

ALERT

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Testimony Highlights Need for Flexible Workweek Bill

Help for Employees, Work-Life Balance, Environment



SUPPORT

California Chamber of Commerce-sponsored legislation that would help individual employees achieve greater flexibility in work schedules could yield benefits for the environment, as well as children and families, speakers told an Assembly committee this week.

Still, the Assembly Labor and Employment Committee rejected the bill, **AB 510 (Benoit; R-Bermuda Dunes)**, in vote of 3-5 on April 18.

AB 510 would allow employees to work four 10-hour days a week if the employee desires the schedule and the employer agrees to the compressed

schedule. If the employer agrees to the proposed four-day workweek schedule, the four-day workweek would be paid at straight-time rates. Any work performed beyond the compressed work schedule would remain subject to current California overtime requirements.

Marti Fisher, CalChamber policy advocate, explained that a flexible work schedule would benefit both employers and employees.

"As the law stands today, individual employees do not have the right to seek and arrange individual flexible schedules with their employers. AB 510 will provide individual workers much-needed flexibility to permit four-day workweeks

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CalChamber Names New Public Affairs Executive



Robert Lapsley

The California Chamber of Commerce this week announced that Robert Lapsley has joined the CalChamber as vice president of public affairs.

Lapsley will oversee the CalChamber's public affairs activities, including its Advocacy Council, a political advisory committee made up of major members; its candidate recruitment and support program; and its political action committees — ChamberPAC, which supports pro-jobs candidates, and CalBusPAC, which qualifies, supports and/or opposes ballot initiatives.

He also will serve as the CalChamber liaison to JobsPAC, a broad, employer-based committee that supports pro-jobs candidates.

Finding Pro-Jobs Candidates

"By identifying and helping elect pro-jobs candidates to local and state office, the employer community can ensure it has representation at all levels of government, as well as a future bench of candidates for higher office," said CalChamber

See Robert: Page 5



Dominic DiMare (right), CalChamber vice president of government relations, opens testimony in support of the flexible workweek bill, AB 510 by Assemblyman John J. Benoit (second from right). Waiting to testify are business owners Ruth Evans and Oran Cogdill of Fresno.

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Cal/OSHA Corner

Employers Able to Initiate Change in Cal/OSHA Rulemaking



Mel Davis
Cal/OSHA Advisor

How do I, as an employer, effect revision to regulations that are no longer relevant or have not kept pace with current technology?

When the California Occupational Safety and Health Act was signed into law in 1973, provisions were provided to

allow interested parties to petition the Occupational Safety and Health Standards Board with proposals to revise, repeal or adopt new regulations affecting the occupational safety and health of the workers in California.

Public Hearings

These petitions can be presented verbally with accompanying written documentation at the board's monthly public hearing. The public meeting portion of the hearing is specifically for receiving general comments and requests for regulatory change. The petition also can be mailed directly to the board staff.

In either instance, the petition should contain a detailed explanation as to why the change is necessary and include possible regulatory language.

Cal/OSHA staff then reviews the petition and related information, including present technology, consensus standards, accident data, industry practices, etc. A report is prepared with recommendations for approval or denial, and the information is presented to the board for its review and action.

This all is to occur within six months from the date the board received the petition. If the petition is granted, rulemaking development can proceed, either through the use of an ad hoc advisory committee or without advisory committee input, but by using the petitioner's documentation with validation through staff research.

The length of time between submitting a petition and a completed and approved rulemaking package depends on how complex and controversial the proposed regulation may be.

Variance Process

Another much quicker way to bring about regulatory change is through the variance process. Variances essentially are tailored or specialized regulations for

a specific process and employer.

If an employer is unable to comply with the regulations affecting a process or procedure, the employer may find a new method (through research and practical application) that is as safe and effective as the regulations. The employer also may be able to comply with the regulation, but has found a better and less expensive way to comply that is not covered by the regulations.

The variance application is submitted to the board with information on how "equivalent" safety will be provided. The Division of Occupational Safety and Health (Cal/OSHA) also reviews the application.

Board staff reviews the application and researches as necessary to determine the validity of the information and if indeed equivalent safety will be provided. Both board staff and Cal/OSHA prepare and submit reports to the board members.

A variance hearing is then scheduled and the applicant can personally present the proposal. There usually are two board members at the hearing, who take the information and direct staff to prepare a proposed decision.

Interested parties may be present either to reinforce or refute the information presented. All information received is considered and can influence the decision. The proposed decision is then presented at the next public hearing for the full board's comments/discussion and decision. This process normally does not exceed six months.

Priority Rulemaking

The above are only two ways that regulations may be effected by the board. Although the majority of rulemaking projects and priorities are not directly influenced by employers, employers can have an influence on the final result.

See Employers: Page 3

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CalChamber-Sponsored Bill to Simplify Workplace Posters Rejected by Committee



SUPPORT

An Assembly committee this week rejected California Chamber of Commerce-sponsored legislation aimed at making workplace posters easier to understand.

CalChamber-supported **AB 613 (Tran; R-Costa Mesa)** failed to pass the Assembly Labor and Employment Committee on April 18 by a vote of 3-5.

AB 613 would have benefited both employers and employees by establishing a working group of employee and employer representatives to ensure current state-mandated workplace posters use simple, plain language. Supporters sent more than 3,000 letters to legislators through the CalChamber grassroots system.

Benefits

Plain language in workplace postings ensures employer compliance with labor laws and clearly informs workers of their rights, diminishing feelings of insecurity, frustration and anger on the part of both employers and employees.

If plain and simple language is used to write the posters, then new postings will use common, everyday words, short sentences, and terms and definitions that are simply and clearly defined.

AB 613 proposed to assemble a working group composed of equal numbers of employer and employee representatives, overseen by the state Division of Labor Standards Enforcement. Using existing resources, the group members were to



CalChamber Policy Advocate Marti Fisher (center) waits to speak in support of the CalChamber-sponsored bill by Assemblyman Van Tran (left) to move the state toward making workplace posters easier to understand. The door-long poster of required notices, held by J'aime Rosales, legislative director for Tran, illustrates the need for plain language posters.

work together to make recommendations on how best to simplify the language of current state-mandated workplace posters.

Any recommended revision to a required posting would not have diminished or increased any employee right or protections or any employer liability or duty. All of the working group's recommendations were to be transmitted to the Legislature for consideration and possible action.

Key Vote

The 3-5 Assembly Labor and Employment vote on AB 613 was:

Ayes: Gaines (R-Roseville), Galgiani (D-Stockton), Strickland (R-Moorpark).

Noes: DeSaulnier (D-Concord), Laird (D-Santa Cruz), Leno (D-San Francisco), Ruskin (D-Redwood City), Swanson (D-Oakland).

In 2006, similar legislation failed to pass the committee on a party-line vote, with Republicans in support and Democrats opposed.

Staff Contact: Marti Fisher

Employers Able to Initiate Change in Cal/OSHA Rulemaking

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The Number 1 priority for rulemaking action is if federal OSHA creates a regulation. If California does not have an equivalent regulation, a priority rulemaking is mandated to ensure California comes into compliance as soon as possible.

Other rulemakings are initiated by Title 8 review and consensus standards updates,

large numbers of variances addressing the same issue, Appeals Board decisions, legislative mandates, and Cal/OSHA memorandums to address Cal/OSHA's inability to sustain appeals because of perceived poorly written regulations or for conditions that appear not to be addressed by the regulations.

To contact the board regarding peti-

tions and variances online, visit www.dir.ca.gov/oshsb.

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.

Testimony Highlights Need for Flexible Workweek Bill

From Page 1

for workers desiring to find a balance between work and personal lives," said Fisher.

Flexibility for Employees

In testimony to the committee, Gregory Lippe, managing partner of the accounting firm Lippe, Hellie, Hoffer & Allison in Woodland Hills, said he supports AB 510 because his employees would benefit from the flexibility in commuting and work schedules. He noted that being able to offer the benefit would help his business with employee recruitment and retention.

"Having the option of a flexible work schedule would be a great benefit to provide my employees," Lippe said. "It would allow me to offer each employee a schedule that best suits their work and commuting needs. In a competitive employment market, the more I can do to support and retain my employees, the better my business will perform."

Life-Work Balance

Ruth Evans, owner of The Evans HR Group, a human resource management firm in Fresno, added that the legislation would make it easier for employees to spend more time with their families and achieve the life-work balance she notes more employees are seeking.

"Having more flexibility in employees' work schedules would allow them to spend more time with their families, tending to children or the needs of older relatives without having to sacrifice time from work," said Evans. "Each household has different needs and this bill gives each employee the flexibility to decide what schedule works best for them and their family."

The hospitality industry has a high degree of seasonality, Oran Cogdill of CEO Lodging, which operates a Best Western hotel in Fresno, explained to the committee. This provides an excellent opportunity for employees who wish to work a compressed schedule.

"Since the busiest time at my hotel is Thursday-Sunday, many of my employees could benefit from working four 10-hour days and getting the three slow days off," said Cogdill. "In fact, my business offered this schedule with great success in the past while it was allowed in California."



Cathy Mesch, CalChamber grassroots coordinator, prepares to present to the Assembly Labor and Employment Committee the 12,000 letters of support the CalChamber received for the flexible workweek bill, AB 510 (Benoit; R-Bermuda Dunes).

Helps Environment

Scott Raty of the Hayward Chamber of Commerce noted the additional traffic and environmental benefits of the proposal.

"In the Bay Area, as in much of California, traffic congestion is a huge problem," Raty said. "Allowing employees to work a four-day week would eliminate one commuting day and stagger more of the remaining commutes. This reduction in commuting and intensity would also provide tremendous benefit to our air quality and efforts to reduce greenhouse gas emissions."

Assemblywoman Cathleen Galgiani (D-Stockton), a member of the committee, told committee members she believes

her district, which includes lots of commuters to the Bay Area, would benefit from a flexible workweek, allowing her constituents to shave more than four hours a week off their commutes.

Key Vote

AB 510 failed to pass Assembly Labor and Employment on a vote of 3-5:

Ayes: Gaines (R-Roseville), Galgiani (D-Stockton), Strickland (R-Moorpark).

Noes: DeSaulnier (D-Concord), Laird (D-Santa Cruz), Leno (D-San Francisco), Ruskin (D-Redwood City), Swanson (D-Oakland).

Staff Contact: Marti Fisher

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CalChamber View Prevails as Court Upholds Contracting Out Backlogged Public Projects

In a victory for a position long held by the California Chamber of Commerce, the California Supreme Court has upheld the use of private contracts for public transportation projects.

The April 12 decision settled a challenge to CalChamber-supported Proposition 35, which allows California governments to use both public and private sector architects and engineers to work on thousands of backlogged highway and transit, seismic retrofitting and other public works projects. The CalChamber joined the California Building Industry Association in filing a friend-of-the court brief supporting the ability of government to contract with private sector entities.

Commuters, Taxpayers Win

"This ruling is great news for California commuters and taxpayers," said CalChamber President Allan Zaremborg.

"The California Supreme Court has upheld the will of the people, who passed Proposition 35 in 2000 to promote the efficient delivery of public works projects and approved infrastructure bonds in 2006 to increase and accelerate those projects.

"Among other things, Californians need increased transportation capacity and they want it as quickly and efficiently as possible; today's ruling will help deliver these results by allowing the use of private sector services to augment public sector capabilities."

Choice for Government

Proposition 35 gives California state and local government the choice to hire

qualified private sector engineers, surveyors and architects where it makes sense to do so — something the other 49 states and the federal government have been able to do for decades.

Zaremborg continued, "In furtherance of this ruling and the intent of Prop. 35, we urge the Legislature to send Governor Schwarzenegger legislation to allow the state to use design-build and public-private partnerships on even more projects to be constructed with the 2006 infrastructure bonds so that these important works can be delivered as quickly and efficiently as possible. California demands and deserves no less."

Staff Contact: Erika Frank



Robert Lapsley Named New CalChamber Public Affairs Executive

From Page 1

President Allan Zaremborg.

"Robert Lapsley brings to the CalChamber the experience and tools necessary to work collaboratively with the business community and identify and support candidates who want to improve California's business climate. Success in these efforts is essential to making California an even more attractive state for business and the economy to thrive."

Lapsley Experience

Lapsley brings more than 20 years of public affairs and business experience to the CalChamber. Most recently, Lapsley was president of RCL Consultants, a firm specializing in business, regulatory, political and public affairs consulting.

Previously, Lapsley served as vice president of Arnel Development and was responsible for new business projects in the company's commercial, retail and multi-family portfolio, including federal, state and local government relations, project entitlements and project proforma analysis.

As a presidential appointee, Lapsley served as special assistant to U.S. Ambassador to Spain George Argyros. While with the U.S. State Department and in addition to his diplomatic duties, Lapsley coordinated strategies with private sector firms and the U.S. Department of Commerce in the Spanish-American and European Union business arenas on matters pertaining to capital investment and overseas trade, including restructuring of the American Business Council and American Chamber of Commerce.

A long-time policy and political aide to former Secretary of State Bill Jones, Lapsley served as undersecretary of state from 1995-1998 and from 1999-2001; he also managed both of Jones's successful campaigns for that constitutional office.

Previous experience includes serving as legislative director for Cal/EPA in the Wilson administration, and with the Assembly and Senate Campaign Committee and the Assembly Republican Caucus.

Lapsley graduated with a bachelor of science degree in biology and political science from Illinois State University. He was also a graduate public affairs fellow with the Coro Foundation and is a veteran of the U.S. Air Force.

Seminars/Trade Shows

For more information on the seminars listed below, visit www.calchamber.com/events.

Business Resources

Small Business Fair. California State Board of Equalization. May 4, Redding. (916) 341-7389.

Labor Law

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

CalChamber Calendar

California Business Legislative Summit:
May 21-22, Sacramento

Legislative Outlook

An update on the status of key legislation affecting businesses. Visit 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.

Senate Committee OKs Government-Run Health Program, New Tax



OPPOSE

Two California Chamber of Commerce-**opposed** bills that will drastically drive up employers' costs for health insurance and slow California's economic growth are moving through the Senate:

- **SB 840 (Kuehl; D-Santa Monica)** creates a new, government-run, multibillion-dollar socialized health care system built from a yet-to-be-specified tax increase.

- **SB 1014 (Kuehl; D-Santa Monica)** may force companies to close their doors or cut jobs and provides a strong incentive for individuals and companies to leave California by imposing a new income tax and payroll tax, although the state already has the ninth highest tax burden in the country, in order to fund a new, multibillion-dollar socialized medicine program.

California voters have twice rejected a government-mandated health care system — Proposition 72 in November 2004 and an initiative in 1994. Focus groups and numerous opinion polls on health care reform have reinforced that California residents do not want a single-payer government-run system, as SB 840 proposes.

In 2006, Governor Arnold Schwarzenegger vetoed legislation to enact government-run, single-payer health coverage, stating that the bill did not address affordability, shared responsibility or the promotion of healthy living.

In his veto message, Schwarzenegger said that such a system would "reduce a person's ability to choose his or her own physician, make people wait longer for treatment and raise the cost of that treatment."

Several sources have estimated that it would cost tens of billions of dollars to operate the health care system envisioned by SB 840. There also would be billions of dollars in start-up and administration costs related to the new agency.

These costs would be financed through new health care taxes that SB 1014 levies on consumers, employees and businesses in California.

SB 1014 creates a multibillion-dollar tax increase for individuals and the self-

employed having incomes of more than \$200,000, as well as a payroll tax on both employees and employers.

In opposing SB 1014, the CalChamber notes that the tax increase would severely undermine California's economy, hitting small businesses especially hard and adding to what already is the ninth highest tax burden in the country.

In addition, SB 1014 creates an unreliable new revenue source for the new multibillion-dollar government-spending program it is intended to fund. The state already continues to experience significant and unexpected budget shortfalls from volatile fluctuations in income tax revenue.

Key Votes

SB 840 and SB 1014 passed the Senate Health Committee on April 18 by votes of 6-4:

Ayes: Kuehl (D-Santa Monica), Alquist (D-Santa Clara), Cedillo (D-Los Angeles), Ridley-Thomas (D-Los Angeles), Steinberg (D-Sacramento), Yee (D-San Francisco).

Noes: Aaenestad (R-Grass Valley), Cox (R-Fair Oaks), Maldonado (R-Santa Maria), Wyland (R-Del Mar).

SB 840 will be heard next by the Senate Appropriations Committee.

SB 1014 is scheduled to be considered on April 25 by the Senate Revenue and Taxation Committee.

Action Needed

Contact committee members and your senator and urge them to **oppose SB 840 and SB 1014**.

For easy-to-use sample letters, visit www.calchambervotes.com.

Staff Contacts: Marti Fisher

Kyla Christoffersen

Court Ruling Likely to Increase Employer Liability, Employee Lawsuits

An April 16 ruling by the California Supreme Court settles a question about meal/rest period violations to the detriment of employers and highlights the need for reforms.

In a long-awaited decision, the state Supreme Court ruled that the amount paid to a worker by an employer for failing to provide a worker a meal break is a wage, not a penalty.

The Supreme Court decision was the final stop in the case of *Murphy v. Kenneth Cole Productions, Inc.*, the leading case on the issue of whether the statutory payment required under Labor Code Section 226.7 for failure to provide a rest or meal break is a penalty or a wage.

Impact

The court's decision increases an employer's liability by establishing a three-year statute of limitations for employees to sue about an alleged violation of the requirement that employers provide a rest or meal break. Accordingly, the impact of this case is enormous due to the number of lawsuits pending in California seeking payment under Section 226.7.

Class action claims for meal and rest

period violations have been on the rise because of the potential for substantial monetary payouts arising from per-day, per-employee penalties.



The CalChamber's arguments, presented to the court in March by attorney Steve Drapkin, cited 100 years of California case law as clearly pointing to the payment requirement as being a penalty and not a wage. In addition, legislative discussions leading to the adoption of the payment requirement identified it as a penalty, as did later proposals to

amend that section of the law.

In order to reduce an employer's liability, the CalChamber believes legislation is needed to clarify what an employer must do to ensure that an employee takes the required meal or rest period.

As a result of the decision, employers must treat the payment owed for a missed meal period as a wage and pay the employee the statutory amount.

Compliance Help

In the wake of this ruling, it is more important than ever that employers be diligent and fully comply with the law. The following CalChamber products can

help employers understand the law and comply:

● **Compensation 201 Live Web Seminar** shows businesses how to create a competitive base salary compensation program. CalChamber's expert guidance gives businesses the knowledge needed to attract and retain a competent workforce while staying competitive in the labor market.

● **Employee Handbook Software** helps businesses create an employee handbook in minutes. Clicking through the Wizard's brief set of questions automatically creates a customized employee handbook that's compliant with California and federal labor laws.

● **Labor Law Digest** is the most comprehensive resource available for both California and federal labor law. The two-volume digest is written in plain English and has helpful charts, case histories and discussions showing where federal and state laws intersect, while delving into all areas of compliance.

● **HR Handbook for California Employers** is presented in an easy-to-read, question-and-answer style. **HR Handbook** focuses on steps to follow, forms to use and helpful checklists.

For more information, visit www.calbizcentral.com.

Staff Contact: Erika Frank



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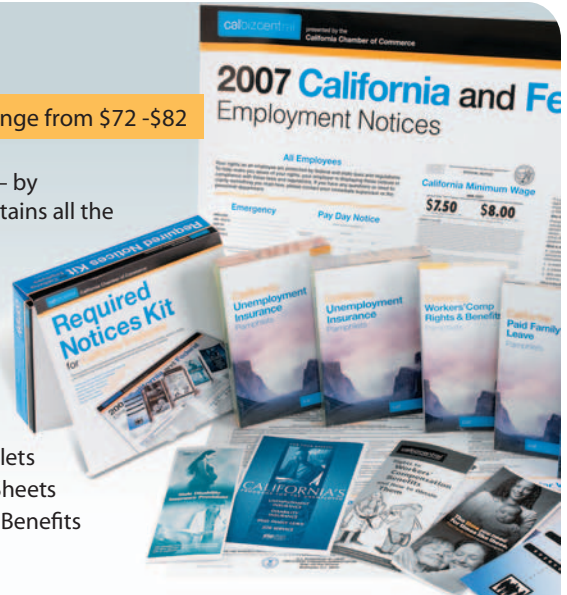
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Here's what's inside the **2007 Required Notices Kit**:

- All 16 California and federal notices every California business must post, on one 28"x53" poster
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