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Job Creation Proposals Moving in Legislature

Three California Chamber of Commercesupported bills that will promote job creation are still moving through the Legislature.

Two of the bills have been scheduled for policy committee hearings in the next two weeks.

• AB 1394 (Krekorian; D-Burbank) improves protections of trademark owner rights and consumer health and safety by strengthening California laws against trafficking of fake products such as auto parts, prescription drugs and children's toys.

• AB 2987 (Benoit; R-Bermuda Dunes) harmonizes provisions in current



law to ease administration of return-towork provisions in workers' compensation law.

• SB 1608 (Corbett; D-San Leandro) is comprehensive reform that increases

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Rising Gas Prices Spark New Demand for 4-Day Workweeks

News reports and calls to the California Chamber of Commerce indicate that the rising price of gas, food and energy is forcing workers and businesses to look for ways to economize.

Gasoline in California cost \$4.43 per gallon this week, more than double the price of a year ago, according to the Energy Information Administration.

In addition, traffic congestion is getting worse and Californians are increasingly looking for ways to clean up the environment.

One strategy that would have a positive impact on household gas budgets, commuter congestion and the environment would be permitting employees to work alternative work schedules such as four 10-hour days rather than five eighthour days in a week.

Alternative Workweek

California law allows an employer to implement alternative schedules for all employees in a specified work unit by following a series of steps, including holding a secret ballot election.

Under current Labor Code 511 and following Industrial Welfare Commission wage orders, employers may institute alternative work schedules if two-thirds of affected employees agree to the arrangement by secret ballot.

In moving to an alternative work schedule, however, an employer must

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Chile President Speaks at CalChamber Forum



Susan Corrales-Diaz (left), chair of the CalChamber Council for International Trade, thanks Chile President Michelle Bachelet Jeria as she leaves the CalChamber breakfast forum, accompanied by Chile Minister of Foreign Affairs Alejandro Foxley and CalChamber President Allan Zaremberg. See story on Page 7.

Photo by Aaron Lambert



Labor Law Corner

Handling of Voluntary Wage Assignments Differs from Garnishments



Gary Hermann Labor Law Consultant

Is a voluntary wage assignment the same as a garnishment notice?

Section 2929 of the California Labor Code provides, in part, that "no employer may discharge any employee by reason of the fact that his wages have been subjected to garnishment for the payment of one judgment."

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E-mail: alert@calchamber.com. Home page: www.calchamber.com. The definition of garnishment in California Labor Code Section 2929 means "any judicial procedure through which the wages of an employee are required to be withheld for the payment of any debt."

If an employee executes a voluntary wage assignment for the benefit of a particular creditor, no judicial action has taken place and therefore this would not constitute a judgment garnishment notice that would have to be counted pursuant to the statute.

Review Assignment First

Unlike a garnishment wage order, an employer has no obligation to honor an assignment. Before simply deciding to honor the assignment, however, the employer should discuss the authorization with the employee and review it with counsel.

Although the protections of Labor Code Section 2929 would not apply, the validity of the assignment is governed by the provisions of Labor Code Section 300.

Labor Code Section 300 invalidates any assignment unless:

- The assignment is contained in a separate written instrument signed by the employee.
- The assignment must specifically identify the transaction to which the assignment relates.
- If the employee is married, the written consent of the spouse must be attached to the assignment.
- If the employee is a minor, the written consent of a parent or guardian must be attached to the assignment.
- The employee must attach a statement that no other assignment exists with

regard to the same transaction.

- The assignment must be notarized and be accompanied by an itemized statement of the amount then due the assignee.
- The employer must not be in possession of any other wage assignment or earnings withholding order.

Protecting Wage Earner

The purpose of Labor Code Section 300 is to protect employees and their families from assigning wages to the extent that the remaining portion of the wages would severely impair the wage earner's economic well being.

These restrictions protect the employee by prohibiting the employer from paying out to "assignees" more of the employee's wages than is permitted by law. The employer may also be an assignee and the statute recognizes this fact.

If an employee inadvertently, or through ignorance, exceeds the limits under Section 300 and the employer subsequently makes deductions exceeding Section 300 limitations, a wage claim may result against the employer as such an assignment would be considered an invalid deduction.

Limits on Assignments

Assignments are limited to not more that 50 percent of the employee's disposable wages (see Labor Code Section 300(c)). This obviously places an obligation on the employer to review each assignment as the employer must accept responsibility for any wage deductions based on the employee's assignment.

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CalChamber-Sponsored Seminars/Trade Shows

For more information, visit www.calchamber.com/events.

International Trade

U.S. Commercial Service Trade Mission to Vietnam. U.S. Commercial Service. June 16-20, Hanoi and Ho Chi Minh City, Vietnam. (202) 482-3786 or (202) 482-1841.

Building International Networks. The Law Society of England and Wales. June 16-18, Los Angeles. charlotte.ford@lawsociety.org.uk.

U.S.-Chile Free Trade Agreement — Evaluating the Impact. Port of Los Angeles. June 24, Los Angeles. (323) 932-7202.

Brazil Infrastructure Projects Roadshow. Brazilian Embassy. June 25, San Francisco. (202) 238-2770.

Customs and Compliance Seminar. Bay Area World Trade Center. June 26, Oakland. (510) 251-5900.





Assembly Considering Legislation Likely to Increase Fuel Prices



Fuel price increases will be the likely result of two California Chamber of Commerceopposed "job killer" proposals under consideration in the state Assembly.

On June 16, the Assembly Transportation Committee is scheduled to consider SB 445 (Torlakson; D-Antioch), a climate change tax, and SB 1240 (Kehoe; D-San Diego), a restrictive fuel standard.

Unfair Tax

SB 445 assesses an unfair tax on businesses and consumers by authorizing specified regional transportation agencies to impose a tax on either motor vehicles or vehicle fuel.

California's energy prices are already among the highest in the nation and SB 445 proposes a tax of up to an additional 10 cents per gallon.

"This tax, plus the rising energy prices due to existing environmental initiatives are making it more and more difficult for California's small businesses to remain in the state," said CalChamber Policy Advocate Amisha Patel.

The California Air Resources Board

(ARB) is already working on the AB 32 scoping plan, which will be the guide-book for putting the state's emissions reduction program into motion and developing regulations.

"Since AB 32 gives the ARB the ultimate authority to regulate greenhouse gas emissions, it is important that local and regional entities refrain from setting up duplicative requirements," Patel said.

SB 445 proposes a special tax for a specific purpose and thus should be subject to approval by a two-thirds vote of the Legislature or public. The bill as currently drafted seeks to skirt the two-thirds vote requirement.

Conflicting Regulations

SB 1240 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 conf icts with the existing standard created by Governor's Executive Order S-7-04.

Unlike the Governor's Executive Order, the bill limits the fuel technology providers may use to meet its mandate to reduce the carbon intensity of transportation fuels by at least 10 percent by 2020.

"In order to meet increasing consumer demand, it is necessary that the fuels

Updates on 'Job Killer' Bills at *calchamber.com/jobkillers*

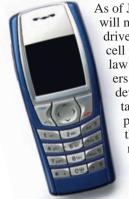
market is full of options and represents a mix of alternatives," Patel said. "Establishing another standard will only stall the reductions and create more uncertainty in the regulatory process."

AB 32 sets up a process for reducing greenhouse gas emissions and calls for the development of a comprehensive plan, created in a balanced and expeditious manner, including encouraging the use of alternative fuels. SB 1240 ignores this planning and pre-judges the outcome of AB 32 and the Governor's Low Carbon Fuel Standard.

Action Needed

The CalChamber is urging members of the business community to contact their Assembly representatives and ask them to oppose SB 445 and SB 1240. Staff Contact: Amisha Patel

Starting July 1: Hands-Free Only Cell Phone Use While Driving



As of July 1, Californians will no longer be able to drive while using their cell phones. The new law requires that drivers use a hands-free device if they are talking on their cell phone. Drivers under the age of 18 may not use any type of cell phone device while driving.

Employers with employees who conduct business on their cell phone while driving should be prepared for this law.

What Employers Should Do

Employers should do all the following:

- Remind employees of your policy, or implement a company policy about cell phone use while driving on company business;
 - Provide employees with hands-

free devices if they must talk on the phone while driving; and

Enforce your policy.

In addition, employers should consult with legal counsel about the potential for liability if an employee is involved in an accident while driving and/or injures someone else.

More Information

A sample cell phone policy is available at www.hrcalifornia.com.



Job Creation Proposals Moving in California Legislature

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public access for individuals with disabilities while reducing unwarranted litigation, including by encouraging use of state-certified disability access specialists and establishing court procedure for early judicial review of lawsuit claims.

Trademark Protection

CalChamber-sponsored **AB 1394** closes loopholes that undermine enforcement efforts and brings California law into greater conformity with federal law.

Counterfeiting and piracy drains the California economy of \$34 billion per year in revenues. In Los Angeles County alone in 2005, counterfeiting and piracy resulted in losses of 106,000 jobs,

\$5.2 billion in business revenue and \$483 million in state and local government tax revenue.

AB 1394 will give courts greater f exibility to impose stiffer monetary penalties when counterfeiting operations are especially large and profitable.

Doing so will bring California law more in line with federal penalties, which are more than double the maximum penalties currently allowed under state law. In addition, tougher monetary penalties can help deter counterfeiting crimes.

Workers' Comp Job Vouchers

CalChamber-supported AB 2987 seeks to change one aspect of current law as it relates to an injured worker's eligibility for a supplemental job displacement voucher (SJDV) benefit.

Current law contains two requirements for an injured worker to be eligible for this benefit:

- First, the workplace injury causes permanent partial disability.
- Second, the employee does not return to work within 60 days of the termination of temporary disability benefits.

The second requirement that an employee does not return to work within 60 days of the termination of temporary disability can be improved for the purposes of streamlining the eligibility process.

AB 2987 changes the requirements for eligibility in a way that does not reduce the number of employees who are enti-

tled to the benefit. AB 2987 still would contain two requirements for eligibility:

- First, the workplace injury causes permanent partial disability.
- Second, the injured worker does not return to work within 60 days of the date of the permanent and stationary report.



This change to triggering eligibility based on the permanent and stationary report makes more sense because an employee's permanent restrictions are not known until a permanent and stationary report is received. In addition, the level of permanent partial disability is not known until the permanent and stationary report is received.

The changes in AB 2987 harmonize the two requirements for eligibility and remove some of the confusion over eligibility for this employee retraining benefit.

Advancing Disability Access

CalChamber-supported SB 1608 responds to a significant ongoing state problem—the small, but widely destructive, atypical group of plaintiffs and lawyers using the disability laws and court system to systematically extract monetary settlements from businesses rather than to improve disability access. Too often these lawsuits result in businesses closing their doors.

SB 1608 sets up a process to encourage business owners to be proactive in complying and to obtain the assistance of state-certified access specialists to determine whether buildings comply.

This bipartisan comprehensive reform measure is designed to address two important goals:

• Promoting and increasing compliance with state and federal civil rights laws providing for equal access for indi-

viduals with disabilities in public accommodations; and

• Reducing unwarranted, unnecessary litigation that does not advance the goals of disability access.

Action Needed

In Senate

- AB 1394 will be considered by the Senate Public Safety Committee on June 17.
- AB 2987 will be heard by the Senate Labor and Industrial Relations Committee on June 26.

Contact committee members and your senator to voice **support** for **AB 1394** and **AB 2987**.

In Assembly

SB 1608 passed the Senate with unanimous support on May 29. It is expected to be considered by the Assembly Business and Professions Committee and the Assembly Judiciary Committee.

Contact your Assembly representative and encourage **support** for **SB 1608**.

For more information on the job creation bills or sample letters of support, *visit www.calchambervotes.com*.

Staff Contact: Marc Burgat

Wage Assignments

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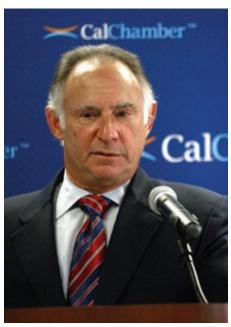
The provisions of Labor Code Section 300(d) set forth the limits of the employer's responsibility.

Section 300 does not apply to deductions the employee requests in writing that the employer makes for the payment of insurance, taxes or contributions to funds or plans providing for death, disability, retirement, etc., or for contributions to charitable, educational, patriotic or similar purposes or for the payment for goods or services furnished directly by the employer to the employee or the employee's family (see Labor Code Section 300(g)).

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.



CalChamber Study Shows Business Executives Highly Concerned Over Economy, Budget



CalChamber President Allan Zaremberg

The economy, state budget crisis and quality of life are among top concerns of California business executives, according to a survey recently released by the California Chamber of Commerce.

The CalChamber also issued a first-of-its-kind "California Economic Performance Scorecard" ranking the state 38th of 50 based on measurements of economic health and future competitiveness.

"This assessment of California's business climate shows what we all know — the economy, the state budget crisis, and quality of life issues are all weighing heavily on the minds of business owners," said CalChamber President Allan Zaremberg.

"What is particularly interesting in this survey is that California companies remain optimistic about their ability to weather these challenging economic times and remain competitive in the future," he said.

"In addition, both the business climate survey results and the economic performance scorecard indicate that there is no higher priority than to reform our educational system."

Attitudes on Economy

Overall, the survey revealed widespread pessimism about the state of the state. Of those polled, 23 percent said the state was headed in the right direction while 77 percent said the state is on the wrong track.

In addition, the current economy was viewed as negative with only 18 percent saying the economy was good and 82 percent responding that it was fair or poor.

Further, business leaders are pessimistic about economic recovery, with only 10 percent believing that the economy will be better in one year, 46 percent believing it will be the same and 44 percent saying it will be worse.

When asked about the state of their own businesses, respondents were more optimistic: 29 percent of executives

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California Ranks 38th on Economic Performance Scorecard

California ranks 38th of 50 in a first-of-its-kind "California Economic Performance Scorecard" issued by the California Chamber of Commerce.

The ranking is based on measurements of economic health and future competitiveness.

Prepared by the California Foundation for Commerce and Education (CFCE), the scorecard is designed to measure which public policies most inf uence the economic well-being of the state.

In determining the ranking, CFCE used econometric methods to develop key variables proven to have a statistically strong impact on improving a state's overall economic performance.

Top 5 Issues

The top five public policy issues showing the strongest impact on economic performance were:



Loren Kaye, president of the California Foundation for Commerce and Education

- educational achievement;
- size of the residential housing stock;
- crime rate:
- number of high quality jobs; and
- burden of state and local government.

Specifically, the scorecard shows that California is consistently one of the lowest-performing states in educational achievement; has consistently maintained one of the lowest per capita housing ratios in the country; has a crime rate above the national average; and has a tax burden slightly greater than the national average.

Helping California's economic performance is the above average number of workers in high-tech and financial service occupations.

Scorecard Message

"California's economy is underperforming its potential," said CFCE President Loren Kaye. "The message of the Economic Performance Scorecard is that our elected officials can make a material improvement to the wealth and quality of life of our citizens by focusing on improvements to our educational system and a handful of other key public policy areas so California can continue to thrive."

Scorecard details are available at the CFCE website, www.cfcepolicy.org.



Business Climate Study Shows Economy High Concern for Business Execs

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indicated that they believe their situation will be better in one year, 57 percent said their situation will likely be the same and 14 percent said things will likely be worse.

Disadvantages

Asked to assess the disadvantages of doing business in California:

- 42 percent of respondents said too much government regulation was a primary factor in creating a disadvantage for California companies;
- 28 percent said the ability to hire and maintain a qualified workforce is an issue;
- 28 percent think the high cost of health care is problematic; and
- 26 percent said high labor costs are causing difficulties.

In addition, according to 21 percent and 20 percent of respondents respectively, the high cost of housing and high state and local taxes are creating competitive disadvantages for California's companies.

Advantages

Business leaders believe the strongest

advantages provided to California businesses are:

- the climate (52 percent);
- quality of life (38 percent);
- access to large and lucrative markets (37 percent); and
- culture of innovation/research and development (25 percent).

Top Issues

California's employers believe the state budget deficit is the most important issue to be addressed by state leaders (33 percent), followed by the quality of public schools and higher education (24 percent), economy and job creation (24 percent), energy and gas prices (23 percent) and increasing health care costs (19 percent).

Currently, 93 percent of CalChamber members are providing health care to their employees.

State Budget/Reforms

A huge majority (90 percent) of business leaders believe that the state budget situation is an extremely or very serious issue. Overall, employers see spending as the primary culprit in

Survey details at cfcepolicy.org

creating the budget deficit, and spending cuts as the solution, with 73 percent indicating opposition to any tax increases and 27 percent indicating that taxes should be part of the mix.

For business leaders surveyed, the priorities in budget reform include education reform (45 percent), a balanced budget (40 percent), elimination of automatic cost of living adjustments and salary increases (33 percent), and assurance that any tax increases would be temporary and broad-based (31 percent).

The California Business Executives Attitudes survey was conducted May 12–21. There were 1,113 California business executives polled. The sample is ref ective of size, location and industry mix of California businesses. The margin of error at the 95 percent confidence level is 3 percent.

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carefully follow the rules so as to avoid being subjected to potential lawsuits.

More information about establishing an alternative workweek schedule is available in the CalChamber's *California Labor Law Digest* and in Chapter 56, "Alternative Workweek Arrangements," of the Division of Labor Standards Enforcement field enforcement manual at www.dir.ca.gov/dlse/Manual-Instructions. htm.

Although the multi-step process can be challenging and cumbersome, it does present an opportunity for employers to implement 4/10 schedules to benefit their employees and their business.

Flexible Workweek Legislation

As an alternative to the current process, the CalChamber has sponsored legislation for four years in a row to allow an employer to agree to an individual employee's request to work an alternative schedule. This year, the CalChamber and many local chambers of commerce sponsored AB 2127 (Benoit; R-Bermuda Dunes), which would have permitted an individual employee in a non-union workplace to request, and the employer to grant, an alternative workweek schedule without going through the election process.

Following opposition by organized labor for the fourth consecutive year, the bill failed to pass the Assembly policy committee on a party-line vote (see April 11 *Alert*).

The CalChamber will continue to work toward removing or minimizing barriers for employers and employees to agree to f exible alternative work schedules.

More Information

Next week's Alert will include a step by step guide to implementing an alternative work schedule in accordance with the current requirements. Information also is available on the CalChamber's HR California website. CalChamber preferred and executive members can call the Labor Law Helpline for assistance.

Take Survey

Readers whose companies have implemented or would like to implement an alternative schedule in the workplace can help the CalChamber by taking the survey at www.calchamber.com.

Staff Contact: Marti Fisher

Take the survey at calchamber.com/ altworkweek.



Chile President Cites Natural Affinities in Trade Relationship with California

California and Chile are natural partners, linked by a history dating back to the Gold Rush, plus climate and culture, the President of Chile, Michelle Bachelet Jeria, told a breakfast gathering at the California Chamber of Commerce.

President Bachelet's talk at the June 12 event was part of a Northern California tour and attracted more than 160 guests, including representatives from the U.S. and California governments, local universities and businesses.

President Bachelet highlighted the growth in trade between Chile and the United States, as well as Chile and California since the signing of the U.S.-Chile Free Trade Agreement (FTA) four years ago. Because FTAs stimulate trade, the President commented, Chile has supported other agreements, such as Peru, Colombia and Panama.

"I have spoken to some members of the House . . . to stress the importance of passing this legislation in Congress, not only because of the economic benefits these agreements will provide, but also because of the political obligation to support democratic governments," President Bachelet said.

Describing "social cohesion" as a particular challenge in Latin America, President Bachelet cited the need to pursue economic growth and social justice at the same time.

"It is impossible to have economic growth and a stable democracy with large segments of the population being excluded from progress," President Bachelet said.

Chile has been investing record sums in education, including redesigning the research and development system, as well as investing in infrastructure with a particular focus on competitiveness, President Bachelet said.

Chilean Delegation

The President's delegation included the Chilean ministers of foreign affairs, the economy and energy, and several members of the Chilean Parliament.

Also accompanying President Bachelet to the breakfast were Paul Simons, the U.S. ambassador to Chile; and the Chilean ambassador to the United States, Mariano Fernández.



Chile President Michelle Bachelet Jeria

After speaking at the CalChamber, President Bachelet and her delegation went to the State Capitol, where they were greeted by Governor Arnold Schwarzenegger and the President spoke to the California Assembly.

Next came a stop at the University of California, Davis, where the Governor and President Bachelet signed a memorandum of understanding to promote collaboration in "human capital development," education, environmental protection, energy, agriculture, information and communication technology, trade and business.

The President then spoke at the University of California, Berkeley.

President Bachelet

President Bachelet became the first woman president of Chile on January 15, 2006. The President is trained as a doctor, has completed graduate studies in military sciences and speaks German, French, Portuguese, Spanish and English.

Before her election to Chile's highest office, President Bachelet served as Chilean Minister of Health starting in 2000. In 2002 she was named Minister of Defense, the first woman in Chile and Latin America to hold such a position.

Trade With Chile

Chile is a substantial export partner with California. Last year, California exported more than \$880 million worth of goods to Chile, including petroleum and coal products, computer and electronic

products, machinery, and transportation equipment.

California imports from Chile include fresh fruits, forestry products, wines and seafood.

The U.S.-Chile FTA was implemented on January 1, 2004. Bilateral trade between Chile and the United States has since doubled.

Two-way trade in goods between the United States and Chile rose to \$17.3 billion in 2007. According to the Office of the U.S. Trade Representative, exports to Chile from the United States have risen more than 90 percent since implementation of the agreement. Now, Chile is the United States' 28th largest export partner.

Exports to Chile of petroleum, machinery and fertilizer from the United States have increased markedly since 2003. Top imports from Chile to the United States include copper cathodes, fresh grapes and salmon. Top exports from the United States to Chile include transmission receptors, computers and diesel trucks.

Chile, home to 16 million people and renowned copper mines, is roughly equal in size to California. The country holds \$15.3 billion in reserves and gross domestic product (GDP) grew by 4.2 percent in 2006.

Since 1990, there has been more than \$50 billion in direct foreign investment in Chile, which has the most stable and fastest-growing economy in the region.

Chile has signed 56 free trade agreements with countries around the world. **Staff Contact: Susanne Stirling**



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