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Green Building Standards Reflect Business Comments

The California Building Standards Commission recently unanimously adopted the first-in-the-nation mandatory Green Building Standards Code (CALGREEN) requiring all new buildings in the state to be more energy efficient and environmentally responsible. The standard takes effect January 1, 2011.

Developed with input from the California Chamber of Commerce and other business groups, the new statewide standard will help businesses avoid unnecessary environmental lawsuits and make compliance simpler by providing uniformity throughout the state.

Business groups provided practical expertise in developing the CalChamber-supported standards that helped ensure the California Building Standards Commission (BSC) staff and commissioners were able to write a progressive, yet cost-effective and technologically achievable code that raises standards without unnecessarily suppressing building projects.

New Standards

The new standards require:

• Every new building constructed in See Green: Page 6

Newsweek Correspondent to Address CalChamber Business Summit



Howard Fineman

Newsweek Senior Washington Correspondent and Columnist Howard Fineman will be a featured speaker at the California Chamber of Commerce Business Summit on May 17–18 in Sacramento.

This is the 23rd

anniversary for the day-long event, which offers business owners, CEOs, public affairs staff, local chamber of commerce staff, board members, committee members and many more a glimpse into the state's business climate.

Howard Fineman

Fineman also is *Newsweek's* senior editor and deputy Washington bureau chief. He is the author of "Living Politics," a column that began on *MSNBC.com* and *Newsweek.com* and that now also appears in the print magazine.

An award-winning reporter and writer, Fineman also is an analyst for NBC News and MSNBC, appearing regularly on Countdown with Keith Olbermann, Hardball with Chris Matthews and TODAY.

See Newsweek: Page 7

Inside

Confirm Abel Maldonado: Page 3

Finance Director Explains State Budget Gap



State Finance Director Ana J. Matosantos tells a CalChamber Luncheon Forum audience that the state needs to 'right its fiscal house.' See story on Page 4.



Labor Law Corner

Leave Deduction for Partial-Day Absences OK If Company Policy Allows



Gary Hermann Labor Law Consultant

When an exempt employee is absent for part of a day, are we limited to deducting from accrued vacation time only the time taken that equals or exceeds four hours?

An opinion letter issued by the California Division of Labor Standards Enforcement (DLSE) states that although employers cannot deduct from the salary

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E-mail: alert@calchamber.com. Home page: www.calchamber.com. of an exempt employee for partial-day absences, employers may deduct for such absences from employee leave balances in accordance with the employer's bona fide leave policies.

DLSE specifically repudiated its prior limitation on leave bank deductions to four or more hours (DLSE OL 2009.11.23).

Old Opinion Letter

On August 30, 2002, then-California Labor Commissioner Art Lujan issued an advice letter agreeing with the U.S. Department of Labor interpretation that no salary deduction is permitted for partial-day absences if the employee's eligibility for vacation has not vested, or the employee has exhausted all accrued vacation.

The DLSE deviated from the federal rule regarding the use of accrued time, however, by opining that employees could not be required to use vacation time in partial-day increments without violating the state's salary basis test.

The letter concluded: "State law does not permit the deduction of accrued vacation or PTO when the employer already has an independent obligation to pay the exempt employee's salary."

This reasoning constituted the foundation for the DLSE's finding that, in contrast to federal law, exempt employees in California could not be allowed or required to use accrued vacation in partial-day increments.

Court Ruling

The legal landscape shifted in July 2005, when California's 1st District Court of Appeals decided the case of *John Conley v. Pacific Gas & Electric Company*.

Under PG&E's policy, the employer made deductions from vacation leave banks representing days on which those employees had, in fact, taken at least four hours off work.

The court ruled that PG&E's vacation leave policy neither imposed a forfeiture nor operated to prevent vacation pay from vesting as it is earned. All it did was regulate the timing of exempt employees' use of their vacation time, by requiring them to use it when they want or need to be absent from work for four or more hours in a single day.

In the opinion letter of November 23, 2009, Robert Roginson, chief counsel for the DLSE, pointed out that the court in the *Conley* case had merely validated the employer's policy of allowing partial-day deductions of four or more hours.

Roginson opined that an employer might cover any amount of time taken by an exempt employee for a partial day's absence as long as there was sufficient time in the employee's bank to cover the time.

Roginson went on to explain that no deduction for a partial day's absence might be made if no accrued vacation time was available to the employee because it had been exhausted or not yet earned.

He concluded that the employee would have to receive a full day's pay, including what was in the bank, if the vacation bank was insufficient to cover all of the partial day's absence.

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.







Why Abel Maldonado Should Be Confirmed

Republican Senator Understands Business, Demonstrates Bipartisan Leadership



With the departure of Lieutenant Governor John Garamendi to Congress, Governor Arnold Schwarzenegger has selected Republican state Senator Abel Maldonado of

Santa Maria to fill that position.

Senator Maldonado's qualifications make him an excellent candidate for lieutenant governor. Let's go through

Business Background

First, Senator Maldonado is a businessman with hands-on experience in growing a small business.

The oldest son of immigrant field workers, the senator worked as a child picking strawberries with his father. After graduating from Santa Maria High School, Maldonado attended Cal Poly San Luis Obispo, majoring in crop

He took what he learned in college back to the family farm, and has seen

that farm grow from a half-acre of strawberries into a 6,000-acre operation that employs more than 250 people and ships produce around the globe.

Leadership in Government

Second, the senator has extensive experience in the operations of government, starting with his election to the Santa Maria

City Council at age 26. Maldonado ran for office after slogging through the city's bureaucracy for months when the family farm applied for a building permit to construct a new 35,000 square-foot cooling facility.

Two years after his election to city

council, voters elected Maldonado mayor of the city rather than the incumbent and a former mayor.

In 1998, Maldonado was elected to the California Assembly. District voters reelected him in both 2000 and 2002, then sent him on to the Senate in 2004.

During Maldonado's time in the Legislature, he has consistently supported jobs-friendly policies and questioned costly mandates on employers.

He also has been a strong supporter of government reforms, including

Commentary By Allan Zaremberg

authoring the top two candidates open primary measure on the June ballot. This California Chamber of Commercesupported measure will increase voter participation and empowers Californians in all state legislative districts to elect candidates who represent the broadest views in their district.

"Senator Maldonado is a

businessman with hands-on

experience in growing a small

business...he has consistently

supported jobs-friendly policies."

of John Garamendi's term as Lieutenant Governor for the rest of the year?

After all, the state Constitution gives the Governor authority to fill the vacancy, subject to approval by both houses of the Legislature, so the duties of the office can continue to be carried out until the next election. Senator Maldonado's background indicates that he possesses both the qualifications and character for appointment to this office. He has served his constituents and the people of California well and honestly.

What it all comes down to is perhaps he's too attractive a candidate because his qualifications as a temporary fill-in also make him a good candidate for election: He is a strong representative of business. He has extensive legislative experience. He is representative of the expanding Latino voter base in California. He has developed bipartisan solutions to issues facing California.

Good for California

I have known and worked with Senator Maldonado since he was first elected to the Legislature in 1998. He's ethical. He's an informed decision maker. He's a leader.

Not only would it be in the best

interests of California to confirm Senator Maldonado as Lieutenant Governor; it would be a black mark against California to not confirm him for political reasons.

Senator Abel Maldonado's qualifications are beyond reproach. A vote to confirm his appointment as Lieutenant Governor will show the rest

of the country that California can make decisions based on substance and policy, not on pure politics.



Abel Maldonado

Office Continuity

Given Senator Maldonado's background, you may be asking why I even need to write this commentary. Why is there any question on whether the senator should fill out the remainder

Allan Zaremberg is president and chief executive officer of the California Chamber of Commerce.



Finance Director at CalChamber Luncheon: California Needs to 'Right Its Fiscal House'



Ana J. Matosantos

Without corrective action, California is projected to face a budget gap of \$19.9 billion in fiscal year 2010–11, state Finance Director Ana J. Matosantos said at a California Chamber of Commerce luncheon on January 14.

Mirroring sentiments voiced by the Legislative Analyst's Office (LAO) from the fall, Matosantos said, "Absent corrective action, absent changes and reform to our budget, the state is looking at a budget shortfall in the \$20 billion range for a number of years...We need to close that gap and ensure we right our fiscal house."

Matosantos explained to the more than 75 Luncheon Forum attendees that since the Amended 2009 Budget Act was signed in July 2009, the estimated budget gap has grown from \$6.9 billion to \$19.9 billion due to the following principal reasons:

- Decreased revenues from the ongoing effects of the historic economic recession:
- Court decisions that have blocked implementation of some solutions approved by the Legislature in 2009;
- The erosion in the value of some of the savings adopted in 2009; and
- Additional costs associated with population-driven and caseload-driven entitlement programs.

Defining Budget Gap

California is projected to face a budget gap of \$19.9 billion in fiscal year 2010–11. This figure is comprised of a current year shortfall of \$6.6 billion, a budget year shortfall of \$12.3 billion, and a modest reserve of \$1 billion, Matosantos said.

Various factors contribute to the increase in the 2010–11 deficit from the \$6.9 billion that was projected when the 2009–10 budget was enacted.

Specifically, revenue estimates are \$3.4 billion lower, federal and state court decisions have reduced or eliminated budget solutions adopted in previous

years and imposed costs totaling \$4.9 billion, erosions of previous solutions result in \$2.3 billion of the budget gap, and population and caseload growth adds \$1.4 billion in costs.

Closing Budget Gap

Matosantos said the Governor's budget proposes a combination of spending reductions, alternative funding, fund shifts and additional federal funds to close the \$19.9 billion budget gap.

Given the re-emergence of a current year shortfall and the time needed for budget solutions to achieve their full value, it is imperative that many of the solutions proposed in the budget be adopted immediately, Matosantos said.

This is why the Governor has declared a fiscal emergency and called the Legislature into special session. The budget proposes solutions for action in the special session that will close \$8.9 billion of the budget gap. Any delays in the adoption of these proposals until the enactment of the 2010–11 budget would result in the loss of up to \$2.4 billion in budgetary solutions and thereby necessitate even deeper cuts in 2010–11, Matosantos said.

Reforming Federal-State Relationship

Matosantos explained that minimizing the potential additional impact on state programs will require a new level of cooperation by California's counterparts in Washington, D.C.

The budget proposes structural changes in the state and federal relationship to address federal constraints on California's ability to effectively manage program costs within available resources and proposes that California be reimbursed for money owed to the state, she said. These program reforms and recouping federal funding will provide \$6.9 billion in solutions to address next year's shortfall and help reduce projected deficits into the future.

Federal mandates, including spending requirements, constraints on program reductions and federal court decisions delaying reductions of services have contributed more than \$1.4 billion toward the

current budget gap, Matosantos said.

California needs greater federal flexibility to more effectively manage program costs in state and federal programs within available resources. Without this flexibility and without the level of federal funding proposed in the budget, California will be forced to make even more difficult spending reductions, Matosantos said.

For example, Matosantos commented that California receives a 50 percent reimbursement share from the federal government for Medi-Cal, the lowest possible reimbursement share. The average of other populous states and the national average is 57 percent, she said.

Matosantos said costs owed to California as a result of providing services for MediCal patients that should appropriately have been federal monies amounted to \$1 billion in 2010–11 and \$750 million on an ongoing basis.

Plan to Address Cash Shortfall

Although the state does not face as serious a cash shortfall as it did 12 months ago, action will be needed this spring to ensure that the state has adequate cash resources to meet its critical obligations in a timely manner, Matosantos said. She promised that her department will work with the State Controller and the State Treasurer to develop a cash management plan that will achieve that goal.

Matosantos did warn, however, that the re-emergence of a budget shortfall threatens to undermine the state's cash management plan. Absent corrective action, she said, the state will once again face substantial challenges in meeting all General Fund cash needs beginning in July 2010.

Matosantos explained that proposals to close the budget gap will substantially reduce this cash gap. In addition to budget solutions, however, the state will need to obtain external financing early in the fiscal year.

The Governor's budget proposal, summaries and charts are available on the Department of Finance website at **www.ebudget.ca.gov**.



CalChamber: Allow California Companies to Compete More Effectively Abroad



The California Chamber of Commerce has urged the U.S. Trade Representative (USTR) to support the expansion of international trade and investment,

fair and equitable market access for California products abroad and elimination of disincentives that impede the international competitiveness of California business.

The USTR last week hosted a conference, the "Jobs on Main Street, Customers Around the World: A Positive Trade Agenda for U.S. Small and Medium-Sized Enterprises." The weeklong effort highlighted the commitment of USTR and partner agencies, such as the CalChamber, the U.S. Department of Commerce and the Small Business

Administration, to supporting economic recovery through export-oriented growth.

Protectionism

In a letter to USTR Ron Kirk, the CalChamber explained that California stands to lose more than most states with a move toward protectionism.

The CalChamber opposes unnecessary and trade-restrictive "Buy American" expansions. CalChamber opposes protectionism that results in higher prices to the consumer for the specific product protected and in limited choices of products for consumers. Protectionism causes a net loss of jobs in related industries, retaliation by trading partners, and violates provisions of the World Trade Organization, as well as free trade agreements (FTAs).

California maintains its perennial position as a top exporting state and leads the nation in export-related jobs. California exports amount to nearly \$145 billion annually. A move to protectionism only invites retaliation from California's trade partners that would negatively

affect trade-related jobs in the state. Increased protectionism has not helped the economy in the past and it won't in today's increasingly global economy.

Trade Agreements

The CalChamber urges the USTR to work with Congress to approve the U.S.-Colombia FTA, the U.S.-Panama FTA and the U.S.-Korea FTA. It is critical to consumers, workers, businesses, farmers and ranchers in the state that these job-creating trade agreements are approved at a time when they are needed more than ever.

These FTAs will ensure that the United States may continue to gain access to world markets, which will result in an improved economy and additional employment of Americans. In addition, support of these trade agreements will continue to keep U.S. and California businesses competitive.

Trans-Pacific Partnership

The Trans-Pacific Strategic Economic See CalChamber: Page 6

Upcoming Asia Pacific Economic Gathering Focus of Update Meeting

An update on plans for California activities related to a gathering of top diplomatic officials for the Asia Pacific Economic Cooperation (APEC) was the subject of a recent meeting attended by the California Chamber of Commerce.

Also attending the January 19–20 meeting in Northern California were U.S. government and business officials, and CalChamber member companies

In addition to receiving a post-Singapore Fall 2009 APEC briefing, meeting attendees heard of plans for the 2010 Japan meetings, and discussed 2011 meetings.

U.S. to Chair in 2011

The United States will chair the APEC process in 2011, including hosting a series of meetings of high-level officials and ministers, culminating in a Fall Leaders Week in Hawaii. The APEC process rotates by country each year.

California is expected to have an

opportunity to host one or more of the key APEC meetings leading up to the heads-of-state meeting and CEO summit in Honolulu.

The California APEC 2011 Organizing Committee (CalAPEC) is a coalition of business, government and international organizations working to ensure that key meetings take place in California and that U.S. objectives reflect good policy for the Golden State. California is more dependent on Asia-Pacific business than any other U.S. state.

Formed in 1989, APEC serves as a multilateral forum in which Asian and Pacific economies can solve economic problems and cooperate in developing key economic sectors.

Collectively, the 21 economies of APEC, which touch the Pacific Ocean, represent a large consumer market—nearly half the world's population, nearly half of all world trade and more than \$19

trillion in economic output.

The APEC economies are: Australia, Brunei Darussalam, Canada, Chile, People's Republic of China, Hong Kong, Indonesia, Japan, Republic of Korea, Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, Republic of the Philippines, Russia, Singapore, Chinese Taipei, Thailand, United States and Vietnam.

APEC ministers have met each year since November 1994, when they issued the Bogor Declaration, which calls for industrialized members of APEC to remove trade barriers.

More Information

CalAPEC is working to help develop one of the nation's most important international diplomatic meetings. More information is available at

www.calchamber.com/APEC. Staff Contact: Susanne Stirling



CalChamber: Allow California Firms to Compete More Effectively Abroad

From Page 5

Partnership Agreement (TPP) was signed by New Zealand, Chile, Singapore and Brunei in the summer of 2005. In September 2005, negotiations for the United States to join the Trans-Pacific Agreement were launched. Australia, Peru and Vietnam also indicated interest in participating in negotiations from the first round.

The Trans-Pacific Partnership is reinforcing the Asia-Pacific Economic Cooperation (APEC) goal of promoting regional economic integration and could serve as a way to build toward the Free Trade Area of the Asia Pacific. The CalChamber encourages the USTR to participate in these negotiations eventually leading to the United States' accession to the TPP.

Trade Promotion Authority

For the future, the CalChamber will support the extension of trade promotion authority so that the President of the United States may negotiate new multilateral, sectoral and regional trade agreements ensuring that the United States may continue to gain access to world markets, resulting in an improved economy and additional employment of Americans.

World Trade Organization

The WTO is having a tremendous impact on how California producers of goods and services compete in overseas markets, as well as domestically, and is creating jobs and economic growth through expanded international trade and investment. It gives businesses improved

access to foreign markets and better rules to ensure that competition with foreign businesses is conducted fairly. The CalChamber is supportive of a successful Doha Round in the near future.

U.S. Department of Commerce

In keeping with U.S. Department of Commerce Secretary Gary Locke's trade priorities, the CalChamber agrees that reforms for business visas and export controls, intellectual property protection, intergovernmental cooperation and trade promotion will help U.S. companies increase exports, while setting the country on a path to long-term, sustainable growth that creates jobs here at home. With the ongoing global recession, jobs and exports will be the key to economic recovery.

Staff Contact: Susanne Stirling

Green Building Standards Reflect Business Comments

From Page 1

California to reduce water consumption by 20 percent, divert 50 percent of construction waste from landfills and install low pollutant-emitting materials.

• Separate water meters for nonresidential buildings' indoor and outdoor water use, with a requirement for moisture-sensing irrigation systems for larger landscape projects and mandatory inspections of energy systems (for example, heat furnace, air conditioner and mechanical equipment) for nonresidential buildings over 10,000 square feet to ensure that all are working at their maximum capacity and according to their design efficiencies.

The California Air Resources Board estimates that the mandatory provisions will reduce greenhouse gas emissions (CO₂ equivalent) by 3 million metric tons equivalent in 2020.

Upon passing state building inspection, California's property owners will have the ability to label their facilities as CALGREEN compliant without using additional costly third-party certification programs.

Local Control

The CalChamber is pleased that both the BSC and Department of Housing and Community Development have chosen to leave the issue of inspection and verification up to the local building department. As with all other state building codes, each local jurisdiction already has the authority to relinquish some or all of its administrative authority for plan-check and inspections to "third-party entities." That is an administrative decision best left to each local jurisdiction.

In 2007, Governor Arnold Schwarzenegger directed the BSC to work with specified state agencies on adopting green building standards for residential, commercial and public building construction for the 2010 code adoption process.

Baseline

The mandatory code provisions now will become the baseline of regulated green construction practices in California. The BSC, which developed this initial Green Building Standards Code following extensive discussions with environmentalists, architects, builders, local officials and others, said it will continue to improve this new code with input from those interested parties.

This approach fulfills the state's responsibility to keep the codewriting process in the public domain, thereby maintaining transparency, cost-effectiveness and technological feasibility.

In addition to the mandatory regulations, CALGREEN also includes more stringent voluntary provisions to encourage local communities to take further action to adapt their buildings to reduce greenhouse gas emissions, improve energy efficiency and conserve natural resources.

Like California's existing building code provisions that regulate all construction projects throughout the state, the mandatory CALGREEN provisions will be inspected and verified by local and state building departments. CALGREEN will use the long-standing, successful enforcement infrastructure that the state has established to enforce its health, safety, fire, energy and structural building codes.

Many of the mandatory provisions in the code are already part of the statewide building code, making verification of CALGREEN an easy transition for local building inspectors.

CALGREEN is an example of a pragmatic regulatory process that took into account expert opinion from the regulated industry and was critically reviewed to make sure it was cost-effective and technologically feasible. Staff Contact: Robert Callahan



Newsweek Correspondent to Address CalChamber Business Summit

From Page 1

The author of scores of *Newsweek* cover stories, Fineman has written pieces that also have appeared in *The New York Times*, *The Washington Post* and *The New Republic*. His 2008 national best-selling book, *The Thirteen American Arguments*, was released in paperback by Random House in spring 2009.

One of the nation's leading political reporters, Fineman has interviewed every major presidential candidate from (then-Vice President) George H.W. Bush in 1985 to (then-Senator) Barack Obama early and often in the 2008 campaign cycle. Fineman's current work focuses on the Obama administration and its top officials, as well as on Congress and politics throughout the country.

Fineman's work has produced many

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milestones and awards. A cover story in November 2001 featured President George W. Bush's first extensive interview after 9/11. Another cover, "Bush and God," was part of a series of articles that won the 2003 National Magazine Award for General Excellence. His reporting has helped *Newsweek* win many honors from the Magazine Publishers Association and the American Journalism Review.

Fineman holds an A.B., Phi Beta Kappa, from Colgate University, an M.S.

in journalism from Columbia University and a J.D. from the Brandeis School of Law at the University of Louisville.

Early Bird Rates

Attendees who register for the Business Summit by April 16 qualify for savings of at least 20 percent.

The two-day registration package, including Summit with lunch and the Host Breakfast, is \$220 now, \$275 after April 16. Other registration options are available.

Online registration and more information are available by clicking on the link at *www.calchamber.com*.

United Healthcare is again the major sponsor of this year's Summit.

Staff Contact: Alicia Smith

CalChamber-Sponsored Seminars/Trade Shows

More information at www.calchamber.com/events.

Business Resources

Verio & Inc. Networking Event/Panel Discussion. Edelman. February 9, San Francisco. (312) 240-2727.

Economic Summit. Beverly Hills Chamber. February 24, Beverly Hills. (310) 248-1000.

International Trade

Roundtable on Cleantech Business Opportunities. NorCal District Export Council. February 4, San Francisco. (415) 235-5185.

U.S.-Japan Clean Tech Symposium. Japan External Trade Organization (JETRO). February 18, San Francisco. (415) 392-1333.

Tex-Styles India. India Trade Promotion Organisation. February 24–27, Pragati Maidan, New Delhi, India. *info@texstylesindia.com*.

The Americas Business Forum. Los Angeles Area Chamber of Commerce. March 3–4, Los Angeles. (866) 264-3536.

Cairo International Fair. General Organization for International Exhibitions and Fairs. March 11–22, Cairo, Egypt. *info@cairofair.com*.

Globe 2010. The GLOBE Foundation. March 24–26, Vancouver, BC. (604) 695-5001. Stonetech 2010. CCPIT Building Materials Sub-council. April 6–9, Shanghai, China. *kontakt@merebo.de*.

Asiawater 2010. AMB Exhibitions Sdn Bhd. April 6–9, Kuala Lumpur, Malaysia. kontakt@merebo.de.

Labor Law

HR101 Part 1—Hiring Employees. CalBizCentral. February 25, Webinar. (800) 331-8877.

HR101 Part 2—Compensation and Benefits. CalBizCentral. March 11, Webinar. (800) 331-8877.

HR101 Part 3—Harassment and Discrimination. CalBizCentral. March 25, Webinar. (800) 331-8877.

HR101 Part 4—Discipline and Termination. CalBizCentral. April 1, Webinar. (800) 331-8877.

CalChamber Calendar

Water Committee:
 March 11, La Jolla
Fundraising Committee:
 March 11, La Jolla
Board of Directors:
 March 11–12, La Jolla
International Trade Breakfast:
 March 12, La Jolla
CalChamber PAC Workshop:
 March 19, Long Beach

CalChamber Seeks Advocate Award Nominees

The California Chamber of Commerce has opened nominations for its Small Business Advocate of the Year Award.

Nominees should have contributed significantly as an advocate for small business by being involved in such activities as taking leadership roles in or working on state or local ballot measures, testifying before the state Legislature, representing a local chamber of commerce before local government, and being actively involved on federal legislation.

Deadline: April 2

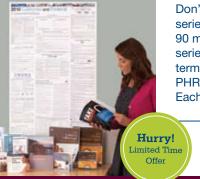
Award nominations are due to the CalChamber Local Chamber Department by April 2. The CalChamber will recognize award winners at its Business Summit on May 17 in Sacramento.

The nomination form and criteria are available at *www. calchambervotes.com* or may be requested from the Local Chamber Department at (916) 444-6670.





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