

ALERT

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Remaining 'Job Killers' Fall to Governor's Veto



Governor Arnold Schwarzenegger has vetoed all "job killer" bills sent to his desk for action by the Legislature this year.

Of 33 "job killer" bills identified by the CalChamber this year, only six went to the Governor for consideration.

On October 11, the Governor vetoed

the five CalChamber-opposed "job killers" that passed shortly before the session ended on September 12. He had vetoed on September 2 a "job killer" passed in late August.

Following are the "job killer" bills vetoed this year:

Costly Workplace Mandates

● **AB 943 (Mendoza; D-Artesia) Hampers Employment Decisions.** Would have unduly restricted the ability of businesses to use all legally available

See Remaining: Page 6

Governor Signs Second 'Job Creator' Bill



Governor Arnold Schwarzenegger signed into law on October 11 the second of

two California Chamber of Commerce-supported "job creator" bills that passed the Legislature this year.

SB 827 (Wright; D-Inglewood), prevents the loss of thousands of jobs and keeps businesses in California by re-establishing the South Coast Air Quality Management District's (SCAQMD) credit bank.

Vital Projects

The law supports the construction of vital projects and keeps businesses in California by permitting certain businesses in the SCAQMD to be granted emission credits.

A 2007 ruling by the Los Angeles County Superior Court prevents the SCAQMD from allowing certain businesses to use emission reduction credits from previous air quality improvements to meet emission limits required by federal law. The new law allows the court case to proceed while enabling the use of emission credits by certain businesses.

If businesses and industry in the South Coast region do not have access to the credit bank, they will not be able to

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CalChamber Recaps Net Receipt Tax Concerns



CalChamber Policy Advocate Kyla Christoffersen summarizes business community concerns with the new net receipts tax proposed by the Commission on the 21st Century Economy at an October 8 informational hearing of the Assembly Revenue and Taxation Committee. See story on Page 3.

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Labor Law Corner

Post-Pregnancy Leave Obligation: Same Job, Not Reduced Hours



Ellen Savage
Senior Helpline
Consultant

My employee had a baby last month and will be returning to work soon. Before her leave she worked full-time, but now she wants to work only part-time. What are my obligations to return her to work?

An employee who returns to work after taking time off to have a baby does not have the right to demand a move from full-time to part-time employment. In

general, your legal obligation is to put a woman back to work in the same position she held before the leave, with the same hours and duties.

If she chooses not to go back to that position and instead asks for a job with fewer hours or different duties, you are not required to comply with her requests. If you choose to allow the employee to come back to work with part-time hours, be aware you are creating a precedent for other employees to do the same.

Your specific obligations to return a woman to work after having a baby may vary depending on the type of leave taken, as follows.

Pregnancy Disability Leave

Pregnancy disability leave (PDL) will apply if:

- You have fewer than 50 employees and therefore are not covered by the

family leave laws—federal Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA); or

- You are covered by the family leave laws but your employee is not eligible to take family leave.

If the employee's leave is covered by PDL but not FMLA/CFRA, she is entitled to return to her *original job, with the same hours, pay, duties and benefits.*

You may refuse reinstatement to the original position only if you can show that either:

- the employee would not otherwise have been employed in her same position for legitimate business reasons unrelated to the employee taking the leave (such as a layoff of her entire department); or
- that preserving the job for the employee (such as leaving it unfilled or filling it with a temporary employee)

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Ann A. Amioka

Ann Amioka
Vice President, Communications
September 15, 2009



CalChamber-Led Coalition Urges Legislature to Address Questions on Net Receipts Tax



Fundamental questions remain unanswered about a proposal to adopt a new business net receipts tax, a California Chamber of Commerce-led coalition of more than 50 business and employer

groups reminded legislators this week.

As recommended by the Commission on the 21st Century Economy, much further analysis is needed on the group's final report, including the new tax on business, the CalChamber and coalition said in an October 14 letter to legislators.

Nine of 14 commissioners, including Chairman Gerald Parsky, signed onto the final report, which recommended the new business net receipts tax to offset revenue losses from flattening the personal income tax and eliminating the corporate income tax and the state portion of the sales tax.

Untested Tax

The CalChamber and coalition support the commission recommendation of a stronger rainy day fund in the belief that volatility is primarily a spending problem rather than a revenue problem.

They also applauded the commission's recognition that California's high personal and corporate income tax rates and taxation of business inputs has a negative impact on economic growth and competitiveness.

Replacing these taxes with a new tax, however, absent a thorough understanding of its impacts, could have its own set of harmful consequences, the CalChamber and coalition warned lawmakers.

The coalition questioned whether it is fair and equitable to impose a significant tax even when there is no income, as the business net receipts tax would do.

The only comparable tax not based on ability to pay is the property tax, which

was the subject of a tax revolt 30 years ago when it became unaffordable for major parts of California society. High inflation then exacerbated the perceived unfairness of the property tax, which could also be the case for a business net receipts tax.

CalChamber Testimony

In testimony to the Assembly Revenue and Taxation Committee and in the letter to legislators, the CalChamber emphasized that absent a full analysis of potential consequences of the business net receipts tax and how it interacts with the other proposed tax changes, it will be impossible for businesses to determine its full implications.

The coalition urged that California jobs and the economy should be top priorities in evaluating the tax system.

Key Concerns

Key concerns that were not addressed in the commission's final report and which should be included and addressed in the Legislature's analysis:

- **Rate and deductions unknown.**

No tax rate or rate cap is specified in the proposed legislative language and many questions remain about the nature of the proposed specific deductions. Without this information, businesses will be unable to calculate the impact of the proposed business net receipts tax.

- **No modeling of proposed business net receipts tax rate.** A crucial part of the Legislature's analysis should be to conduct independent modeling of the business net receipts tax both backward and forward over several economic cycles (about 10 years) to determine the ability of the tax to generate revenue and stem volatility.

- **Insufficient evidence that business net receipts tax better than current taxes.** The business net receipts tax may be imposed on companies even when they are losing money and cannot be passed on as a transactions tax. There is insufficient data that such tax burden shift will meet the goal of stemming volatility.

- **Danger that business net receipts tax creates winners and losers.** For example, businesses with low profit margins and high employee expenses presumably would be especially hard-hit as would companies in a loss position. Additionally, it appears the business net receipts tax may shift more of the tax burden onto small businesses, since many pay personal income taxes and would not benefit from the elimination of the corporate income tax.

- **Business net receipts tax is a tax on employees.** As proposed by the commission, the business net receipts tax would not allow any deductions for the cost of employees.

- **Harm to startups.** There is a danger that the business net receipts tax will be especially harmful to startup companies, since many could exceed the miniscule small business exemption threshold.

- **California goods priced out in national and global markets.** The business net receipts tax will undermine California's ability to compete with other states and countries if the cost of exported California goods and services becomes substantially higher than those products, such as software, offered by other states and countries.

- **Harm to small businesses and consumers because of services tax.** The commission states that one of the purposes of the business net receipts tax is to expand the tax base to include services. An additional tax on services businesses will kill jobs in industries such as dry-cleaning and auto repair because the new tax will be difficult to pass on as a transactions tax and, if it is passed on, will result in a nearly 4 percent price jump for consumers.

- **Revenues from federal government and out-of-state companies questionable.** The cited \$6.8 billion in revenues anticipated to be generated from federal deductions and out-of-state companies may rest upon unreliable assumptions.

Staff Contact: Kyla Christoffersen

Post-Pregnancy Leave Obligation: Same Job, Not Reduced Hours

From Page 2

would substantially undermine your ability to operate the business safely and efficiently. Keep in mind that this means more than showing it was inconvenient to hold the position.

Even if you can meet one of these two standards to justify not returning the employee to her original position, you still must return the employee to work in a comparable position unless you can show that:

- there is no comparable position available for which the employee is qualified; or
- filling the available position with the

returning employee would substantially undermine your ability to operate the business safely and efficiently.

Baby Bonding

If your employee's pregnancy disability leave has ended and she is now taking baby bonding leave under the CFRA, her return rights are somewhat different than they would be had she returned directly from pregnancy disability leave.

At the end of CFRA baby bonding leave, you may return her to *either* her original position or a comparable

position, at your option.

You may refuse reinstatement only if:

- the employee would not have been employed for reasons other than taking leave, such as where her department was laid off; or
- if she is a "key employee" as defined by the FMLA and CFRA.

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-Sponsored Seminars/Trade Shows

More information at
www.calchamber.com/events.

Business Resources

Global Warming and Business.
CalChamber and California Business Properties Association. November 5–6, Napa. (916) 443-4676.

Government Relations

GovLink Conference 2009. The Federal Technology Center. October 20–21, Sacramento. (916) 334-9388.

International Trade

2009 L.A. Export Series. Center for International Trade Development. October 20, November 3, November 17, December 1, Los Angeles. (213) 580-7569.

China Import/Export Fair. China Foreign Trade Centre. Phase 1: October 15–19. Phase 2: October 23–27. Phase 3: October 31–November 4. Guangzhou, China.

EB-5 Investors Continuing Legal Education Conference. American Immigration Lawyers Association. October 19, San Francisco. (800) 595-0507.

Localization World Conference Silicon Valley. Localization World Ltd. October 20–22, Santa Clara. (208) 263-8178.

The Africa Dialogue 2009. Gather Strategies. October 28–29, South Africa. (213) 291-6199.

International Commercial Arbitration in Latin America. International Chamber of Commerce (ICC). November 1–3,

Miami. events@iccwbo.org.
Switzerland-Business Breakfast Seminar. Switzerland Trade and Investment Promotion. November 4, San Francisco. (312) 236-5555.

Breaking Into the Trade Game. Sacramento Center for International Trade Development. November 4–5, Sacramento. (916) 567-7167.

Bucharest International Technical Fair. Consulate General of Romania. November 4–7, Bucharest, Romania. (310) 477-0197.

Footwear and Leather Exhibition 2009. Sri Lanka Consulate. November 6–9, Colombo, Sri Lanka. (212) 387-0214.

Israel Catalog Show. U.S. Commercial Service. November 10–12, Tel Aviv, Israel. sigal.mendelovich@mail.doc.gov.

Global Smart Energy. Monterey Bay International Trade Association (MBITA). November 13, Monterey. (831) 335-4780.

Medica 2009. U.S. Commercial Service. November 18–21, Dusseldorf, Germany. (858) 467-7039.

CalChamber Calendar

International Luncheon Forum with Governor Osuna of Baja, California:
October 20, Sacramento.
Public Affairs Council Retreat:
October 28–30, Napa

Annual Meeting

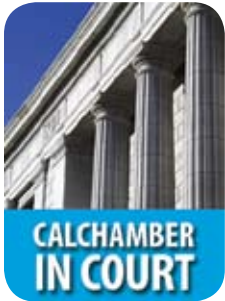
In compliance with Article VII of the bylaws, notice is hereby given that the annual meeting of the members of the California Chamber of Commerce, a mutual benefit corporation operating under the laws of the State of California, will be held on Friday, December 4, 2009, at 9 a.m. in the Gallery at the St. Regis Hotel, 125 Third Street, San Francisco, California, for the transaction of whatever business may be necessary.

Labor law answers online
HRCalifornia.com



Next Alert:
November 6

CalChamber Brief Supports Governor's Authority to Help Control State Spending



The California Chamber of Commerce and three former governors filed a "friend of the court" brief on October 7 supporting Governor Arnold Schwarzenegger's ability to control

spending by reducing or eliminating appropriations through the veto power.

The California Taxpayers' Association and the California Business Roundtable also signed onto the brief.

The brief was filed in response to a legal challenge brought against the Governor in the wake of last year's budget crisis.

Veto Power

At issue is whether the Legislature may, through a single bill, make selective and multi-item appropriations but deprive the governor of his constitutional

ability to control spending by selectively reducing or eliminating appropriations through the power to line-item veto. In July, Governor Schwarzenegger was faced with the need to veto certain appropriations in order to cut spending.

Court Brief

The CalChamber argues in its brief: Legislative attempts to circumvent the Governor's veto authority are not new, and the courts have rejected these ploys.

The supreme executive power of the state is vested in the Governor. The Governor is responsible for the administration of state government for the benefit of its citizens. One of the most important functions of a governor is to control state spending. The line-item veto is an essential tool in carrying out that function.

Under the guise of a fiscal crisis, the petitioners have invented a theory out of whole cloth to deprive governors of the authority that has been conferred on them by the California Constitution since 1922.

Neutering a governor during a fiscal

crisis is irresponsible, particularly when such action is not supported by logic, reason or law. Checks and balances are what keep democratic governments functioning through the good times and bad.

If by simple wordsmithing the legislative branch can create an omnibus spending bill limiting the governor's oversight only to a veto of the entire bill, then the budgetary process is reduced to a game of "chicken," daring a governor to bring state government to a halt through a veto.

The novel and legally unsupportable theory which petitioners advance is not limited to the current fiscal crisis. If the petitioners prevail in their theory, absent a constitutional amendment, there will be no constraints on the Legislature to pass multi-item appropriations on a majority basis on the theory they are not appropriations subjects to a two-thirds vote of the Legislature and, for the same reason, are outside a governor's line-item veto authority.

Staff Contact: Erika Frank

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.

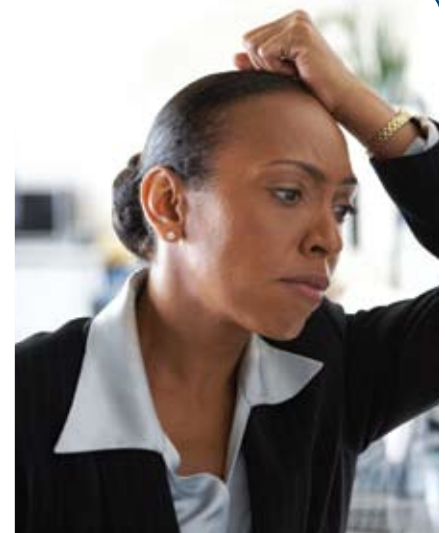
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Remaining 'Job Killers' Fall to Governor's Veto

From Page 1

information in employment decisions, including consumer credit reports.

● **SB 789 (Steinberg; D-Sacramento) Increased Agricultural Costs.** Undermined the process that now guarantees, through secret-ballot elections, a fair vote and the expression of agricultural employees' true sentiments on the selection of a collective bargaining representative. This act would have hurt California's businesses by driving up costs, making employers less competitive in a global market. (Vetoed on September 2.)

Economic Development Barriers

● **AB 1404 (De León; D-Los Angeles) Discourages Emission Reductions.** Would have significantly increased business costs and threatened state jobs and businesses by severely limiting the amount of offsets California industries could have used to meet their greenhouse gas emission goals.

Inflated Liability Costs

● **AB 2 (De La Torre; D-South Gate) Health Insurance Litigation.** Would have driven up the cost of health care premiums and increased the number of uninsured by establishing litigation as the only meaningful approach to resolving disputes over rescinding coverage.

● **AB 793 (Jones; D-Sacramento) Unreasonable New Liability for Employers.** Imposed unfair and costly litigation burden on California employers by unreasonably expanding employer liability in workplace lawsuits far beyond the federal Lilly Ledbetter Fair Pay Act of 2009.

● **SB 242 (Yee; D-San Francisco/San Mateo) New Lawsuits Against Small Business.** Could have resulted in new shakedown lawsuits against business establishments by making it a strict liability violation of the Unruh Civil Rights Act, subject to minimum damages of \$4,000, if a business limits

the use of a customer's language, even if unintentionally.

Cumulative Job Killer Vetoes

Since taking office, Governor Schwarzenegger has vetoed more than 90 percent of the "job killer" bills that have been passed by the Legislature.

In previous years, Governor Schwarzenegger has vetoed CalChamber-identified "job killer" bills that reached his desk as follows:

- 2008: Nine of 10 "job killer" bills vetoed;
- 2007: Twelve of 12 "job killer" bills vetoed;
- 2006: Nine of 11 "job killer" bills vetoed;
- 2005: Seven of eight "job killer" bills vetoed;
- 2004: Ten of 10 "job killer" bills vetoed.

Staff Contact: Marc Burgat

Governor Signs Second 'Job Creator' Bill

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obtain much-needed permits to operate on a daily basis. These businesses and facilities represent much of the essential services needed in the South Coast area.

Housing Recovery

On July 15, the Governor signed "job creator" **AB 333 (Fuentes; D-Sylmar)**. The urgency measure took effect

immediately upon being signed.

AB 333 facilitates a smooth recovery of the housing market by extending the life of active tentative subdivision maps and parcel maps for a period of two years.

The law will assist new residential construction by ensuring that the necessary land entitlements are in place when California's economy and housing

market begin to rebound.

Amidst the recent economic turmoil, most previously approved and conditionally approved housing projects currently in process have come to a halt. AB 333 statutorily extends the expiration date of underlying tentative maps, thereby allowing such projects to be kept alive during the economic downturn.

Staff Contact: Marc Burgat

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Small Business Advocate of Year Award

Landscaper Works Tirelessly to Affect Action on Water, Other State/Local Issues

Dave Penry and his company, Pacific Landscapes Inc., rely on water. "It affects my business; without water we don't have anything," Penry said.

This reliance pushes Penry, a 2009 recipient of the California Chamber of Commerce Small Business Advocate of the Year Award, to work at the local and state levels on water policy issues in the Northern California communities his company and chamber serve.

Pacific Landscapes, a 75-employee operation headquartered in Sebastopol with a satellite office in Napa, serves Napa, Solano, Marin and Sonoma counties.

The company provides high-end commercial landscaping, and Penry has spent the last several years establishing himself in the community and throughout the state as a leader in the water arena.

"I'd rather be at the table than on the menu," Penry said.

With water issues front and center in California politics, Penry works as a diligent water advocate through the Santa Rosa Chamber of Commerce Environmental Resources Committee and Advocacy Council.

Water Advocacy

Penry, along with co-owner Darryl Orr, opened Pacific Landscapes Inc. in 2000 and soon joined the Santa Rosa Chamber. After attending a few chamber breakfast meetings, Penry asked if he could get involved in the chamber's Environmental Resources Committee.

"I saw the water issue coming down the road and wanted to be involved in the political side of the community," he said.

In 2007, in coordination with the Environmental Resources Committee, he helped put on a water summit that included the State Water Resources Control Board (SWRCB) and the Sonoma County Water Agency.

Over the last few years, Penry and other businesses in the Sonoma County area struggled against a summer ban on turf irrigation by the SWRCB. The reasoning behind the ban: three endangered fish species in the Russian River. This in turn would affect the



Photo courtesy of Santa Rosa Chamber

Dave Penry reviews issues with Sue Nelson, chief operating officer of the Santa Rosa Chamber.

amount of water being released out of Lake Mendocino and Lake Sonoma.

In April 2009, the SWRCB allowed parks and their facilities to use the irrigation, but all other commercial turf was restricted from the water.

Penry moved into action by joining a business alliance group with several business park owners and contacted a fellow representative in water from the California Landscape Contractors Association (CLCA) of which he is a longtime member and a past president. The alliance began working on an industry response.

The entire group, along with a water rights attorney, went to the SWRCB and persuaded the board to loosen the regulations. Penry and his associates marked it as a victory.

City Concerns

Noticing how outspoken Penry was on issues such as water, the Santa Rosa Chamber invited him to join the Advocacy Council four years ago.

While sitting on the Advocacy Council, Penry has worked with the city of Santa Rosa on redevelopment projects and recently helped stop a sales tax that the city intended to use to help fill a budget shortfall.

"Dave represents what is best about small business leadership in our area: tireless advocacy for sensible business and demonstration that a company that cares about its employees and the environment can be successful and profitable," said Mari Featherstone, 2009 chair of the Santa Rosa Board of Directors.

Penry is still active on both the Environmental Resources Committee and Advocacy Council.

Federal Immigration Efforts

At the federal level, Penry has been an active advocate on immigration. In 2006, he was called upon by the Manhattan Institute in New York City as a representative from the CLCA to join Karl Rove, Rove's chief of staff and several other business owners across the country for a dinner meeting.

At the time, President George W. Bush was interested in hearing from small business owners about immigration reform. Penry worked closely with the Bush administration on this issue and even lobbied members of Congress.

As a result of his comments at that dinner meeting, Penry was asked to be a TV spokesperson and gained national

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Water Focus of Special Session; Hearings Next Week, Say Legislative Leaders

At the beginning of this week, Governor Arnold Schwarzenegger called a special session of the Legislature to address the state's water crisis.

At mid-week, legislative leaders said they plan to hold hearings next week on the water proposals being developed to deal with the Sacramento-San Joaquin Delta, including its ecosystem, water conveyance, conservation, water rights, fees and governance.

In his October 11 proclamation, the Governor asked that the special session on water consider and act upon legislation to:

- Protect and restore the Sacramento-

San Joaquin Delta while also improving the reliability and quality of water supplies from that estuary.

- Address the short- and long-term improvement of California's water management system, including development of new surface and groundwater storage and improved conveyance facilities, ecosystem health and conservation strategies.

- Appropriate funds, including appropriations for general obligation and lease revenue bonds, to improve water resource management, build additional water storage facilities, develop groundwater aquifers, improve

groundwater quality and flood protection, and restore the Sacramento-San Joaquin Delta and other important ecosystem restoration projects.

- Place a general obligation bond and, as necessary, a lease revenue bond on the ballot.

As **Alert** went to press, language for the water proposals had not been released.

The California Chamber of Commerce is supportive of a comprehensive water package that includes bond funding for a reasonable and adequate water supply to meet California's future needs.

Staff Contact: Valerie Nera

Landscaper Works to Affect Action on Water, Other State/Local Issues

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attention for the Essential Worker Immigration Coalition.

Pacific Landscapes Inc.

Penry and his company have been leaders in other areas as well. Pacific Landscapes won the 2008 Sonoma County Business Environmental Alliance Best Practices award for the company's work in creating the Qualified Water Efficient Landscaper Training Program.

The program was the second such to be nationally recognized by the U.S. Environmental Protection Agency.

Pacific Landscapes has several waste reduction programs in place and uses environmentally friendly pesticides and compost.

The company also was named "one of the best places to work for in the North Bay" by the **North Bay Business Journal**. This is the fourth year in a row the company has won the employee-

based survey award.

Asked why Pacific Landscapes is such a good place to work, Penry points to a set of company beliefs: Proud to be Pacific Landscapes, Integrity above Profits, 100 Percent Accountability, Community Respect and Leadership, Industry Respect and Leadership, Flexibility, and Having Fun.

"Those values are woven through just about every decision we make," he said.

Conference to Examine AB 32 Implementation, Federal Implications

The interplay between California's landmark climate change law, AB 32, and federal policy efforts will be among the subjects to be discussed at a strategic issues conference on November 5-6.

The Napa Valley policy gathering for business leaders is co-sponsored by several major industry groups, including the

California Chamber of Commerce.

Agenda topics include green jobs and the economics of climate change; state and federal actions on greenhouse gas laws; and implementation of the nation's first law connecting land use to climate change (SB 375).

A special guest speaker will be Joel

Kotkin, author and lecturer on global, economic, political and social trends. His most recent of six books is *The City: A Global History*.

For more information, contact Melissa Martinez at the California Business Properties Association, (916) 443-4676, mmartinez@cbpa.com.



INTERNATIONAL TRADE UPDATES AT
www.calchamber.com/international

State Auditor Encourages Business Interest in Citizens Redistricting Commission

Commission Actions Key to Voter-Approved Proposition 11 Redistricting Reform

Due to state budget constraints, the effort to seek applicants for the new Citizens Redistricting Commission will need to rely heavily on outreach other than paid advertising, California State Auditor Elaine Howle explained this week.

In a live webcast from the California Chamber of Commerce on October 14, Howle stressed that business organizations need to urge their members to apply for the commission and get involved in the process.

"The intent was for this to be a citizen's redistricting commission and for that to happen we have to reach out to the citizens, the voters of this state to get them engaged, get them excited about this process and hopefully get them to apply to serve California," Howle said.

The commission, established when voters approved the Proposition 11 redistricting reform initiative last November, will redraw political district boundaries. The CalChamber-supported measure allows the citizens of California—rather than the Legislature—to create legislative districts that will require elected officials to be accountable to the voters.

Auditor's Responsibility

Howle is responsible for establishing a process for individuals to apply to become members of the 14-member Citizens Redistricting Commission, selecting a panel to assess the applicants and creating an applicant pool of 60 of the most qualified applicants.

To recruit applicants, Howle said her staff will use multilingual collateral and educational material, including paid advertising, press releases/media advisories, opinion pieces, individual briefings and press interviews to let Californians know that they could be eligible to apply to be on the commission.

"We need the assistance of anybody and everybody that is willing to help us get the word out so that we get as many applicants as we possibly can," Howle said. "We consider a successful outreach campaign to be one where we get thousands of applications."



Photo by Aaron Lambert

California State Auditor Elaine Howle emphasizes the importance of outreach efforts in finding applicants for the Citizens Redistricting Commission.

She said her office plans to begin an aggressive outreach campaign in the coming months.

Applications Soon

The first phase of the five-phase application process will begin on December 15 and close on February 12, 2010.

Any registered voter who has voted in two of the last three statewide general elections, not changed party affiliation in the last five years and has satisfied rigorous conflicts of interest requirements may be considered for the commission.

Applicants with obvious conflicts of interest, including elected officials and their staff, will be excluded from serving on the commission.

The commission will include five Republicans, five Democrats and four members not associated with either party. The initiative also requires the commission to represent the state's significant diversity, including ethnic and regional considerations.

Potential commission members could include university professors, CPAs, physicians, nurses, engineers, community advocates, teachers and more.

Proposition 11 requires the

commission to be formed by the end of December 2010 and new district maps to be drawn by September 15, 2011.

Howle described one of the main attributes her office is going to be looking for in a candidate: "Are they going to have the ability to listen to public comment, to really gauge the information that is being shared with them as commissioners in making their decisions in drawing those district lines?" she said.

More Information

Howle commented that the commission is going to change the political process in California for years to come and stressed the need for public participation.

"We want Californians to really believe in the process; they voted for this initiative," Howle said.

The webcast of Howle's remarks and the accompanying slides are available on the CalChamber website at www.calchamber.com.

The state auditor's office has set up a website to provide more information and updates on the redistricting commission and application process at www.WeDrawTheLines.ca.gov.

Staff Contact: Rob Lapsley

Final Status Report on Major Business Bills

The following list summarizes the final status of priority bills for the California Chamber of Commerce that were sent to the Governor this year.

As **Alert** went to press, discussions to develop a proposal to deal with the Sacramento-San Joaquin Delta, including its ecosystem, water conveyance, conservation, water rights, fees and

governance, were continuing.

At the federal level, the free trade agreements, an international business tax increase and another proposal affecting trade agreements were still pending in Congress and therefore are not listed below.

On November 6, the CalChamber will publish a record of legislators' votes on

key bills affecting the California business climate. Generally, the bills selected for the vote record have appeared in one of the status reports.

Bills signed by the Governor will become law on January 1, 2010. Urgency measures went into effect immediately upon being signed.

Status of bills as of October 12, 2009.

Subject and Bill — CalChamber Position	Status
Agriculture and Natural Resources	
State Infrastructure Projects. SB 372 (Kehoe; D-San Diego) Halts job and infrastructure projects like utility, water or transportation improvements within any boundaries of a state park by allowing Parks Department to refuse a project if it determines the project is incompatible with park purposes and requires any modifications to existing infrastructure to be approved by the Legislature. Oppose.	Vetoed
Infrastructure Improvements. SB 679 (Wolk; D-Davis) Stops infrastructure projects (utility, roads or water) from occurring within state park boundaries. Opens up lawsuit opportunities by those alleging the use is incompatible with park purposes. Oppose.	Vetoed
Timber Harvest Plans. AB 1066 (Mendoza; D-Artesia) Allows forest landowners more flexibility to plan harvests to meet market demands by extending the effective date of timber harvest plans. Support.	Signed – Chapter 269
Conservation Easements. SB 555 (Kehoe; D-San Diego) Before amendments, would have hindered condemnation process. Expands the scope of easements protected from condemnations. Could use conservation easements to block infrastructure projects that are subject to those easements. Amended to remove private conservation easements. Neutral.	Vetoed
Subdivision Maps. AB 666 (Jones; D-Sacramento) Before amendments, would have halted new development by imposing unnecessary fire protection measures and would have ignored new non-flammable construction materials, the use of defensible space around houses and fire shelters embedded in new developments. Now requires county boards of supervisors to determine if a project is properly designed to minimize fire potential and has adequate fire suppression availability. No Position.	Vetoed
Coastal Commission Meetings. SB 262 (Lowenthal; D-Long Beach) Before amendments, slowed the permitting process before the commission by reducing the number of commission meetings and extending California Environmental Quality Act and permit streamlining deadlines. Now establishes the commission shall meet 10 times a year. Neutral.	Vetoed
Local Planning: Fire Hazard Impacts. SB 505 (Kehoe; D-San Diego) Before amendments, would have revised the safety element requirements for state responsibility areas and very high fire hazard zones. Would also have imposed onerous and conflicting requirements on local agencies and developers. Now requires local government in high fire-risk areas to consider fire prevention in their general plans. No Position.	Vetoed

Subject and Bill — CalChamber Position	Status
Banking/Finance	
Translation of Contracts. AB 1160 (Fong; D-Cupertino) Formerly created unworkable requirements for lenders regarding the translation of disclosures and forms related to loans and extensions of credit, including an unlimited right to rescind mortgage contracts by the consumer. Amendments removed the right of rescission and made technical fixes, thus providing significant new consumer protections without undue burdens on industry. Neutral.	Signed – Chapter 274
Reverse Mortgages. AB 329 (Feuer; D-Los Angeles) Adds various new consumer protections to the sale of reverse mortgages. Neutral.	Signed – Chapter 236
Public Contracts. AB 1364 (Evans; D-Santa Rosa) Allows state agencies, with the consent of a grant recipient, to renegotiate the deadlines and timetables for deliverables of a grant agreement in any case where a state agency or grant recipient may not be able to meet such terms due to the suspension of programs by the Pooled Money Investment Board. Neutral.	Signed – Chapter 526 (Urgency Statute)
Climate Change	
Discourages Emission Reductions. AB 1404 (De León; D-Los Angeles) Significantly increases business costs and threatens state jobs and businesses by severely limiting the amount of offsets California industries can use to meet their greenhouse gas emission goals. Oppose/ Job Killer .	Vetoed
Greenhouse Gas Regulation. SB 104 (Oropeza; D-Long Beach) Dilutes the California Air Resources Board's ability to adopt reasonable and cost-effective climate change regulations by adding a new gas to be regulated under the AB 32 greenhouse gas reduction program. Oppose.	Signed – Chapter 331
Energy	
Supports Construction of Vital Projects. SB 827 (Wright; D-Inglewood), formerly SB 696 (Wright; D-Inglewood) Prevents the loss of thousands of jobs and keeps businesses in California by re-establishing the South Coast Air Quality Management District's credit bank. Support/ Job Creator .	Signed – Chapter 206
Expands Renewable Portfolio Standard. SB 14 (Simitian; D-Palo Alto) Before amendments, would have increased the Renewable Portfolio Standard to 33 percent by 2020 without appropriate consideration of grid reliability and cost containment for the state's ratepayers. No Position.	Vetoed
Expands Renewable Portfolio Standard. AB 64 (Krekorian; D-Burbank) Before amendments, would have threatened grid reliability and increased energy prices for all ratepayers by mandating 33 percent of the state's power come from renewables. No Position.	Vetoed
Environmental Regulation	
State Air Resources Board: Regulations. AB 1085 (Mendoza; D-Artesia) Improves government transparency by requiring the California Air Resources Board to make available to the public all methodologies, inputs, assumptions and other information used in developing a proposed regulation. Support.	Signed – Chapter 384
Used Oil. SB 546 (Lowenthal; D-Long Beach) Updates the state's used oil management policy and advances the shared goal of environmental protection through responsible management of used oil by giving higher incentive payments to do-it-yourself oil changers to recycle their used oil. Support.	Signed – Chapter 353

Subject and Bill — CalChamber Position	Status
Health	
Health Insurance Litigation. AB 2 (De La Torre; D-South Gate) Drives up the cost of health care premiums and increases the number of uninsured by establishing litigation as the only meaningful approach to resolving disputes over rescinding coverage. Oppose/ Job Killer .	Vetoed
Increased Costs: Mandated Expanded Reconstructive Surgery Coverage. SB 630 (Steinberg; D-Sacramento) Increases health care premiums by mandating that health plans provide coverage for dental and orthodontic services as part of cleft palate reconstructive procedures. Oppose.	Signed – Chapter 604
Increased Costs: Mandated Oral Cancer Drug Coverage. SB 161 (Wright; D-Inglewood) Increases health care premiums by mandating that health insurers and health plans provide coverage for orally administered anti-cancer medications on a basis no less favorable than coverage provided for injected or intravenously administered anti-cancer medications. Oppose.	Vetoed
Increased Costs: Mandated Expanded Mental Health Coverage. AB 244 (Beall; D-San Jose) Increases health care premiums by mandating that health plans and insurers provide parity coverage for more than 400 mental disorders. Oppose.	Vetoed
Increased Health Coverage Costs: Inappropriate Cost Pooling Mandate. AB 119 (Jones; D-Sacramento) Moves California closer to community rating for health coverage policies, ultimately increasing the ranks of the uninsured and increasing the cost of coverage to everyone by prohibiting gender to be used as actuarial rating criteria. Oppose.	Signed – Chapter 365
Increased Costs: Mandated Lactation Consultant and Breast Pump Coverage. AB 513 (De León; D-Los Angeles) Increases health care premiums by mandating coverage of lactation consultation provided by an International Board Certified Lactation Consultant and coverage for the rental of a breast pump. Oppose.	Vetoed
Increased Costs: Mandated HPV Vaccination Coverage. SB 158 (Wiggins; D-Santa Rosa) Increases health care premiums by mandating that health insurers that provide coverage for cervical cancer also cover a human papillomavirus (HPV) vaccination. Oppose.	Vetoed
Increased Costs: Mandated Maternity Services Benefits Coverage. AB 98 (De La Torre; D-South Gate) Increases health insurance premiums and increases the ranks of the uninsured by mandating that all health insurance policies provide maternity coverage. Oppose.	Vetoed
Housing and Land Use	
New Home Construction. AB 333 (Fuentes; D-Sylmar) Facilitates the smooth recovery of the housing market by extending the life of active tentative subdivision maps and parcel maps for a period of two years. Support/ Job Creator	Signed – Chapter 18 (Urgency Statute)
Green Building Standards. AB 210 (Hayashi; D-Castro Valley) Clarifies that a local jurisdiction has the authority to adopt green building standards more stringent than those adopted by the state and published in the State Building Standards Code. Such clarification in statute will significantly reduce the need for legal review (and the related costs) on this issue by local jurisdictions concerned that such authority may not exist. Support.	Signed – Chapter 89
Development Impact Fees. AB 1084 (Adams; R-Hesperia) Supports new residential and commercial development by ensuring that development impact fees are transparent and reflect the current cost to cities and counties to construct such facilities more closely. Support.	Signed – Chapter 507

Subject and Bill — CalChamber Position	Status
Energy Consumption Data. AB 531 (Saldaña; D-San Diego) Fixes existing implementation issues with California's historic energy benchmarking law, which will help the state continue to lead the nation in building energy efficiency. Support.	Signed – Chapter 323
Industrial Safety and Health	
Unnecessary Regulation. AB 838 (Swanson; D-Oakland) Directs Cal/OSHA to draft an unnecessary regulation to address exposure to excessive heat in indoor workplaces, while the existing Injury and Illness Prevention Program requirement currently requires all employers to address unique hazards. Oppose.	Vetoed
International Relations/Trade	
International Trade. AB 1276 (Skinner; D-Berkeley) Prohibits the Governor from binding the state to an international trade agreement without specific legislation authorizing the action. Oppose.	Vetoed
Labor and Employment	
Hampers Employment Decisions. AB 943 (Mendoza; D-Artesia) Unduly restricts the ability of businesses to use all legally available information in employment decisions, including consumer credit reports. Oppose/ Job Killer .	Vetoed
Increased Agricultural Costs. SB 789 (Steinberg; D-Sacramento) Undermines the process that now guarantees, through secret-ballot elections, a fair vote and the expression of agricultural employees' true sentiments on the selection of a collective bargaining representative. This act will hurt California's businesses by driving up costs, making employers less competitive in a global market. Oppose/ Job Killer .	Vetoed
Payroll Records. AB 527 (Fuentes; D-Sylmar) Creates an unreasonable burden-shifting scheme giving an unfair advantage to employees in unpaid wage disputes before the Labor Commissioner by creating a presumption that all records are false where the Labor Commissioner finds that one was falsified, effectively precluding an employer's ability to present its case. Oppose.	Vetoed
Legal Reform and Protection	
Unreasonable New Liability for Employers. AB 793 (Jones; D-Sacramento) Imposes unfair and costly litigation burden on California employers by unreasonably expanding employer liability in workplace lawsuits far beyond the federal Lilly Ledbetter Fair Pay Act of 2009. Oppose Unless Amended/ Job Killer .	Vetoed
New Lawsuits Against Small Business. SB 242 (Yee; D-San Francisco/San Mateo) Could result in new shakedown lawsuits against business establishments by making it a strict liability violation of the Unruh Civil Rights Act, subject to minimum damages of \$4,000, if a business limits the use of a customer's language, even if unintentionally. Oppose/ Job Killer .	Vetoed
Government Interference with Private Contracts. AB 335 (Fuentes; D-Sylmar) Discourages out-of-state companies from hiring California residents, such as entertainers, sports figures, executives, telecommuters and traveling employees, by doing away with the ability of such companies to require employment disputes be handled in the company's home state rather than in California. Oppose.	Vetoed
Updated Discovery Rules for Electronic Records. AB 5 (Evans; D-Santa Rosa) Provides clarification and certainty for all parties to litigation by providing procedures for electronic discovery. Support.	Signed – Chapter 5 (Urgency Statute)

Subject and Bill — CalChamber Position	Status
Vehicle Price Increase. SB 95 (Corbett; D-San Leandro) Before amendments, would have imposed new surety costs on car dealers in an already-difficult economy by placing excessive restrictions on the sale of trade-in vehicles and unreasonably expanding dealer liability and damages. Amended to strengthen regulations to ensure consumers are paid what they are owed on their trade-ins. Opposition removed. No Position/ Former Job Killer.	Signed – Chapter 556
Political Affairs	
Elections: Primaries. SB 6 (Maldonado; R-Santa Maria) Places an open primary proposal on the June 2010 ballot that if passed by the voters expands voter choice and forces candidates to address a broader voter base. Support.	Signed – Chapter 1
Check and Balance Denial. SB 34 (Corbett; D-San Leandro) Denies the check and balance on the legislative branch by the public by limiting the use of paid signature gatherers critical for successfully sponsoring a referendum. Oppose.	Vetoed
Privacy and Confidentiality	
Data Breaches. SB 20 (Simitian; D-Palo Alto) Before amendments, potentially exposed business to further data breaches by expanding the content of required breach notifications to include information that could help hackers further infiltrate and bypass security measures. Amended to remove sensitive information from inclusion in breach notice. Neutral.	Vetoed
Identity Theft Jurisdictions. SB 226 (Alquist; D-Santa Clara) Makes it easier to prosecute identity theft offenses by expanding the jurisdiction to include any place where an offense occurred. Support.	Signed – Chapter 40
Internet-Based Social Networking: Privacy. AB 632 (Davis; D-Los Angeles) Before amendments, required social networking sites to prohibit and prevent pictures posted to a site from being copied. Required a mechanism for the site to remove pictures posted by a third party. Neutral.	Vetoed
Small Business	
Small Business Opportunities. AB 31 (Price; D-Inglewood) Allows for more small business opportunities in state contracts by increasing the maximum allowable contract amount given to certified small businesses when specified competitive bidding requirements are exempted. Support.	Signed – Chapter 212
Taxation	
Health Care Federal Funding. AB 1422 (Bass; D-Los Angeles) Reduces health care costs and ensures continued health care coverage for children by creating a self-imposed industry tax that will trigger significant federal funding. Support.	Signed – Chapter 157 (Urgency Statute)
New Tax Penalty. AB 1580 (C. Calderon; D-Montebello) Reduces complexity and waste in tax reporting and administration by conforming many California tax provisions to recent changes in federal tax law, but without amendments, would also impose a harsh, unfair new penalty on taxpayers. Oppose Unless Amended.	Vetoed
Hospital Tax. AB 1383 (Jones; D-Sacramento) Increases health care costs by imposing new, unspecified tax on hospitals. Oppose.	Signed – Chapter 627

Subject and Bill — CalChamber Position	Status
Federal Tax Deconformity. AB 692 (C. Calderon; D-Montebello) Creates unpredictability in the tax law and could result in increased taxpayer burden by granting excessive authority to Franchise Tax Board to deconform from federal law. Oppose.	Vetoed
Improves Taxpayer Confidentiality. AB 129 (Ma; D-San Francisco) Extends taxpayer confidentiality that currently exists with attorneys to federally authorized tax practitioners. Support.	Signed – Chapter 411 (Urgency Statute)
Reassessment Process Efficiency. SB 816 (Ducheny; D-San Diego) Reduces administrative delays in change of ownership reassessment process for taxpayers and assessors by making the process more efficient. Support.	Signed – Chapter 622
Simplifies Sales Tax Compliance. AB 1486 (Furutani; D-Long Beach) Streamlines sales tax compliance for non-profits by simplifying the rules for payment of sales taxes on purchases of member-logo products they sell to their own members. Support.	Signed – Chapter 538
Tourism	
Passports. AB 1191 (Conway; R-Visalia) Helps to protect California's tourism industry by allowing passports to be used as a valid form of identification for wine and other age-specific purchases. Support.	Signed – Chapter 142
Transportation and Infrastructure	
Railroad Safety Month. SCR 10 (Liu; D-La Cañada Flintridge) Designates September as "Railroad Safety Month," increasing awareness of railroad safety through education. Support.	Resolution Chapter 42
Unemployment Insurance	
Unemployment Insurance. ABX3 23 (Coto; D-San Jose) Makes conforming changes to California law that allow California to take full advantage of federal stimulus funds that provide extended duration benefits to unemployed Californians. Support.	Signed – Chapter 22 (Urgency Statute)
Unemployment Insurance. ABX3 29 (Coto; D-San Jose) Makes changes to the unemployment insurance system to improve efficiency in administration for employers, such as providing for telephonic hearings at the Unemployment Insurance Appeals Board. Support.	Signed – Chapter 23
Water Supply and Quality	
Water Use Efficiency Financing. AB 474 (Blumenfield; D-Woodland Hills) Creates voluntary financing opportunities for residential and commercial property owners. Allows public agencies to provide upfront financing for water use efficiency improvements that will be repaid by assessing participating property owners. Support.	Signed – Chapter 444
Workers' Compensation	
Pre-Designation of Primary Treating Physician. SB 186 (DeSaulnier; D-Concord) Increases costs to employers in the workers' compensation system by deleting the sunset provision in current law on pre-designation. Oppose.	Signed – Chapter 565

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