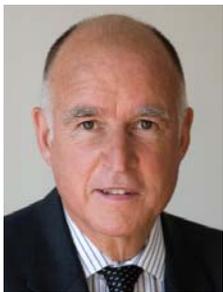


# ALERT

VOLUME 37, NUMBER 4 • FEBRUARY 4, 2011



## Brown Pushes Budget Plan *Calls for Bipartisan Union to Bring Budget to Voters*



**Governor Jerry Brown**

In his State of the State address on January 31, Governor Jerry Brown again urged the Legislature to act on his budget proposal. He called for the two parties to work together to make the necessary budget cuts and send a

package of tax extensions to the ballot for voter approval.

“We share the Governor’s priorities of solving the state’s budget crisis and

improving our economy,” said California Chamber of Commerce President and CEO Allan Zaremborg. “We look forward to working with Governor Brown and the Legislature to achieve these important goals for our state.”

Governor Brown has called for roughly half of the \$25 billion budget shortfall to be closed with budget cuts and the other half through an extension of taxes that are set to expire later this year. Brown has urged that those tax extensions be put up for a referendum in June.

Below are highlights of the Governor’s address, followed by excerpts from the Republican response.

*See Governor: Page 4*

## Bill Proposes Expansion of Family Leave Circumstances

Legislation has been introduced to expand the circumstances under which an employee may take protected leave under state law.

### Employers of 50 or More

AB 59 (Swanson; D-Alameda) changes the California Family Rights Act (CFRA) for employers of 50 or more by:

- eliminating the age and dependency elements from the definition of “child,” thereby permitting an employee to take protected leave to care for his/her independent adult child suffering from a serious health condition;
- expanding the definition of “parent” to include an employee’s parent-in-law; and
- permitting an employee to also take leave to care for a seriously ill grandparent, sibling, grandchild or domestic partner.

### Current Law

Current law allows an employee to take up to 12 workweeks of protected leave in a 12-month period. The employee must have worked for the employer for 12 months and have at least 1,250 hours of service in the previous 12-month period.

AB 59 has been assigned to the Assembly Labor and Employment Committee. A hearing date has not yet been set.

**Staff Contact: Jennifer Barrera**

## Study: Five-Year School Spending Increase While Direct Classroom Spending Declined



Photo by Megan Wood

Pepperdine University Professor Steven B. Frates (right) answers questions about an analysis of more than 950 public K-12 school districts finding school spending in California increased over a five-year period while direct classroom spending declined. At left is Loren Kaye of the California Foundation for Commerce and Education. Story on Page 5.

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# New Form I-9 Guidance Available for Employers



Ellen S. Savage  
HR Adviser

*After completing a Form I-9 (Employment Eligibility Verification) for a new employee, I discovered I made an error when copying his Social Security number. What is the proper way to correct this mistake?*

The U.S. Citizenship and Immigration Services Agency (USCIS) has recently updated its **Handbook for Employers** to answer this and many other common

questions posed by employers when verifying employment eligibility.

According to the updated **Handbook**, the best way to correct Form I-9 is to line through the portions of the form that contain incorrect information, enter the correct information, initial, and date your correction.

If you have previously made changes on Forms I-9 in white-out instead, USCIS recommends that you attach a note to the corrected Forms I-9 explaining what happened. Be sure to sign and date the note.

### Other Common Questions

Other common questions newly addressed by the updated **Handbook** include:

- *Our company acquired another company, along with its employees. Are we required to complete Forms I-9 for these employees?*

Employers who have acquired another company or have merged with another company have two options.

- ✓ **Option A:** Treat all acquired employees as new hires and complete a new Form I-9 for each and every individual irrespective of when that employee was originally hired. Enter the effective date of acquisition or merger as the date the employee began employment in Section 2 of the new Form I-9.

- ✓ **Option B:** Treat acquired individuals as employees who are continuing in their uninterrupted employment status and retain the previous owner's Forms I-9 for each acquired employee. Note that you are liable for any errors or omissions on the previously completed Forms I-9.

- *Where should I keep Forms I-9? Can I keep them in personnel files or do they have to be in a separate private file?*

Since Form I-9 contains an employee's

private information, you should ensure that you protect that private information and that it is used only for Form I-9 purposes.

Ensure that completed Forms I-9 and all supporting documents, including photocopies of documents (if you make photocopies), as well as information regarding employment authorization if you participate in E-Verify, are stored in a safe, secure location that only authorized individuals can access.

(Note that the California Chamber of Commerce recommends keeping all Forms I-9 together in one file, rather than individual employee files, so they are easily accessible in case of an audit and to review for any necessary updating.)

### Additional Guidance

The updated **Handbook** also contains expanded guidance on common issues such as whether a Form I-9 must be updated when there has been an interruption in employment (such as with seasonal employment or after an extended layoff), and requirements for electronic storage systems for Form I-9 and related documents.

There also are visual aids for completing Form I-9, examples of new relevant documents and new guidance on H1-B and status extension issues.

The newest version of the **Handbook**, dated January 5, 2011, is available on the USCIS website at [www.uscis.gov/files/form/m-274.pdf](http://www.uscis.gov/files/form/m-274.pdf).

*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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*Alert (ISSN 0882-0929) is published weekly during legislative session with exceptions by California Chamber of Commerce, 1215 K Street, Suite 1400, Sacramento, CA 95814-3918. Subscription price is \$50 paid through membership dues. Periodicals Postage Paid at Sacramento, CA.*

*POSTMASTER: Send address changes to Alert, 1215 K Street, Suite 1400, Sacramento, CA 95814-3918. Publisher: Allan Zaremborg. Executive Editor: Ann Amioka. Associate Editor: Sara Espinosa. Art Director: Marcy Wacker. Capitol Correspondent: Christine Haddon. Photographer: Megan Wood.*

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# State Funding Crisis Presents Opportunity to Redefine Management of California Parks



**John Koeberer**

The prospect of California State Park closures is again in the news as the State of California deals with its continuing budget crisis. There are, however, private alternatives that should be considered before

closing the parks.

Increased public funding of the parks just isn't an option. The failure of Proposition 21 last November made that clear. By soundly defeating the proposition, voters declared their opposition to increasing taxes to maintain state parks as they are today. Countless surveys and actual park use demonstrate that while Californians love their state parks, they also want them managed within available resources.

The State of California has exhausted the governmental solutions to the dilemma. And so, California State Parks have no alternatives other than to close parks or find non-governmental funding solutions to sustain them.

In the past, privately funded solutions have been dismissed out of hand. Today, however, no solution that would keep our state park system viable should be discarded. So, let's consider these alternatives:

## Private Sector Alternatives

- **Close Some State Parks.** As a park professional, it is difficult for me to even mouth the obvious, but some parks don't belong in the state park system. Most of these are among the smallest of our parks and lack any semblance of statewide historical, natural, cultural, recreational or economic significance. They often were added in response to political influence, when funding was more available or when state government was on an acquisition spree.

California needs an independent task force (similar to the Defense Base

Closure and Realignment Commission) to assess which parks should be retained and which should be buttoned up and maintained until times are better.

The task force might also recommend which parks are likely candidates for adoption by non-profits, local park districts or other sympathetic entities that are able to operate and maintain them. Potential savings from this assessment could be substantial.

- **Private Management.** Many parks could be packaged on a regional basis for

operated by the California State Parks.

- **Innovate Revenue-Generating Solutions.** Many innovative, privately managed ways to raise funds are available to state parks, including: automated fee-collection at park entrances, parking lots and showers that could collect revenue 24/7 at a fraction of the cost of manned kiosks; more privately owned and managed tent cabins, park models, yurts and other popular new forms of alternative camping that could generate added revenue for the parks; and special events (concerts, competitions and spectator events) that could generate substantial new receipts for parks.

Programs and policies that encourage private investment could attract new types of tour, recreational and interpretive programs to parks while appealing to new audiences of park users.

To its credit, California State Parks is now surveying tour companies to investigate more profitable ways to provide tours. A top-to-bottom review of outdated state park policies could result in substantial gains in fee collections, such as at Hearst

Castle, where significant revenue is lost because of current approaches.

More revenue can be generated without additional investment by state government. In many cases, existing park concessionaires would be willing to expand their operations via amendments to their contracts, in ways that increase revenue to the state, sustain and improve upon the park experience, and preserve park values.

- **Challenge Concessionaires for Solutions.** It is in the DNA of entrepreneurs to invent new ways to stimulate revenue. Do that by challenging state park concessionaires to propose revenue-producing ideas and programs appropriate to the parks. Private capital can be attracted for park improvements when equitable opportunities for a return on the investment are given.

Many such investments in facilities and equipment could be left in state park ownership at the conclusion of the contracts with these private companies,

*See Funding: Page 4*

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## Guest Commentary By John Koeberer

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*The many private park management companies now operating in public parks across the nation demonstrate that most criticisms of private solutions are unfounded.*

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private-sector management, while others have sufficient real or potential revenues to be managed on their own. Private enterprise has shown it can accrue operating savings on an average of 30 percent better than government while managing park facilities comparably.

Under this scenario, supervision and protection (public safety, natural resource protection, etc.) of the parks would remain under the direction of a California State Parks superintendent. Depending upon need and appropriateness, functions like maintenance, janitorial, fee collection, interpretation, and limited and contracted security could be assumed by private contractors. These functions represent the lion's share of the overall costs to keep parks open.

There is significant precedent for this type of arrangement across the country. The savings (both human and financial) could be substantial and could support and manage more effectively parks still directly

## Funding Crisis Presents Opportunity to Redefine State Parks Management

*From Page 3*

allowing the state parks to attract even greater fee revenue upon the contracts' rebid.

● **Employ a Management Consultant.** Considering that the old approaches aren't working, it's time for a fresh start. Take this opportunity to reinvent how state parks are managed and operated. Major U.S. corporations and non-profit organizations often employ private management consultants to help them conceive new approaches. By doing so, they stay competitive, vital and relevant.

Although private and public missions are different, innovative and effective management practices, policies and techniques are applicable to both worlds. There are very few governmental agencies that could not benefit from an external review and analysis.

All of the preceding private-sector approaches can be accomplished at little to no cost. They are not panaceas for the crisis facing our state parks but represent departures from past approaches.

The many private park management companies now operating in public parks across the nation demonstrate that most criticisms of private solutions are unfounded.

In light of funding realities, past reluctance by the Legislature and labor to involve the private sector must be overcome if California is to sustain its state park system.

### Political Will

The California State Park funding crisis has given our state the opportunity to redefine how our parks are managed in ways that will assure their quality,

relevance and access for Californians now and into the future.

If we can muster the political will to welcome new ideas from the private sector, while keeping park operations overseen by California State Parks professionals, then impending closures to and rapid deterioration of the state park system do not need to be inevitable.

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*John Koeberer is CEO and president of The California Parks Company. He is president of the California Parks Hospitality Association. He is a former chair of the California Chamber of Commerce and co-chairs its Tourism Committee. He is a former member of the California Travel and Tourism Commission and received the California Travel Industry Association's Entrepreneur of the Year award in 2002.*

## Governor Brown Pushes Budget Plan; Republicans Respond

*From Page 1*

### State of the State

"Although our state's economy has started to recover, we will not create the jobs we need unless we get our financial house in order..."

"If you are a Democrat who doesn't want to make budget reductions in programs you fought for and deeply believe in, I understand that. If you are a Republican who has taken a stand against taxes, I understand where you are coming from."

"But things are different this time..."

"Under our form of government, it would be unconscionable to tell the electors of this state that they have no right to decide whether it is better to extend current tax statutes another five years or chop another \$12 billion out of schools, public safety, our universities and our system of caring for the most vulnerable..."

"I believe it would be irresponsible for us to exclude the people from this process. They have a right to vote on this plan."

"In recent days, a lot has been made of the proposed elimination of redevelopment agencies. Mayors from cities both large and small have come to the Capitol and pressed their case that redevelopment is different from child care, university

funding or grants to the aged, disabled and blind.

"They base their case on the claim that redevelopment funds leverage other funds and create jobs. I certainly understand this because I saw redevelopment first hand as mayor of Oakland. But I also understand that redevelopment funds come directly from local property taxes that would otherwise pay for schools and core city and county services such as police and fire protection and care for the most vulnerable people in our society."

"So it is a matter of hard choices and I come down on the side of those who believe that core functions of government must be funded first. But be clear, my plan protects current projects and supports all bonded indebtedness of the redevelopment agencies..."

"But let's not forget that Job Number 1—make no mistake about it—is fixing our state budget and getting our spending in line with our revenue. Once we do that, the rest will be easy—at least easier because we will have learned to work together and earned back the respect and trust of the people we serve."

### Republican Response

Assembly Republican Leader Connie Conway (Tulare):



Assembly Republican Leader Connie Conway

"Assembly Republicans stand ready to work with the Governor and the majority party to achieve our common goal—getting California back on track."

"We share the Governor's goal of passing an honest and on-time budget. It is our hope that Governor Brown focuses on cutting spending and on long-term reform."

"We need to break away from the failed status quo. That means rejecting higher taxes, attacking wasteful spending, and doing away with the policies and programs that got us into this mess in the first place..."

"The people have made it clear: they don't want to pay higher taxes. Voters have rejected every tax increase on the last two statewide ballots. It's time for Sacramento to finally listen to the people."

"Republicans stand united as the only line of defense for California taxpayers. We believe the best solution to help close our deficit is not by raising taxes, but by creating private sector jobs. That is done by lifting regulations and by reducing frivolous lawsuits."

# Study Finds Education Spending Increased While Classroom Spending Declined

School spending in California steadily increased between the 2003–04 and 2008–09 budget years, while direct classroom expenditures declined, according to an expanded study by Pepperdine University's Davenport Institute.

The findings come from an analysis of five-year spending patterns in more than 950 public K-12 school districts statewide. The conclusions echo those of the study the Davenport Institute released in June 2010, based on an analysis of 52 public school districts in California.

"Given the results of the recent Public Policy Institute of California (PPIC) poll showing the public's lack of knowledge about education funding, it is important that this study by the Pepperdine University professors gets wide circulation so that we may have an informed debate on budget and tax issues concerning education funding," said Joel Fox, president of the Small Business Action Committee, which helped fund the study.

## School Spending Per Capita

The scholars from the Davenport Institute examined how money was spent and especially how that money was



**Pepperdine University Professor Steven B. Frates, one of the authors of the school spending analysis.**

allocated. During the five-year period, total school spending per capita (not including capital spending) increased by 24.9 percent, which was far greater than the growth in per capita personal income or inflation.

During the same period, direct classroom expenditures statewide went from 59 percent of total expenditures to 57.8 percent. These statewide totals reflect a very wide variance among individual school districts, whose classroom expenditure ratios ranged from

more than 70 percent to less than 45 percent.

Direct classroom expenditures include the following:

- Salaries and benefits of teachers and instructional aides;
- Textbooks and other books;
- Materials and supplies related to instructional functions;
- Professional and consulting services related to instructional functions.

## Teacher Salaries/Benefits

Over the study period, statewide expenditures for teacher salaries and benefits declined from 50 percent of total statewide spending to 48 percent. In other words, less than half of K-12 operating expenditures in the state were for teacher salaries and benefits.

"It is intriguing to contemplate the lost opportunities this study brings to light. If California had the extra \$1.7 billion that went outside the classroom, we might have been able to hire more than 21,000 teachers statewide," said Loren Kaye, president of the California Foundation for Commerce and Education (CFCE). "This would have increased the number of teachers statewide by more than 7 percent."

## CalChamber-Sponsored Seminars/Trade Shows

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### Business Resources

Spotlight on High Technology. Licensing Executives Society (U.S.A. and Canada), Inc. February 10–11, San Jose. (703) 836-3106.

New ADA Rules Panel Discussion. State Board of Guide Dogs for the Blind. February 23, Sacramento/Live Webcast. (916) 574-8167.

Solutions for Leaders That Will Drive Performance. Wilcox Miller & Nelson. March 16, Sacramento. (916) 977-3700.

Aging in America Conference. April 26–30, San Francisco. (415) 974-9638.

Preventing Workplace Fraud Webinar On Demand. CalChamber. (800) 331-8877.

### International Trade

The Americas Business Forum. March 2–3, Los Angeles. (213) 580-7500.

Complying with U.S. Export Controls. U.S. Department of Commerce, Bureau of Industry Security. March 24–25, San Diego. (858) 467-7040.

Asia Pacific Business Outlook 2011. University of Southern California/U.S. Department of Commerce, U.S. Commercial Service. March 28–29, Los Angeles. (213) 740-7130.

Futurallia KC 2011. El Camino College Center for International Trade Development. May 18–20, Kansas City, Missouri. (310) 973-3173.

### Labor Law

Pregnancy Disability Leave and Family Medical Leave Act/California Family

Rights Act 201. CalChamber. February 10, Webinar; February 21, On Demand. (800) 331-8877.

Exempt—When You've Properly Classified. CalChamber. April 14, Webinar; April 25, On Demand. (800) 331-8877.

## CalChamber Calendar

*Environmental Regulation Committee:*  
March 10, San Diego

*Water Resources Committee:*  
March 10, San Diego

*Board of Directors:*  
March 10–11, San Diego

*International Trade Breakfast:*  
March 11, San Diego

*CalChamber Fundraising Committee:*  
March 11, San Diego

# CalChamber, Agricultural Groups Question Delta Watermaster's Report to State Board

A newly appointed water official has overstepped his authority in recommendations for agricultural water use, the California Chamber of Commerce and agricultural and water groups have told the state water board.

In a January 31 letter to the State Water Resources Control Board, the groups point out that Delta Watermaster Craig Wilson also is proposing actions that duplicate existing processes.

The CalChamber and other organizations signing the letter "have long supported the efficient use of water and strive to improve these efficiencies and beneficial uses as new practices and technologies become available," the letter states.

"The Delta Watermaster's report does disservice to this reality, ventures beyond limiting statutory authority and proposes expansion of government when downsizing is the order of the day," the letter continues.

## Background

Special session legislation passed in 2009 and taking effect on February 3, 2010 created the Delta Watermaster position as part of a framework for governance in the Sacramento-San Joaquin Delta (SBX7 1; Simitian; D-Palo Alto).

Made up of more than 1,100 miles of levees, the Delta provides two-thirds of California's population with drinking water and irrigation water for millions of acres of crops. It also offers vital flood protection for the flood plains of California's Central Valley.

SBX7 1 aimed to achieve "co-equal goals of providing a more reliable water supply for California and protecting, restoring and enhancing the Delta ecosystem" in a way that "protects and enhances the unique cultural, recreational, natural resource and agricultural values of the Delta as an evolving place."

## Limited Authority

The CalChamber and other organizations noted that the law limits the watermaster's authority to "diversions in the Delta, and for the monitoring and enforcement of the [water] board's orders

and license and permit terms and conditions that apply to conditions in the Delta."

The state water board appointed Wilson last summer. An attorney, Wilson was chief counsel to the water board from 2000 until 2005 and has 30 years of experience dealing with the state's water issues.

In a January 19 report to the state water board and the Delta Stewardship Council (also established by the 2009 special session legislation), Wilson zeroes in on agricultural water use efficiency and proposes creating a unit within the water board to police waste or "unreasonable use" of water.

## Duplicative Efforts

Creation of the reasonable use water unit is not authorized by law and is redundant to laws on the issue, the letter from CalChamber and other organizations noted.

Also duplicative, the groups pointed out, are the watermaster's proposal for pilot studies of water savings from changed irrigation practices or cropping patterns. Ample data is available in the California State University and

University of California systems, the groups noted.

Moreover, regulations on agricultural water use efficiency are being developed as part of the implementation of SBX7 7 (Steinberg; D-Sacramento).

Central to the watermaster's recommendations was use of the so-called "reasonable and beneficial use doctrine" of California water law to promote efficient water use.

The CalChamber and other groups commented, "The presumption is that water is being unreasonably used without documentation and the proposal seriously jeopardizes due process."

They added that the reasonable use doctrine "was not intended and should not be used to assess individual farm cropping decisions or the adequacy of irrigation systems."

The groups will be meeting with members of the state water board to discuss concerns and "receive reassurance that the Delta Watermaster will conduct himself in the future consistent with statutory authority and legislative history that gave rise" to the position.

**Staff Contact: Valerie Nera**

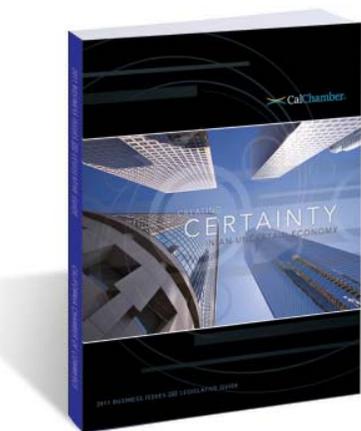
## 2011 Issues Guide Available on Web

The California Chamber of Commerce *2011 Business Issues and Legislative Guide* is available now at [www.calchamber.com/businessissues](http://www.calchamber.com/businessissues).

In this easy-to-reference publication, CalChamber policy advocates have compiled and presented background information on issues the CalChamber has identified as supporting the ability of businesses of all sizes to succeed, thereby helping the economy recover.

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# Citizen Panel Eyes State Regulatory Process

The state's Little Hoover Commission, a bipartisan citizen panel appointed by the Governor and legislative leaders, held the second of two public hearings January 27 on how the state can improve its regulation approval process.

Spurred by a bipartisan request from Assemblyman Felipe Fuentes (D-Sylmar) and Senator Bob Dutton (R-Rancho Cucamonga), the commission is examining, in its words, an "open study process [to] assess the role of economic analysis, including the use and limits of cost-benefit analysis and cost-effectiveness tests. The commission will examine regulatory reform efforts in other governments—at the city, state and federal level—to learn about ways that California's regulatory development and review process can be made more efficient, more effective and more transparent."

## Analytical Tools

At the hearing, the commission heard from Professor James Sanchirico of the University of California, Davis, who described the analytical tools that state agencies should use to examine the economic impacts of regulations.

The commission also received testimony from Professor Robert Stavins of Harvard University, who stated that "Economic assessment of proposed

regulations offers a valuable opportunity to avoid imposing regulations that are not worthwhile and to improve the quality and effectiveness of regulations that are pursued."

Stavins added that, "When performed carefully and impartially, proper regulatory assessment is neither 'pro-regulation' nor 'anti-regulation,' but supportive of good regulation—that is, regulation that provides positive net benefits to society."

## Lessons for California

Using the example of the federal regulatory review process, recently endorsed by the President, Stavins found several lessons that can apply to California:

- Regulatory assessment can help refine regulatory design and encourage consideration of alternatives.
- Requirements that agencies undertake regulatory assessments have improved the quality of regulation.
- For regulations creating significant impacts, the potential benefits offered by regulatory assessment greatly outweigh the costs of undertaking such assessments.

## State Agencies

The commission also heard from state agencies involved either in regulatory

review or promulgation.

Officials from the Office of Administrative Law testified that the economic analysis required by the California Administrative Procedure Act is "illusory and ineffective because it allows an agency to make a perfunctory, after-the-fact assessment of impact that is more symbolic than real."

It was noted that additional requirements for economic analysis could lead to more agencies avoiding the regulatory process altogether (perhaps by extra-legal means).

Officials from the Air Resources Board and Energy Commission also testified, describing in detail their more elaborate economic analysis activities. Those two agencies have specific statutory authority and resources to engage in economic analysis. Their products, however, have been criticized by members of regulated industries as inconsistent and incomplete.

## Upcoming Report

The Little Hoover Commission will continue to gather information on this important topic and release a report and recommendations, probably this spring.

Commission members include Loren Kaye, president of the California Foundation for Commerce and Education.

# Obama Directs Federal Agencies to Review Effectiveness of Regulations



President Barack Obama issued an executive order on January 18, directing federal agencies to review the effectiveness of their regulations.

Regulations must continue to protect the nation's safety, health and environment, while promoting economic growth, the President said in an opinion column in *The Wall Street Journal*. He acknowledged, "Sometimes, those rules have gotten out of balance, placing unreasonable burdens on business—burdens that have stifled innovation and

have had a chilling effect on growth and jobs."

The President's executive order called for a government-wide review of current regulations to assess their effectiveness and the removal of out-of-date rules that "stifle job creation and make our economy less competitive."

In particular, the executive order calls for the government to focus on streamlining regulations that deal with small businesses due to their importance in creating jobs and spurring the economy.

The Obama administration's Office of Management and Budget outlined the following guiding principles for government agencies when crafting regulations:

- Consistent with law, consider costs and benefits and choose the least burdensome alternative.
- Encourage public participation and an open exchange of views, with an opportunity for the public to comment.
- Attempt to coordinate, simplify and harmonize regulations to reduce costs and promote certainty for businesses and the public.
- Consider low-cost approaches that reduce burdens and maintain flexibility. Regulations must be guided by objective scientific evidence.
- Review existing regulations to determine they are still necessary and crafted effectively; if not, they must be modified, streamlined or repealed.



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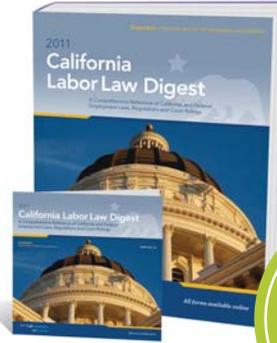
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