

# ALERT

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## CalChamber-Backed Reforms Included in UI Legislation

*Employers Can Attend UI Appeals Board Hearings by Telephone*



### SUPPORT

Chamber of Commerce-supported reforms passed the Legislature and was signed by the Governor last week.

California's Unemployment Insurance (UI) Trust Fund became eligible for nearly \$4 billion in federal stimulus funds with the signing of the American Recovery and Reinvestment Act of 2009.

Included in the act was \$3.2 billion in federal funds for additional weeks of UI benefits with no cost to the state; \$844 million in federal funds to offset the cost of permanently altering California's

Legislation that enables California to use federal economic recovery funds for unemployment insurance while offsetting new costs with California

eligibility standards; and \$60 million to improve the administration of benefits by the California Employment Development Department (EDD).

### Reforms to Offset Costs

To offset the additional cost to employers associated with the "alternative base period" calculation required to qualify for some of the federal funds (see below), the CalChamber requested a number of policy changes to the UI system. The Legislature ultimately agreed to two of these changes, which were included in **ABX3 29 (Garrick; R-Solana Beach/Coto; D-San Jose)**, which also contained the language necessary to implement the alternative base period. ABX3 29 passed the Legislature on March 25 with CalChamber support.

The reforms in ABX3 29 will ensure  
*See CalChamber: Page 4*

## State Bill Nixes Secret Ballot for Farm Unions



### OPPOSE

passed the Senate Labor and Industrial Relations Committee this week.

**SB 789 (Steinberg; D-Sacramento)**

A California Chamber of Commerce-**opposed** bill that will hurt California businesses by driving up costs, making employers less competitive in a global market,

eliminates the requirement for secret ballot elections for union representation among farm employees, stripping them of their right to decide free of intimidation on that crucial subject by creating a new, completely unsupervised process called a mediated election.

This bill proposes to take away agricultural employees' right to a private ballot when deciding on union representation by replacing the private ballot with a "card check" scheme that

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## Second Gubernatorial Candidate Slotted to Speak at Summit



**Tom Campbell**

Former California Director of Finance Tom Campbell, a candidate for Governor in the 2010 election, will be a featured speaker at the California Chamber of Commerce Business Summit

on May 18-19 in Sacramento.

Leaders from throughout the state, including other gubernatorial candidates, have been invited to speak at the Summit, which will focus on "Leading the State and Nation Through Challenging Times." This is the 22nd anniversary of the event.

Also scheduled to speak are Governor Arnold Schwarzenegger, CalChamber Chair Frederick R. Ruiz, NBC News Political Director Chuck Todd and California Insurance Commissioner Steve Poizner, also a gubernatorial candidate.

### Tom Campbell

Campbell represented Silicon Valley districts in the U.S. Congress in 1989-1993 and 1995-2001, and in the California Senate from 1993-1995. While in Congress, he served on the Judiciary, Joint Economic, Banking and Housing, and International Relations committees.

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### Inside

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## Labor Law Corner

# One-Employee Work Unit May Set Alternative Workweek Schedule



**Gary Hermann**  
Labor Law  
Consultant

*Can an alternative workweek be established for only one person?*

**Yes!**

Although an employer may not adopt an alternative workweek for a single employee who may desire or agree to work it, if the employee is the only one in a particular unit, then an alternative workweek adopted pursuant

to the criteria of the Industrial Welfare Commission (IWC) orders is possible.

### Identify Work Unit

The IWC enforcement manual (see Section 56.8.2 and *Labor Law Digest*, pp. 472-473) states:

“For purposes of this subsection, ‘affected employees in the work unit’ may include all employees in a readily identifiable work unit, such as a division, a department, a job classification, a shift, a separate physical location or a recognized subdivision of any such work unit. A work unit may consist of an individual employee as long as the criteria for an identifiable work unit in this subsection are met.”

AB 5, passed in conjunction with the recent California budget, amends Section 511 of the California Labor Code to include this very language.

While new to the Labor Code, it is not a change. It must be remembered that an

individual employee cannot agree to an alternative workweek schedule unless that employee meets the criteria of a readily identifiable work unit.

### Follow Process

It also should be noted that even if an individual does meet the criteria, the adoption process set forth in the IWC orders and Section 511 of the Labor Code must be followed.

The California Chamber of Commerce is offering a free web seminar, “Checklist for Creating an Alternative Workweek,” on April 15. For more information, visit [www.calbizcentral.com](http://www.calbizcentral.com).

*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).*

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## CalChamber-Sponsored Seminars/Trade Shows

For more information, visit  
[www.calchamber.com/events](http://www.calchamber.com/events).

### Business Resources

Breakfast in Beverly Hills. Beverly Hills Chamber. Through April 30, Beverly Hills. (310) 248-1000.

Central Valley Tour. Water Education Foundation. April 15–17, Bakersfield. (916) 444-6240.

Bay-Delta Tour. Water Education Foundation. June 10–12, Sacramento. (916) 444-6240.

### International Trade

California Ag Export Training Series. Center for International Trade Development. April 7–June 18, various locations. (888) 638-7888.  
2nd Celebration of the International

Trade Community. U.S.-Mexico Chamber of Commerce. April 23, Los Angeles.

Implementation of Renewable Energy in the Emerging Markets of Africa, Latin America and the Caribbean. Centers for International Trade Development. April 27–29, San Francisco. (650) 738-7098.

World Trade Week Kickoff Breakfast. Los Angeles Area Chamber. May 7, Los Angeles. (213) 580-7569.

Game Changers in the Supply Chain Infrastructure. Department of Commerce and the Department of Transportation. May 11, Washington D.C. (202) 482-1134.

8th Annual Maritime Leadership Symposium. California Association of Port Authorities; California Marine  
*See CalChamber-Sponsored: Next Page*

## CalChamber Calendar

*Labor and Employment Committee:*

April 6, Sacramento

*Business Summit:*

May 18-19, Sacramento

*Board of Directors:*

May 19, Sacramento

**Next Alert:**  
**April 17**



# State Bill Nixes Secret Ballot for Farm Unions

*From Page 1*

allows a union to organize the employees if a majority of them simply sign a card.

Under this system, the union organizers themselves oversee the process, and the employees' votes could be made public to the employer, the union organizers and co-workers.

The CalChamber believes employees are better protected from interference and intimidation by casting their vote privately with a secret ballot. To take away employees' access to a private secret ballot is undemocratic.

Labor unions in California are experiencing a decline in membership. Bolstering their membership should occur because workers see a need, not by adulterating the election process. The CalChamber supports the Agricultural Labor Relations Act and its provisions for agricultural labor protections, and rejects attempts to undermine the secret-ballot process in California in any way. Undermining the secret-ballot process sends the wrong message to new or growing businesses that could create jobs for California citizens.

Governor Arnold Schwarzenegger has vetoed CalChamber-opposed bills like SB 789: AB 2386 (Núñez; D-Los Angeles) in 2008, which eliminated the secret ballot, and an identical bill, SB 180 (Migden; D-San Francisco), in 2007.

## Key Vote

SB 789 passed Senate Labor and Industrial Relations on April 1 on a party-line vote of 4-2.

Ayes: DeSaulnier (D-Concord), Ducheny (D-San Diego), Leno (D-San Francisco), Yee (D-San Francisco).

## Action Needed on Federal 'Card Check' Bill



Federal legislation that will abolish employees' right to secret ballot elections during union organizing drives and replace it with a "card check"

scheme is pending in Congress.

CalChamber-opposed **S. 560** and **H.R. 1409** are authored by U.S. Senator Edward Kennedy (D-MA) and California Congressman George Miller (D-Martinez), respectively.

The CalChamber believes that only a secret ballot system protects employees from both unions and employers. Moreover, the act would boost costs for employers already struggling to make payroll and protect jobs in this economic downturn.

The act also allows a federal arbitrator to write the labor agreement

if the parties do not reach agreement within 120 days. This short deadline provides an incentive for union negotiators to make sure the process lasts long enough to get the matter into arbitration and eliminates any incentive to negotiate in good faith. The contract would be imposed with no ability for either employers or employees to challenge it.

Strong advocacy recently led to U.S. Senator Arlen Specter (R-PA), a key Republican vote, to announce his opposition to the card check bill.

## Action Needed

The CalChamber urges members to continue contacting their representatives in the U.S. Congress and U.S. Senators Dianne Feinstein (D-San Francisco) and Barbara Boxer (D-Greenbrae) to ask them to **oppose** the "card check" proposal.

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

**Staff Contact: Marti Fisher**

**Noes: Wyland (R-Del Mar), Cogdill (R-Modesto).**

## Action Needed

SB 789 will most likely be considered next by the California Senate

Appropriations Committee. Ask your California senator to **oppose SB 789**.

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

**Staff Contact: Marti Fisher**

## CalChamber-Sponsored Seminars/Trade Shows

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Affairs and Navigation Conference.  
May 12-14. (916) 444-7158.

U.S. Business Mission to Vietnam. U.S. Vietnam Chamber. May 16-24, Ho Chi Minh City (Saigon).  
(202) 271-8200.

Busan International Machinery Fair.  
Busan Metropolitan City and others.  
Busan (South Korea), May 20-24.

TIBCO Bucharest International Fair.  
Consulate General of Romania.  
June 3-7, Bucharest, Romania.  
(310) 477-0197.

6th World Chambers Congress.  
International Chamber of Commerce.  
June 3-5, Kuala Lumpur, Malaysia.  
[wcc2009@fmm.org.my](mailto:wcc2009@fmm.org.my).

Thailand-Los Angeles Port Seminar.  
Los Angeles Port Authority. June 12,

San Pedro. (310) 732-3870.  
China Building 2009. China Building Materials Industries Association and others. June 18-19, Beijing.

## Labor Law

Federal Law Update Live Web Seminar.  
CalBizCentral. April 9. (800) 331-8877.  
Checklist for Creating an Alternative Workweek. CalBizCentral. April 15. (800) 331-8877.

## CalChamber-Backed Reforms Included in UI Legislation

*From Page 1*

that California employers continue to receive more prompt and informative notices about UI and job retraining benefits that are being charged to their UI accounts.

In addition, once implemented by the UI Appeals Board, the reforms in ABX3 29 will streamline the process for California employers to attend UI Appeals Board hearings via telephone instead of having to show up in person. This reform will help ease the administrative burden associated with disputed UI benefits and will help the UI Appeals Board move through its backlog of cases.

These two reforms ensure that California employers will have more information on the UI claims filed against their businesses and will have an easier

and more convenient method of disputing benefits that should not be paid.

In order for California to qualify for the \$844 million in federal stimulus funds, the state was required to institute an "alternative base period" to the way California determines an employee's eligibility for UI benefits.

This change in policy simply allows the state to use an employee's most recent calendar quarter of wages in determining eligibility for benefits if the employee doesn't qualify by using the current method.

Because more people would qualify for benefits under the alternative base period calculation, it was estimated that California's struggling UI find would pay out an additional \$50 million–\$70 million per year in benefits.

### Technical Changes

To qualify for the \$3.2 billion in stimulus funds, California needed to make technical changes to state law that allowed the UI system to pay the additional weeks of emergency UI benefits.

The CalChamber worked with the Legislature and the Schwarzenegger administration to resolve those technical issues and ensure that California's employers were not exposed to additional UI liabilities.

**ABX3 23 (Arambula; D-Fresno/Coto; D-San Jose)**, containing the technical changes needed for California to qualify for the \$3.2 billion pot of federal money, passed the Legislature on March 25 with CalChamber support.  
**Staff Contact: Jason Schmelzer**

## Second Gubernatorial Candidate Slotted to Speak at Summit

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In 2002, Campbell was appointed dean of the Haas School of Business at the University of California, Berkeley. He took a leave from that post to serve as California finance director in 2004 and 2005. He has served since 2004 on Governor Arnold Schwarzenegger's Council of Economic Advisors.

Campbell was a professor at Stanford Law School for 19 years, teaching classes in antitrust, international trade, corporate and constitutional law. This year, he joined the Chapman University School of Law in Orange County as the inaugural presidential fellow and visiting professor.

### Host Committee Events

Summit attendees also will have an opportunity the evening of May 18 to mingle with fellow leaders from business, agriculture, state government, education and the military at the Sacramento Host Reception.

The reception welcomes out-of-town guests who will be attending the invitation-only Host Breakfast the next morning.

Summit attendees also may attend the breakfast.

### Register by April 17 to Save

**Attendees who register by April 17 qualify for savings of at least 20 percent.**

The two-day registration package, including Summit with lunch, the Host Reception and Host Breakfast, is \$220 now, \$275 after April 17. Other registration options are available.

Online registration and more information are available at [www.calchamber.com/summit09](http://www.calchamber.com/summit09).  
**Staff Contact: Alicia Smith**

### Valuable Breakout Sessions

Following an overview of priority business issues by CalChamber President Allan Zaremberg and award ceremonies during the Summit luncheon, attendees may choose from a variety of breakout sessions. These afternoon sessions will give attendees the option to learn about best practices or hear information updates to enhance their political, human resources or business activities: Legislative Advocacy Boot Camp 101; Political Action 101; HR 101; Protecting Your Customers' Credit Card Data; Protecting Your Business from ADA Lawsuits.



**Chuck Todd**  
NBC News Political Director  
Chief Washington Correspondent

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# Special Election Ballot Measures

Following are brief summaries of the measures that will appear on the May 19 special election ballot and arguments in favor of the California Chamber of Commerce positions.

The CalChamber believes Propositions 1A-1F provide an important framework for fiscal responsibility, including limiting spending and creation of a rainy day reserve while still ensuring education, transportation projects and

other vital programs will be funded.

**The CalChamber encourages employers to share this information with their employees.** Businesses are within their rights to do so—just remember: NO PAYCHECK STUFFERS, no coercion, no rewarding or punishing employees (or threatening to do so) for their political activities or beliefs.

For more guidelines on political communications to employees, see the

brochure at [www.calchamber.com/guidelines](http://www.calchamber.com/guidelines). Note the distinction between *internal* communications (to employees, stockholders and their families) and communications to *external* audiences (such as non-stockholder retirees, outside vendors, customers and passersby).

For more information on the special election ballot measures, see the link listed or visit the website of the secretary of state at [www.sos.ca.gov](http://www.sos.ca.gov).

## Proposition 1A



**State Budget. Changes California Budget Process. Limits State Spending. Increases “Rainy Day” Budget Stabilization Fund.**

Changes budget process. Could limit future deficits and spending by increasing the size of the state “rainy day” fund and requiring above-average revenues to be deposited into it for use during economic downturns and other purposes.

**Placed on Ballot by:** ACAX3 1 (Niello; R-Fair Oaks/Adams; R-Hesperia); SCA 13 (Ashburn; R-Bakersfield).

**CalChamber Position: Support**

**Arguments in Favor:**

Proposition 1A will help California get back on track with short- and long-term

solutions to solve the current budget deficit and help avoid a similar crisis in the future. It places a cap on state spending whenever revenues exceed the average growth over the previous 10 years. And it creates a mandatory reserve that cannot be spent unless there is a downturn in revenues. Had Proposition 1A been the law for the last 10 years, state spending would have been significantly curbed, and California would have had a large reserve fund to help deal with the economic downturn. In fact, the state’s current deficit would be only \$5 billion rather than this year’s \$40 billion.

**For more information:**

[www.cabudgetreformnow.com](http://www.cabudgetreformnow.com).

## Proposition 1B



**Education Funding. Payment Plan.**

Requires supplemental payments to local school districts and community colleges to address recent budget cuts.

**Placed on Ballot by:** ACAX3 2 (Bass; D-Los Angeles).

**CalChamber Position: Support**

**Arguments in Favor:**

Proposition 1B starts the process of repaying schools and community colleges as economic conditions improve. The future depends on investing in educating our children.

**For more information:**

[www.YES1B.com](http://www.YES1B.com).

## Proposition 1C



**Lottery Modernization Act.**

Allows state lottery to be modernized to improve its performance with increased payouts, improved marketing and effective management. Requires the state to maintain ownership of the lottery and authorizes additional accountability measures. Protects funding levels for schools currently provided by lottery revenues. Uses increased lottery revenues to address budget deficit and reduce need

for additional tax increases and state program cuts.

**Placed on Ballot by:** ABX3 12 (Evans; D-Santa Rosa); SCA 12 (Perata; D-Oakland).

**CalChamber Position: Support**

**Arguments in Favor:**

Approval of Proposition 1C will

modernize the lottery and generate up to \$5 billion in new revenue without raising taxes. Proposition 1C will guarantee schools get the same level of lottery funding as they do now. The proposition

will help prevent more tax hikes and deeper cuts in public safety and schools.

**For more information:**  
[www.cabudgetreformnow.com](http://www.cabudgetreformnow.com).

## Proposition 1D



### **Protects Children's Services Funding. Helps Balance State Budget.**

Temporarily provides greater flexibility in funding to preserve health and human services for young children while helping balance the state budget in a difficult economy.

**Placed on Ballot by:** ABX3 17 (Evans; D-Santa Rosa).

### **CalChamber Position: Support**

#### **Arguments in Favor:**

Proposition 1D protects vulnerable children while helping California close a \$42 billion budget gap. It temporarily shifts a portion of the unspent \$2.5 billion in First 5 Commission accounts to fund critical health and social services for children under the age of 5 and protects against future cuts.

## Proposition 1E



### **Mental Health Services Funding. Temporary Reallocation. Helps Balance State Budget.**

Helps balance state budget by amending the Mental Health Services Act (Proposition 63 of 2004) to transfer funds for two years to pay for mental health services provided through the Early and Periodic Screening, Diagnosis and Treatment Program for children and young adults.

**Placed on Ballot by:** SBX3 10 (Ducheny; D-San Diego).

### **CalChamber Position: Support**

#### **Arguments in Favor:**

This one-time redirection of funds will help close the \$42 billion budget shortfall and will ensure the state can continue to provide critical services to the most vulnerable Californians.

## Proposition 1F



### **Elected Officials' Salaries. Prevents Pay Increases During Budget Deficit Years.**

Encourages balanced state budgets by preventing elected members of the Legislature and statewide officers, including the Governor, from receiving pay raises in years when the state is running a deficit. Directs the Director of Finance to determine whether a given year is a deficit year. Prevents the Citizens Compensation Commission from increasing elected officials' salaries in years when the state Special Fund for Economic Uncertainties is in the negative by 1

percent or more of the General Fund.

**Placed on Ballot by:** SCA 8 (Maldonado; R-Santa Maria).

### **CalChamber Position: Support**

#### **Arguments in Favor:**

Proposition 1F prohibits legislators, the Governor and other state politicians from receiving pay raises when the state is running a deficit.

**For more information:**  
[www.cabudgetreformnow.com](http://www.cabudgetreformnow.com).

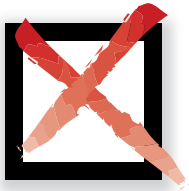
## CalChamber Positions on May 19 Special Election Ballot Measures

Ballot Number	Subject	CalChamber Position
Proposition 1A .....	Spending limit/"rainy day" fund .....	Support
Proposition 1B .....	Education funding .....	Support
Proposition 1C .....	Lottery modernization .....	Support
Proposition 1D .....	Children's services funding .....	Support
Proposition 1E.....	Mental health services funding.....	Support
Proposition 1F.....	Elected officials' salaries in deficit years .....	Support

# Legislative Outlook

An update on the status of key legislation affecting businesses. Visit [www.calchambervotes.com](http://www.calchambervotes.com) for more information, sample letters 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.

## New Internet Taxation Bills Threaten California Technology Sector Jobs, Small Businesses



OPPOSE

Two nearly identical California Chamber of Commerce-**opposed** bills that will harm California online marketplaces, web-service providers, and websites of small businesses and non-profits have been introduced in the Assembly.

The bills will change California's sales tax law in a way that will encourage out-of-state retailers to instead use out-of-state online marketplaces and websites.

● **AB 178 (Skinner; D-Berkeley)**, will be considered by the Assembly Revenue and Taxation Committee on April 13.

● **ABX3 27 (C. Calderon; D-Montebello)** may be acted upon by the Assembly at any time while the third extraordinary session remains open.

AB 178 and ABX3 27 would establish that California nexus is created when any retailer enters into any referral agreement with a California resident in exchange for compensation or commission—including online marketplaces and websites—that generates referral sales in excess of \$10,000.

"Nexus" refers to the U.S.

Constitution's requirement that an out-of-state retailer have a sufficient physical connection with a state before the state can force the retailer to collect the state's sales or use tax.

Although aimed at out-of-state companies, AB 178 and ABX3 27 could inflict significant harm on California companies. The language of AB 178 and ABX3 27 could impede numerous ways that California companies currently survive or earn money, including: offering online-marketplace services to customers that are retailers around the globe, placing banners and other advertisements on websites, and earning commissions from placing "click-through" advertisement links on websites.

**Action Needed:** The CalChamber urges members to ask legislators on Assembly Revenue and Taxation to **oppose AB 178 and ABX3 27**.

Contact [laurie.lively@calchamber.com](mailto:laurie.lively@calchamber.com) to add your company to the opposition coalition letter.

**Staff Contact:** Kyla Christoffersen

## Bill Seeks Added Limits for Photos on Social Networking Sites



OPPOSE

California legislation proposing technically infeasible restrictions on photo postings to social networking Internet websites passed in Assembly Arts, Entertainment, Sports, Tourism and Internet Media this week on a party-line vote of 5-3.

As introduced, California Chamber of Commerce-**opposed AB 632 (Davis; D-Los Angeles)** prohibits copying images of a person from a personal networking site to a public site and requires the social networking site to implement a mechanism for removal requests.

The CalChamber believes users of Internet-based social networking sites understand the limitations and inherent risks of posting personal information and personal pictures onto the web. Companies offering these sites have privacy policies that spell out what privacy measures are in place and

the limitations of the providers. It is mandatory reading before setting up an account. Adding additional prompts with the same reminders will not change users' behavior.

Although Internet technology is constantly evolving, there are still limitations. It is not possible to protect pictures from being copied and moved elsewhere without compromising the whole network.

TechAmerica, a leading voice for the U.S. technology industry, also has pointed out that "the very nature of something called the 'World Wide Web' is that it is open to the entire world."

**Action Needed:** AB 632 will be considered next by the Assembly Judiciary Committee. Contact committee members and urge them to **oppose AB 632**.

**Staff Contact:** Valerie Nera

## Need to Retrain Supervisors on Harassment Prevention This Year?

Harassment training updates are required for many employers in the fourth year of AB 1825. If you have 50 or more employees, you are required to provide harassment prevention training to supervisors within six months of hire or promotion and every two years thereafter. The California Chamber of Commerce, the trusted authority for California business compliance resources and training for 118 years, offers a thorough and affordable online course.

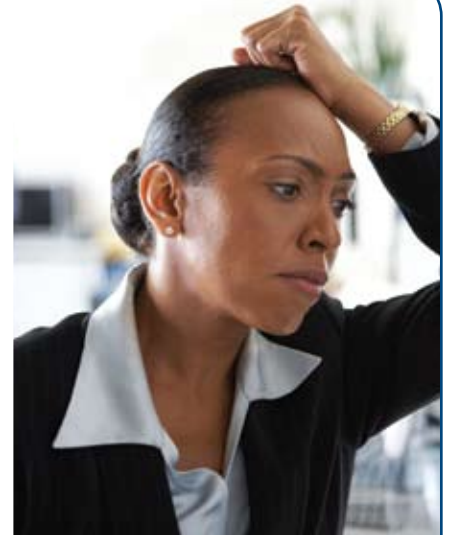
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