facilitate those linkages and help to streamline greenhouse gas project protocols across different state/regional programs.

Two key questions related to the Multi-State Registry are highlighted below.

## Origins

● Where did the idea for a national climate registry originate?

The California registry has operated a voluntary greenhouse gas registry since 2001 with more than 200 members, including businesses, state agencies, municipalities, educational institutions and

environmental non-profits, among others.

As states in the Northeast and Mid-Atlantic, as well as states in the Midwest, began exploring the development of policy-neutral and voluntary greenhouse gas registries, it became clear that a patchwork of registries across the country would hinder efforts to standardize reporting frameworks and create confusion amongst reporters.

In 2006, these states and regions joined together to establish a dialogue to develop a unified greenhouse gas registry.

## Impact on Existing Registry

What does the formation of the Multi-State Registry mean for existing members of the California registry?

Details are still being worked out as to how the California registry will roll over into the multi-state registry. The California registry expects the rollover (beginning at the end of 2007) to be optional for member companies, but expects it will be "mandatory" in the next couple of years.

CalChamber policy has highlighted some initial concerns about the rollover and when it will occur:

● Multi-State Registry member companies would be expected to report greenhouse gas emissions data for all facilities nationwide. This raises the question of what happens with companies that have signed onto the California registry to experiment with reporting.

● The timeframe for the rollover. The question is whether member companies will have sufficient time to adjust to a regional/national reporting scheme.

## Companies Should Comment

The Multi-State Registry will seek public input during the next few months and finalize its charter and operations later this year. It will be important for California companies to weigh in with the California registry on these issues as it moves to finalize the Multi-State Registry.

**Staff Contact: Amisha Patel**

# CalChamber Fights Costly Workers' Comp Plan

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fiscal impact with increased annual state and local government costs — potentially in the mid-hundreds of millions of dollars," the LAO analysis states.

## Wide Impact

"As confirmed by the LAO, rolling back workers' compensation reform would affect everyone," said Zaremborg. "The initiative would cost hundreds of millions of dollars that could be used to hire more teachers, build new roads and serve the less fortunate."

According to the Workers' Compensation Insurance Rating Bureau of California (WCIRB), workers' compensation rates have been reduced on average by more than 50 percent.

Rates in 2006 were estimated to be

\$15 billion below what they would have been if the reforms had not been enacted. The Los Angeles County government alone has seen savings of \$61 million in workers' compensation costs since 2004.

CalChamber-supported SB 899 was enacted with broad bipartisan support in 2004 and its reforms have since benefited both employers and employees.

Average workers' compensation rates per \$100 of payroll have decreased from the high in 2003 of \$6.47 to \$3.75 in the first half of 2006, according to the WCIRB.

An early study by the California Division of Workers' Compensation, examining data for January 1, 2005 to June 30, 2005, found that more injured workers are returning to work sooner.

**Staff Contact: Jeanne Cain**

## Deadline Near for Small Business Advocate Award Nominations

The deadline is quickly approaching for nominations for the California Chamber of Commerce Small Business Advocate of the Year Award. Award applications are due to the CalChamber Local Chamber Department by April 6.

Nominees should have contributed significantly as an advocate for small business by being involved in such activities as taking leadership roles in or working on state or local ballot measures, testifying before the state Legislature,

representing a local chamber of commerce before local government and being actively involved in federal legislation.

Private sector, for-profit businesspersons who have been actively involved in local, state or federal issues or political action would be excellent nominees. Chamber of commerce executives, government employees and association executives are not eligible.

The application for the award must include a letter of recommendation from

a local chamber president or chair of the local chamber board of directors. News articles or other materials may be attached to the application as exhibits.

The CalChamber will recognize award winners at its Business Legislative Summit on May 21 in Sacramento.

The nomination form is available in the Government Relations section at [www.calchamber.com](http://www.calchamber.com) or may be requested from the Local Chamber Department at (916) 930-1202.

## Data-Driven Review of Workers' Comp Reform Impact Needed

*From Page 1*

(CHSWC) has been cited by proponents of increasing permanent disability benefits. That study, however, compared current permanent disability ratings with those from only one year — 2004, likely the most inflated period of permanent disability benefits in the entire history of the workers' compensation system.

SB 899 made fundamental changes in the way the workers' compensation system determines the level of injury and the amount of disability assigned to an injury and created a new medical network to provide quality, cost-effective care to workers.

This package ensured that medical treatment follows nationally recognized guidelines and set clear parameters for what is acceptable treatment for injured workers in the system, while also reducing excessive litigation.

### Consensus Needed

The CalChamber believes agreement on definitions and techniques for measuring how the system is doing will further the goal of ensuring that legitimately injured workers receive appropriate compensation.

The CalChamber is ready to work with

interested parties to develop consensus on how to benchmark the performance of the workers' compensation system.

A study by the California Division of Workers' Compensation found that return-to-work rates for workers with permanent disabilities are greater now than before the reforms (see February 9 *Alert*). The division is conducting research to compare uncompensated wage loss under the post-reform permanent disability rating schedule versus that of 1997.

**Staff Contact: Jason Schmelzer**



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## *CalChamber Member Profile*

# Innovation, Service Help Distributor Succeed in Environmental Market

California Chamber of Commerce member Excellent Packaging & Supply is carving a niche in the food service industry through the nation's dream to be green. The distributor of sustainable packaging products (which are compostable, biodegradable and made from renewable resources) offers an extensive line to the food service and retail industries.

Excellent Packaging & Supply (EPS) was founded by Steve Levine, Allen King, Greg Stevens and Esther Wagner in 2003. The Richmond-based business has seen more than 40 percent growth in the last two years, and annual sales for 2006 were more than \$5 million. Levine anticipates the success to continue.

### Focus Helps

"I think the fact that we're so focused on our niches makes it easier for us," Levine said. "I really think the more you are able to focus and recognize where your greatest opportunities are, the easier it is to succeed in them."

That niche primarily is in food service, to which EPS distributes everything from plates, cups and boxes made from plant fibers to food films created with renewable wood-pulp and garbage can liners produced from cornstarch derivatives.

All of the company's products are 100 percent sustainable — compostable, biodegradable, recyclable and made from renewable resources.

Products include: Spudware, biodegradable cutlery from potato starch; BioBags, cornstarch T-shirt bags and can liners; ecotainers, sustainable paper hot cups and soup containers; and biodegradable toothpicks, stir sticks, takeout boxes and straws.

### Service Equals Success

King cited customer service as the foremost reason for the company's success.

"You can have the greenest product in the world, but if you frustrate your customer time and time again, they aren't going to buy it," Levine agreed.

Meeting those customers' needs includes having samples readily available to be sent immediately to potential customers. Keeping a heavy reserve of inventory also has been central to meeting needs, as no customer has to wait more



Photo Courtesy: Excellent Packaging & Supply

From left with some of their company's products are three of the four owners of Excellent Packaging & Supply: Greg Stevens, Steve Levine and Allen King. The company distributes food service products — including cutlery, plates, cups and boxes — made from renewable resources.

than a couple of days to get the products requested.

Levine stresses the importance for EPS to partner with vendors at every level, so service means keeping manufacturers and even other distributors happy customers as well. He said even would-be competitors will buy from EPS, then sell and distribute on their own.

"Partnering with what would be your adversaries is a very good strategy," Levine said. "Adversarial relationships are not good for the bottom line, so it's just easier."

The emphasis on service even extends from the four owners to the six employees of EPS. Levine said it's important to give people jobs that they can do well, and that he makes sure the company shares its success with the employees.

### Encouraging Sustainability

Before forming EPS, Levine and King spent more than 25 years each in the packaging distribution business and both

had developed an interest in eco-friendly products. Levine said that customers who make the change to sustainable packaging are in a win-win situation.

"The cost is minimal, and it's the right thing to make a venue more environment friendly," Levine said. "Consumers are very supportive of the process. They didn't know they had a choice."

Although the use of Styrofoam recently has been banned in EPS's neighboring city of Oakland — with San Francisco following in June — King said the ban has not had a significant impact on the business one way or the other.

Levine agreed, and said most business is driven simply by consumer preference.

King added that sometimes companies and businesses make the switch to sustainable packaging just for marketing reasons.

"And there's nothing wrong with that," King said. "Companies are thinking about how they appear to the world, and they want to be green."

# Legislative Outlook

An update on the status of key legislation affecting businesses. Visit [www.calchambervotes.com](http://www.calchambervotes.com) for more information, easy-to-edit sample letters on hot topics and updates on other legislation. Staff contacts listed below can be reached at (916) 444-6670. Address correspondence to legislators at the State Capitol, Sacramento, CA 95814. Be sure to include your company name and location on all correspondence.

## CalChamber Supports Enterprise Zone Legislation



SUPPORT

Legislation **supported** by the California Chamber of Commerce to remove unnecessary delays and costly reporting burdens in the enterprise zone process is moving.

**SB 341 (Lowenthal; D-Long Beach)** facilitates local economic development efforts in depressed areas throughout the state by reducing the application burden for applicants for enterprise zones by requiring the filing of an environmental impact report only when necessary.

The CalChamber is a strong supporter of the Enterprise Zone (EZ) program, which is California's only remaining significant statewide economic development incentive. The EZ program targets economically depressed geographical areas through the use of special state and local tax and economic incentives that encourage business investment and promote the creation of new jobs.

Local governments wishing to be designated as EZs must compete for one of 42 zone designations set out in law. The local government must submit an extensive application with the California Department of Housing and Community Development (HCD) to be considered for selection.

SB 341 addresses a problem with the application process that has posed a significant burden for many EZ appli-

cants: Under current law, the EZ program imposes a blanket requirement on every EZ application to be accompanied by an environmental impact report (EIR). This means a zone applicant may be required to undergo a full EIR even if under regular California Environmental Quality Act (CEQA) standards, a negative declaration or mitigated negative declaration would have been satisfactory.

Thus, the current blanket EIR requirement can result in significant delay and cost to zone applicants without additional environmental benefit.

The CalChamber believes that SB 341 will remove an unnecessary, heavy burden and cost from the EZ program that runs counter to local economic development of depressed areas and the other public policy goals behind the EZ program.

### Action Needed

SB 341 passed the Senate Environmental Quality Committee on March 26 and was referred to the Senate Appropriations Committee. Contact your senator and members of Senate Appropriations and ask them to **support SB 341**.

For an easy-to-edit sample letter, visit [www.calchambervotes.com](http://www.calchambervotes.com).

**Staff Contact:** Kyla Christoffersen

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## CalChamber Joins Southern California Panel on Legal Reform

The California Chamber of Commerce is participating in the 2007 California Legal Reform Symposium, an event put together to discuss the state's legal climate and its effect on business, and to explore possible solutions.

Kyla Christoffersen, CalChamber policy advocate for legal reform and taxation issues, will serve on the panel to discuss punitive damages reform.

The CalChamber is sponsoring reform legislation, SB 423 (Harman; R-Huntington Beach) to cap punitive damages at three times the award for compensatory (actual) damages.

The April 20 event, put together by the Pacific Research Institute, also will feature discussions on the cost of state and national legal systems, class action reform and working to reduce profit-motivated lawsuits related to access and the Americans with Disabilities Act (ADA).

Members of the business community, the public policy community and others concerned about California's unfortunate reputation as one of the worst legal climates in the nation should attend.

The symposium will take place at the Chapman University School of Law in Orange from 8:30 a.m. to noon.



Kyla Christoffersen

For more information, visit [www.pacificresearch.org/events](http://www.pacificresearch.org/events).

## Grassroots Network Generates Support for 4-Day Workweek Bill



### SUPPORT

*From Page 1*

AB 510 because it would help him to balance his full-time job with his school schedule. ComplIQ, a provider of medical bill review software and

services to the workers' compensation industry, is a CalChamber member.

"The four-day workweek would enable me to be more flexible with my school schedule and be more efficient for me to get the courses I need to graduate," Nguyen said. He added that the option of flexible schedules would help with California's traffic congestion and could assist commuters in reducing gas spending if they only had to travel to work four days a week.

Another ComplIQ employee, Katherine McNelly, said she thinks workers would be much more motivated during the week knowing they had an extra day off.

"It will allow workers to still have the time to get work accomplished during the week, while also allowing for more personal time to spend with family, on hobbies, etc.," said McNelly, an internal IQ specialist. "This will make for a much happier work environment."

Carin Chambers, office manager of Drew Auto in La Mesa, used the CalChamber advocacy resources to complete a petition in her workplace to support AB 510. She said the employees in

her office are supportive of the initiative to save gas and money on child care and to facilitate their office being open longer hours to better serve their customers.

"The problem with doing it presently is that it's so complicated. We didn't want to go through the hassle and risk not getting it right," Chambers said.

### AB 510

AB 510 will help individual employees achieve greater flexibility in work schedules — something survey after survey shows employees want in a job.

The bill will permit an individual employee, with the consent of his/her employer, to work up to 10 hours per day within a 40-hour workweek without overtime pay. Overtime premium pay still would be required for more than 10 hours of work in a workday or 40 hours in a workweek, as would double-time after 12 work hours in a day.

### Current Law

California law requires that overtime compensation be paid for work performed by an employee in excess of eight hours in a single day, regardless of whether the employee works fewer than 40 hours in that week.

California is one of only four states that do not conform wage laws to the national Fair Labor Standards Act (FLSA). The FLSA bases its overtime compensation requirements for salaried, non-exempt

employees on total hours worked per week, rather than total hours worked per day.

Under current and very detailed California Industrial Welfare Commission wage orders, employers may institute alternative work schedules only if the affected employees agree to the arrangement in writing and by secret ballot.

Employers must hold discussion meetings at least 14 days before voting. Two-thirds of the company's employees must agree to the change. Any deviation from the rigidly controlled process voids the election.

The rules also state that daily work schedules are limited to a maximum of 10 hours per day, with a four-hour daily minimum. Variances in schedules or the use of more than one schedule is prohibited without repeating the voting process.

### Action Needed

The CalChamber strongly believes that permitting individual workers and their employers to arrange and use a four-day workweek will give employees more flexibility and employers the ability to be more responsive to employee work/life needs.

AB 510 is scheduled for a hearing in the Assembly Labor and Employment Committee on April 18.

Write committee members and your Assembly representative and urge them to **support AB 510**. For an easy-to-use sample letter, visit [www.calchambervotes.com](http://www.calchambervotes.com).

**Staff Contact: Marti Fisher**

## New products to keep your staff in the loop.

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