

# ALERT

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## CalChamber Backs Growth in Manufacturing/Research



### SUPPORT

The California Chamber of Commerce is **supporting** legislation that will help stimulate growth and investments in California manufacturing and

research and development.

● **AB 1152 (Niello; R-Fair Oaks)** encourages manufacturers to retain and expand precious manufacturing operations and jobs in California by allowing for a partial sales tax exemption on purchases of new manufacturing equipment, which many other states currently offer.

● **AB 751 (Lieu; D-Torrance)** strengthens the economy by encouraging investments in California-based R&D activities and jobs by increasing the state's R&D tax credit from 15 percent to 20 percent and adopting other improvements in conformity with federal law.

● **AB 1206 (Smyth; R-Santa Clarita)** encourages investment in California-

based research and development (R&D) activities and jobs by creating a partial sales tax exemption for purchases of equipment used in R&D.

### Manufacturing

Manufacturing positions make up approximately 10 percent of California jobs, about 1.5 million employees, and about 14 percent of the gross state product.

As companies make long-term investment decisions, they look at a variety of factors, including a state's manufacturing investment incentives. States that compete for business with California often offer a sales tax credit or exemption on purchases of manufacturing equipment.

Unfortunately, in 2002, California's manufacturer's investment credit (MIC) was allowed to lapse. Signed into law in 1993, the MIC was credited with helping restore California's economic vitality

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## CalChamber Leads Fight Against Tax on Goods Movement



### OPPOSE

The California Chamber of Commerce is leading a growing coalition of associations and businesses to **oppose** legislation that increases the costs of goods movement by assessing an

illegal tax on containerized cargo coming through the state's three largest ports.

**SB 974 (Lowenthal; D-Long Beach)** imposes a \$30 tax per twenty-foot equivalent unit on containers processed through ports in Long Beach, Los Angeles and Oakland. It is the equivalent of at least a \$500 million per year tax on business.

The coalition members — more than 60 to date — include companies and associations in the retail, high technology, shipping, food and agriculture industries, local chambers of commerce, manufacturers and business and industry organizations.

SB 974 requires that the money generated by the new tax be spent on congestion relief and environmental mitigation. The CalChamber-led coalition believes the one-size-fits-all approach to financing infrastructure improvements and environmental mitigation will hurt California's economy.

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Register by May 11

**California Business Legislative Summit**

Monday, May 21, 2007

[www.calchamber.com/legsummit07](http://www.calchamber.com/legsummit07)

### Inside

CalChamber Opposes Bills Boosting Fuel/Energy Costs: Page 3

## Labor Law Corner

# Using Pay Cards for Employee Compensation Tricky in California



**Susan Kemp**  
Senior Labor Law  
Counsel

*Our company uses pay cards to pay employees in other states. Can we offer pay cards to our California employees?*

The legal ability to use pay cards/debit cards to pay employees is of concern for California employers, because a paycheck or other type of payment

must be negotiable and payable in cash, without the employee paying a fee, at some established place of business in the state.

Any pay card/debit card that charges the holder a fee per transaction would violate California law.

### Labor Code Requirements

California's Labor Code Section 212 requires that employees be paid by:

- cash;
- paper paycheck; or
- upon an employee's voluntary election, direct deposit into the employee's account (bank, savings and loan, or credit union with a place of business located in California).

Pay and debit cards could be viewed as a form of direct deposit — the money is automatically added to the card on each pay date.

However, employers may not require that employees use automatic payroll deposit, so it would follow that they may not require the use of pay or debit cards.

The payment of wages by pay or debit card has not been addressed by the California courts. The California Chamber of Commerce has introduced legislation in previous years to clarify how pay cards could be used, but the Legislature has not shown interest in approving it.

### Wage/Deduction Information

If an employer does offer a pay card as an option, the employer still must provide information about the wages and deductions as required by California Labor Code Section 226:

- gross wages earned;
- total hours worked by the employee (non-exempt);
- number of piece-rate units earned and the applicable rate of pay;
- all deductions;
- net wages earned;

- inclusive dates of the pay period;
- name of the employee and the employee's identification number;
- name and address of the employer; and
- all applicable hourly rates of pay and the corresponding number of hours worked at each rate.

### Considerations

Before offering pay or debit cards to employees, consider the costs you would incur in order to provide the card and process the payroll, as well as assuring that no fee is charged to the employee in the use of that card. It also is recommended that you discuss such a plan with your own legal counsel.

*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

Free Tax Seminar for Nonprofit Organizations. California State Board of Equalization. May 18, Fresno. (916) 341-7389.

### Labor Law

Lawful Terminations 201 Live Web Seminar. CalChamber. May 10. (800) 331-8877.

### International Trade

Consular Corps Luncheon. Northern California World Trade Center. May 22, Sacramento. (916) 319-4277.

### California Chamber Officers

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## CalChamber Calendar

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

**Safe Jobs for Youth**

**See HRCalifornia.com**



## Higher Fuel, Energy Costs Likely Result of CalChamber-Opposed Legislation



California Chamber of Commerce **opposed** legislation that is likely to result in higher costs for fuel and energy in California is moving in the Senate.

To be considered May 14 by the Senate Appropriations Committee are:

- **SB 140 (Kehoe; D-San Diego)**, which disadvantages California businesses and increases fuel prices by creating a fuel mandate that picks a winner in the alternative fuels market, preventing research and development into additional viable options that may be cheaper and more efficient.

- **SB 210 (Kehoe; D-San Diego)**, which interferes with the development of a competitive alternative fuels market and threatens job creation in California by creating a costly Low Carbon Fuel Standard that conflicts with the existing standard created by the Governor's Executive Order S-7-04.

Awaiting action by the full Senate after passing both policy committees to review it is **SB 411 (Simitian; D-Palo**

**Alto)**, which could increase energy prices by requiring 33 percent of the state's energy to come from renewable sources by 2020 without taking into account grid reliability and the need for an adequate and sustainable energy infrastructure.

### Fuel Mandates

**SB 140** requires that every gallon of diesel fuel sold in the state contain 2 percent renewable diesel fuel by a date to be specified by the California Air Resources Board and 5 percent by two years after that date.

**SB 210** limits the fuel technology that providers may use to meet the requirement for a 10 percent reduction in greenhouse gas emissions from fuels.

Both proposals ignore planning already underway, and prejudge the outcome of those processes in favor of one fuel alternative.

Their mandates will likely contribute to higher costs and confusion in the regulatory process that in the case of SB 210 will delay emission reductions.

### Energy

**SB 411** authorizes the California Pub-

lic Utilities Commission (PUC) to add a new, premature target for using energy from renewable sources.

Just last year, the PUC accelerated the existing standard to require energy retailers to procure 20 percent of the energy they sell from renewable sources by 2010.

Before committing the state to an ambitious new target, California needs to address challenges with its current system, including upgrading energy infrastructure to serve existing supplies of renewable energy by building new transmission lines. California's growing population is increasing the strain on the energy grid.

### Key Votes

- **SB 140** and **SB 210** passed the Senate Transportation and Housing Committee on March 27 by a 7-4 vote:

**Ayes:** Lowenthal (D-Long Beach); Cedillo (D-Los Angeles); Corbett (D-San Leandro); Kehoe (D-San Diego); Oropeza (D-Long Beach); Simitian (D-Palo Alto); Torlakson (D-Antioch).

**Noes:** McClintock (R-Thousand Oaks); Ashburn (R-Bakersfield); Dut-

*See Higher Fuel: Page 7*

## CalChamber Promotes Snyder to Head Local Chamber Relations



**Steve Snyder**

The California Chamber of Commerce has promoted Steve Snyder to the position of vice president of local chamber relations.

He takes over day-to-day local chamber responsibilities from Dave

Kilby, who now oversees CalChamber corporate affairs.

Snyder has served as CalChamber director of local chamber services since April 2000, assisting with the management

of the Western Association of Chamber Executives (W.A.C.E.) and SUPER-CHEX, the association of chamber executives from Northern California.

He has more than 30 years of experience as a local chamber executive with chambers in Iowa, Arizona and California. He also has facilitated more than 200 board retreats and planning sessions in 11 states.

In taking over from Kilby as chief coordinator of local chamber relations for the CalChamber, Snyder leads the weekly legislative conference call with selected local chambers. His new role includes ultimate responsibility for management of SUPERCHEX and the Southern California Association of Chamber of Commerce Executives (SCACCE), and

he will continue to serve as vice president of W.A.C.E., which presented him with the Russell Pettit Award for Excellence in Chamber Leadership in 1998.

Kilby will continue to serve as the president/chief executive officer of W.A.C.E.

Snyder holds a B.A. in education from the University of Northern Iowa in Cedar Falls. He is a 1981 graduate of the six-year U.S. Chamber Institutes for Organization Management program. He also has served as an instructor at Institute sessions and chaired the Board of Regents for the Western Institute in 1997.

Before entering local chamber of commerce management, Snyder held positions as a teacher and a coach in Iowa, and managed a Harley-Davidson Motorcycle dealership.

# CalChamber Opposes New Effort to Use Tax Dollars to Finance Political Campaigns



## OPPOSE

The California Chamber of Commerce is **opposing** legislation seeking to allocate tax dollars to fund political campaigns for state offices.

**AB 583 (Hancock; D-Berkeley)** inappropriately allocates precious tax dollars away from investing in programs such as highways, schools and health care, and instead directs those monies to political campaigns and elected officials.

The Assembly Appropriations Committee has placed AB 583 on the committee's suspense file while the bill's fiscal impact is being reviewed.

If AB 583 becomes law, about \$106 million would be diverted from the state's General Fund in the first year for use in

political campaigns, with the amount increasing in succeeding years, according to the analysis for the Assembly Elections and Redistricting Committee.

## Voter Opposition

In November 2006, California voters overwhelmingly rejected public financed elections with the defeat of Proposition 89. Based on opposition arguments that focused on the public funding aspect of the initiative, 74.3 percent of voters rejected Proposition 89, with only 25.7 percent supporting the initiative.

AB 583 poses the same policy that the voters rejected. There is simply no significant voter support for spending tax dollars on political campaigns.

## Key Vote

The Assembly Elections and Redistricting Committee approved AB 583 on April 17 by a vote of 5-2:

**Ayes:** Price (D-Inglewood), Leno (D-San Francisco), De León (D-Los Angeles), Mendoza (D-Artesia), Saldaña (D-San Diego).

**Noes:** Adams (R-Hesperia), Niello (R-Fair Oaks).

## Action Needed

Contact members of Assembly Appropriations and your Assembly representative to urge a "no" vote on **AB 583**.

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

**Staff Contact: Jeanne Cain**

# Hearing Set on Bills Encouraging Growth in Manufacturing/Research



## SUPPORT

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after the recession of the early 1990s.

The CalChamber believes the time is right for California to prioritize and take aggressive action to

retain and grow its manufacturing jobs. Adoption of the sales tax exemption provided by AB 1152 is an investment with returns this state needs — more investments and jobs, a better economy, and more income and corporate tax revenues.

## Research and Development

California ranks first in the nation in R&D performance, accounting for more than one-fifth of total U.S. R&D. The state's universities rank number five in U.S. R&D among universities.

By conforming California's R&D tax credits with positive aspects of federal law, AB 751 will put California in a better position to compete for investment. The state's R&D tax credit currently

applies to the cost of conducting R&D (such as labor), but not equipment.

AB 1206 helps offset equipment investments by reducing some of the sales taxes companies must pay for purchases of equipment used in R&D. Currently R&D activities are subject to tax twice - first on the equipment used in R&D and then on the product of the R&D when sold. AB 1206 seeks to end this double taxation.

California needs to proactively maintain and expand its leading edge in R&D innovation and talent as it competes for R&D investments, jobs and knowledge capital, not only with other states, but other countries like India and China, which are working aggressively to expand their innovation output.

The 2006 Pollina Corporate Real Estate, Inc. study reports that growing numbers of Silicon Valley professionals are heading to India to start new businesses with U.S. funding or to expand R&D labs for Silicon Valley companies. Meanwhile, the Chinese government has tripled its spending on R&D since 1998.

Strengthening California's R&D incentives will bolster R&D activity in both the industry sector and the state's universities, stimulating the state's economy with additional investments and jobs and helping California to maintain its R&D leadership.

## Action Needed

AB 1152 and AB 751 are scheduled to be heard May 7 and AB 1206 May 21 by the Assembly Revenue and Taxation Committee.

Contact your Assembly member and members of Assembly Revenue and Taxation and ask them to **support AB 1152, AB 751 and AB 1206**.

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

**Staff Contact: Kyla Christoffersen**

## CalChamber Leads Fight Against Tax on Goods Movement

From Page 1

### Problems with SB 974

Furthermore, SB 974 threatens to:

● **Put port economic benefits at risk.** California's major ports serve as the gateway for the state's global economy. The Port of Long Beach alone supports nearly 319,000 jobs and \$16.3 billion in wages — economic success that would be put at risk by imposing a one-of-a-kind tax on cargo containers that enter and exit the ports.

● **Divert cargo.** By creating additional costs for imports and exports through these ports, SB 974 is likely to lead to shippers moving their goods through competing ports instead. California's ports already are more expensive than the competitors. SB 974 would cost the average ship an additional \$480,000 to transport a full load in and out of these ports.

● **Hurt state's agricultural industry.** SB 974 also would hamper agricultural exports and have a negative impact on the ability of California's farmers to compete on an international level. The California agricultural industry already is at a competitive disadvantage because of the high costs associated with doing business in the state. Farmers cannot simply increase the costs of their goods when their costs rise because prices are set largely in an international market.

● **Make California manufacturing industry less competitive.** More than 394,000 manufacturing jobs have left the state since 2000 because of the high cost of doing business here. The tax imposed by SB 974 would further inhibit the ability of manufacturers to compete on a global scale. Energy prices, labor and space costs in California are more than 100 percent of national averages.

● **Compromise recycling.** California exports include a significant amount of waste paper and other waste to be recycled overseas. The value of this commodity is quite low, and the tax imposed by SB 974 would create a significant barrier to this mutually beneficial situation.

● **Enact an illegal tax.** SB 974 creates an illegal tax on containerized cargo moving in and out of the ports of Long Beach, Los Angeles and Oakland. The tax revenues generated are to be used to pay for infrastructure used by people other than those financing it. This makes

the cargo "fee" in fact a tax, that must be approved by a two-thirds vote of the Legislature.

● **Violate commerce clause.** The commerce clause in the U.S. Constitution indicates that a statute cannot facially discriminate against foreign and interstate commerce. Each container that moves through the ports of Long Beach, Los Angeles and Oakland is always in the stream of interstate or foreign commerce — never of intrastate commerce.

Any tax on containerized cargo cannot regulate evenhandedly between intrastate and interstate and foreign commerce, and therefore has a disproportionate impact on interstate and foreign commerce.

● **Violate numerous trade agreements.** SB 974 would violate a number of international trade agreements, which could result in an international dispute at the World Trade Organization. Containers are simply instruments of trade under the International Convention on Containers, and "taxes, fees and other charges" are prohibited.

● **Prompt litigation.** The legislation raises significant legal questions related to the commerce clause, international trade agreements and the tax versus fee debate. If SB 974 becomes law, the resulting litigation will delay for years any real solution for port area congestion and stymie private investment in the state's port infrastructure.

### Other Solutions Exist

Despite suggestions to the contrary, acceptable alternatives do exist:

● Ports are financed with billions of dollars in private sector investments, paid for mostly through revenue bonds financed by port terminal operators and others through true user fees. California ports are carrying close to \$3.5 billion in revenue bonds for maritime infrastructure improvements, and these funds continue

to be spent on updating and building new roads, rail capacity and a variety of other projects.

● In addition, public-private partnerships offer a viable way to fund goods movement-related projects outside of the ports. In principle, a public-private partnership must provide real and tangible benefits to all who contribute funds. This concept is most applicable to individual projects because funding sources may derive varying levels of benefit from each specific project and, therefore should have varying levels of financial involvement in those projects. The one-size-fits-all approach offered by SB 974 does not constitute a true public-private partnership.

### Similar Bill Vetoed

In 2006, Governor Arnold Schwarzenegger vetoed similar legislation, SB 927 (Lowenthal; D-Long Beach), which would have imposed a \$60 container tax at the ports of Long Beach and Los Angeles.

In his veto message, the Governor said, "It is very important that any measure that increases fees that impact exporters not have the unintended consequences of negatively impacting the sale and delivery of goods grown and manufactured in California."

### Action Needed

SB 974 has passed the Senate Transportation and Housing Committee and the Senate Environmental Quality Committee and is set for a hearing May 14 in the Senate Appropriations Committee. Write your senators and urge them to **oppose SB 974**.

For an easy-to-use sample letter, visit [www.calchambervotes.com](http://www.calchambervotes.com).  
Staff Contact: Jason Schmelzer

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# 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.

## Tax Credit to Promote Employee Fitness Gains CalChamber Support



SUPPORT

The California Chamber of Commerce is **supporting** a proposal to provide a small tax credit for employers that promote employee fitness.

**AB 1439 (Levine; D-Van Nuys)** will encourage employers to foster healthy workplaces by providing a 10 percent tax credit for qualifying expenditures toward health club memberships and on-site fitness centers.

Under current law, these expenditures are not deductible as business expenses. Helping employers offset some of these costs will encourage more employers to take steps to increase the health and well-being of their employees by paying for health club memberships and investing in on-site fitness centers.

The bill's author cites studies and research showing there is a link between physical fitness and improved health. In addition, a nationwide survey of 365 companies by the Deloitte Center of Health Solutions in June 2005 found that 62 percent had implemented wellness

programs and 33 percent said they were considering doing so.

Of the companies with wellness programs, 64 percent said rising health care costs were a major factor in their decision.

According to the author, AB 1439 is modeled after legislation introduced in Florida that has been discussed at the federal level for years.

### Action Needed

AB 1439 will be considered by the Assembly Revenue and Taxation Committee.

Contact committee members and your Assembly representative to voice **support** for **AB 1439**.

**Staff Contact: Marti Fisher**

## CalChamber Supports Protection for Groups Providing Emergency Aid



SUPPORT

The California Chamber of Commerce is **supporting** legislation to encourage companies and non-profit organizations to provide charitable help during California emergencies by ensuring they cannot be sued in connection with the help they provide.

**AB 880 (Nava; D-Santa Barbara)** will protect any company or non-profit that voluntarily donates services, goods, facilities, other resources or assistance in times of emergency, from liability for injuries from these donations, unless the company or non-profit was grossly negligent or willful in causing injury.

The contribution of goods and services from private and non-profit organizations often is crucial to the ability of state and local governments to respond adequately to emergencies. These organizations may provide basic medical, survival and other needs to victims and communities cop-

ing or recovering from disasters or other emergencies.

The CalChamber supports structuring California's legal system to promote and encourage private and non-profit entities to assist in times of emergency. These organizations should be able to do so without the risk of expensive lawsuits that penalize their good faith efforts.

### Action Needed

AB 880 is scheduled to be heard on May 8 by the Assembly Judiciary Committee. Contact members of the committee and your legislators and urge them to **support AB 880**.

**Staff Contact: Kyla Christoffersen**

## CalChamber Opposes New Burden on Business Contracts



### OPPOSE

A California Chamber of Commerce-**opposed** bill that requires a variety of contracts be translated into any language in which negotiations were conducted, will be considered by

the Assembly Judiciary Committee on May 8.

**AB 512 (Lieber; D-Mountain View)** increases costs and causes delays in normal business transactions by requiring businesses to provide translations of contracts or agreements into any foreign language.

“Considering the numerous languages spoken in Los Angeles County alone, AB 512 raises huge hurdles and liability risks for small businesses that are trying to provide products or services to non-English-speaking customers,” said Valerie Nera, CalChamber policy advocate. “Instead of helping non-English speakers, AB 512 will serve to depress outreach into their communities, depriving a growing segment of the population benefits that others enjoy and depriving the business community, especially smaller businesses, the opportunity to engage new customers.”

Current law requires translation of certain contracts into Chinese, Vietnamese, Tagalog, Korean and Spanish — the five most common languages after English spoken in California. Expanding the law to include any language beyond those five

poses significant difficulties.

For example, there are at least 224 identified languages in Los Angeles County, according to a professor at the University of California, Los Angeles. That does not include differing dialects. An estimated 180 publications are produced in those languages.

Mandating that businesses comply with this bill will only increase costs, particularly for small businesses that are attempting to do business with non-English speakers. This bill will discourage businesses from attempting to contract with, provide goods and services for or buy products and services from individuals for whom English is not the first language.

For example, small independent appliance stores offer credit to their customers. The credit application is a contract. Those contracts would have to be translated if store personnel spoke to the customer in another language. Property owners or realtors renting or leasing apartments, condominiums or houses would be subject to this bill if they spoke to prospective tenants in languages other than English.

Expanding the translation mandate to cover every possible language spoken in California would stretch beyond the breaking point car dealers’ collective ability to stock translated contracts and hire the personnel necessary to perform such translations. The bill would likely have the perverse effect of fewer foreign lan-

guage contracts being negotiated due to liability concerns in this litigious society. A likely outcome will be that car dealers and other types of businesses will adopt policies preventing negotiations in any language other than English.

Expanding the law to include mortgages is even more challenging. The process is already paper intensive, and will grow even more so with required translations. Customers will be burdened with even more paper from a process that already is complicated and bewildering.

Particular to the mortgage lending industry is the requirement to have documents recorded. So the question arises: which document would the county recorders be required to record and are they prepared to record in another language? It is likely that many small lenders would not have the expertise to or could not afford to provide translations for these documents so the proposal would result in a reduction in the availability of credit to California consumers.

Before being amended on April 18, AB 512 dealt with security breaches in medical records.

### Action Needed

Contact your Assembly member and members of Assembly Judiciary and ask them to **oppose AB 512**.

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

**Staff Contact: Valerie Nera**

## Higher Fuel, Energy Costs Likely Result of CalChamber-Opposed Bills

From Page 3

**ton (R-Rancho Cucamonga); Harman (R-Huntington Beach).**

● **SB 411** passed the Senate Energy, Utilities and Communications Committee on April 24 by a vote of 5-3:

Ayes: Kehoe (D-San Diego); Padilla (D-Pacoima); Ridley-Thomas (D-Los Angeles); Simitian (D-Palo Alto); Wiggins (D-Santa Rosa).

**Noes: Dutton (R-Rancho Cucamonga); Battin (R-La Quinta); Cox (R-Fair Oaks).**

Absent/abstaining/not voting: Calderon (D-Montebello).

● All three bills have passed the Senate

Environmental Quality Committee on largely partisan votes, with Democrats in support and Republicans in opposition (see chart).

### Action Needed

Contact your senators and urge them to **oppose SB 140, SB 210 and SB 411**.

For a sample letter, visit [www.calchambervotes.com](http://www.calchambervotes.com).

**Staff Contact: Amisha Patel**

### Senate Environmental Quality Votes

	SB 140	SB 210	SB 411
<b>Aanestad (R-Grass Valley)</b>	N	N	N
Florez (D-Shafter)	Y	—	Y
Kuehl (D-Santa Monica)	Y	Y	Y
Lowenthal (D-Long Beach)	Y	Y	Y
<b>Runner (R-Lancaster)</b>	N	N	—
Simitian (D-Palo Alto)	Y	Y	Y
Steinberg (D-Sacramento)	Y	Y	Y

— Absent/abstaining/not voting

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- What steps you can take to avoid terminating an employee
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- How to properly document disciplinary actions
- How to make a case to support a termination decision

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