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# CalChamber-Led Coalition Backs Pension Reform

Encourages Support for Governor's Proposal

The California Chamber of Commerce announced on August 17 the CalChamber Coalition for Pension Reform, which is urging legislators to support the pension reform principles Governor Edmund G. Brown Jr. announced last October.

"What the Governor has proposed is an important element in restoring certainty to California's economy and encouraging investment here," said Allan Zaremberg, CalChamber president and CEO.
"Certainty means more California jobs."

#### **Needed Reforms**

The Governor and legislative leaders have said their top priority before the end of session is to reform our "broken pension system."

As pension costs rise, funding for higher education, parks, courts and social services is crowded out.



The reforms in Governor Brown's plan include raising the retirement age, calculating benefits based on the last three years of service instead of just the final year to reduce "pension spiking," and moving to a hybrid pension system in which workers would also contribute to a 401(k)-like defined contribution investment program, which is common in the private sector.

Pension costs for the state are at an all-time high, including billions more in obligations from a 1999 law that retroactively increased pensions for thousands of state workers—and that

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CalChamber President and CEO Allan Zaremberg outlines needed pension reforms in the latest CalChamber News installment. See the video at www.calchamber.com/pensionreform.

## 'Job Killer' Mandates Still Alive with One Week Remaining in Session



With one week to go before the Legislature adjourns for the year, "job killer" bills that impose unnecessary burdens on California employers are awaiting action by

the full Senate or Assembly.

The California Chamber of Commerce **opposes** these proposals and is encouraging members to speak out in opposition.

#### **Barriers to Economic Recovery**

• AB 2408 (Skinner; D-Berkeley) Creates Inequity in the Tax Structure—Harms struggling small businesses and start-ups by repealing the Net Operating Loss (NOL) carryback deduction, a lifeline that helps employers stay afloat, retain employees, and continue investing in their businesses in

# an economic downturn. Senate Floor. Costly Workplace Mandates

• AB 1313 (Allen; D-Santa Rosa) Increased Cost on Agricultural Employers—Drives up the cost of commodities to consumers by removing the existing overtime exemption allowed for agricultural employers. Senate Floor.

• AB 2346 (Butler; D-Los Angeles)
Increased Cost of Food—Could increase

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#### Labor Law Corner

## Terminating Employee Who Gives Notice Can Affect UI Obligations



HR Adviser

My employee just gave two weeks' notice that she is quitting, but I want to terminate her today because I know she is going to work for a competitor. If I do so, will that change her voluntary quit to an involuntary termination such that she will now be able to collect unemployment insurance (UI) benefits? Will it make a difference if I pay her out for her notice period?

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E-mail: alert@calchamber.com. Home page: www.calchamber.com. According to the Employment Development Department (EDD), when an employer terminates an employee before the effective date of a previously announced voluntary quit, the quit becomes a termination if the employee suffers a wage loss.

Since it will be difficult for the employer to show that there was some sudden wrongdoing leading to the termination on the part of an employee who had just given notice, the employee will likely be eligible to collect UI benefits because she was not terminated for misconduct.

If the employer pays the employee wages equal to what would have been earned through the end of the notice period, however, then there has been no wage loss and the separation from employment would remain a voluntary quit for UI purposes.

#### **Quitting with 'Good Cause'**

Many employers are surprised to learn that employees who voluntarily quit often are eligible for UI benefits, as long as they have quit with good cause.

"Good cause" means the employee's reason for leaving must be something substantial and compelling that would cause a reasonable person who genuinely wanted to remain employed to quit anyway.

Examples of good cause include moving out of the area for a spouse's job, accepting a substantially better new job, or quitting to take care of a seriously ill child or parent where there is no one else available to do so.

Before paying out an employee for a typical two-week notice period, the

employer should consider whether the employee would nonetheless be eligible for UI benefits due to a voluntary quit with good cause.

In this example, if the job with the competitor is a reasonably secure one and pays substantially more, then good cause to quit likely will be found. If so, paying out the notice period may not make any difference in the employee's eventual UI eligibility or on charges to the employer's UI account.

#### **UI Responsibility Continues**

If the employee is quitting to go to a new job, why would an employer even worry about a UI claim since the former employee will not be unemployed?

Unfortunately, an employer can remain responsible for UI payments long after an employee leaves. If the former employee loses her new job working for the competitor, EDD will look to all baseperiod employers and the reasons the employee separated from employment from them.

Base-period employers can include employers the employee worked for more than a year before separation from the latest employment. If your former employee quits or gets fired from her new job working for your competitor, you could be on the hook for part of her UI payments.

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.

#### Labor Law

Employee Discipline Webinar. CalChamber. September 20. (800) 331-8877. FMLA/CFRA Webinar. CalChamber.

October 18. (800) 331-8877. Conducting Workplace Investigations Webinar. CalChamber. November 15. (800) 331-8877.

#### International Trade

Access China. World Trade Center San

Diego. September 5–13, Xiamen, Nanjing, Changzhou and Shanghai, China. (619) 615-0868 ext.118.

Pan African Global Trade Conference. Africa-U.S. Chamber of Commerce. September 6–7, Carson. (626) 321-7041.

Global Trade Expo 2012. U.S. Global Business Forum. September 6–9, Anaheim. (714) 493-1948.

Indo-American Chamber Awards
See CalChamber-Sponsored: Page 3





# CEQA Reform Efforts Continue

The California Chamber of Commerce has long supported reforms to the California Environmental Quality Act (CEQA) that preserve the original intent of the law—environmental protection—while stamping out certain abuses that allowed the law to be used for non-environmental reasons.

A broad coalition of business, labor, clean technology companies, schools, hospitals, transportation, local government, affordable housing and other groups have long been advocating CEQA reform.

The coalition, the CEQA Working Group, continues to call on the Legislature to modernize the act given the myriad of other environmental laws and regulations that exist in California.

#### **Background**

The ease with which CEQA lawsuits can be filed and used to delay projects drains the public and private sectors' limited economic resources, often without any correlating environmental benefit.

The mere threat of being sued under CEQA makes compliance much more complicated and burdensome than it ever was intended to be. Project proponents go to extreme lengths, beyond what often is useful or reasonable, in hopes of avoiding litigation.

In the 40 years since CEQA was passed, Congress and the California Legislature have adopted more than 120 laws to protect environmental quality in many of the same areas required to be



independently mitigated under CEQA. These include laws like the Clean Air Act, Clean Water Act, Endangered Species Act, greenhouse gas emissions reduction standards, a requirement to prioritize transportation projects in preferred growth areas (SB 375) and more.

Despite these stringent environmental laws and local planning requirements, public and private projects throughout the state are commonly challenged under CEQA even when a project meets all other environmental standards of existing laws.

Many lawsuits are brought or threatened for non-environmental reasons, and oftentimes these lawsuits seek to halt environmental desirable projects like clean power, infill and transit.

#### **Reforms Needed**

The CEQA Working Group supports reform principles to integrate environmental and planning laws; eliminate CEQA duplication; focus CEQA litigation on compliance with environmental and planning laws; and enhance public disclosure and accountability.

More specifically:

- CEQA would continue to serve as the principal environmental policy to ensure that local development projects are meeting all required federal, state, and local environmental laws, regulations and zoning and planning.
- CEQA would continue to mandate comprehensive environmental review, disclosure and informed public debate for all environmental impacts of any proposed development.
- State agencies, local governments and other lead agencies would continue to retain full authority to reject projects, or to condition project approvals and impose mitigation measures.
- When a project has met all other required state, federal and local environmental laws, regulations, and planning, zoning and land-use requirements, or an applicable land use plan, a CEQA lawsuit cannot be brought to force additional requirements that go above and beyond what's required in existing law.
- Project opponents can still sue or challenge whether lead agencies complied with the procedural requirements of CEQA, and opponents can also sue under CEQA's substantive requirement to feasibly mitigate significant adverse impacts for topical areas that are not subject to federal, state or local standards or plans.

For more information on CEQA, visit www.calchamber.com/CEQAReform.

## CalChamber-Sponsored Seminars/Trade Shows

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Banquet. Indo-American Chamber of Commerce. September 8, Palo Alto. (510) 841-1513.

Green Construction Trade Mission to Brazil. Bay Area Center for International Trade Development (CITD). September 9–15, São Paulo and Rio de Janeiro, Brazil.

New Markets: Exporting to Colombia/Panama. Institute of the Americas. September 10, La Jolla. (858) 453-5560.

The Americas Business Forum. Los Angeles Area Chamber of Commerce. September 12–13, Los Angeles. (213) 580-7570.

Sales Outsourcing Seminar. California Spain Chamber of Commerce. September 17, San Francisco. (415) 900-7896.

Expoalimentaria 2012. Exporters
Association, Ministry of Agriculture,
Ministry of External Relations, Prom
Peru. September 19–21, Lima, Peru.

Trade Mission to the UK. U.S. Commercial Service. October 15–17, London.

Gateway California. Northern California World Trade Center. October 23, San Francisco. (916) 321-9146.

### CalChamber Calendar

Environmental Regulation Committee:
September 6, Santa Monica
Water Resources Committee:
September 6, Santa Monica
Fundraising Committee:
September 6, Santa Monica
Board of Directors:

September 6–7, Santa Monica Public Affairs Council Retreat: November 13–15, Laguna Beach



## CalChamber Coalition Encourages Support for Governor's Pension Reform

From Page 1

lawmakers were promised wouldn't cost the state anything to pay for more generous pensions.

Even as education, public safety and health care programs have been slashed in recent years, pension costs continue to rise to cover this unfunded liability.

#### 'Math Doesn't Add Up'

"With what we have now, the math just doesn't add up," said Zaremberg. "This is a numbers problem, not a political issue."

Pension costs also are the fastest-growing expenditure for city and county governments. In 1999, pension costs were 4.1% of aggregate municipal spending; by 2011, that figure had more than doubled to 9.6%. Between 1999 and 2010, pension spending grew at

11.4% per year, twice the growth rate for education, public safety, parks, health and sanitation.

According to the *Los Angeles Times*, this will mean "more layoffs or pay cuts for public employees, higher taxes, fewer services, or all of the above."

Voters in three of the four largest cities in the state—San Diego, San Jose and San Francisco—have approved sweeping reforms to their employees' pension plans.

Other cities are prepared to follow suit to avoid the fate of Stockton and San Bernardino, two cities that have recently declared bankruptcy largely because of mounting pension costs.

#### **Action Needed**

Visit www.calchamber.com/
PensionReform for more information,

to see the CalChamber News video highlighting needed reforms and to take action on the following:

#### • Sign Statement of Principles: CalChamber is urging businesses to sign and return to CalChamber the Statement of Principles to express support of each element of Governor Brown's pension reform package, as introduced on October 27, 2011. Email the signed form to PensionReform@calchamber.com or fax to (916) 325-1273.

• Urge Legislators to Sign
Statement of Principles: The
CalChamber is also urging legislators to
support the pension reform principles.
Send a letter to your legislators and ask
them to sign the Governor's pension
reform proposal. A sample letter is
available at www.calchambervotes.com.

## Regulatory Reform Job Creator Bills Pending in Assembly, Senate



Two
California
Chamber of
Commercesupported
job creator
bills that

will help position the state for economic recovery await action by the full Assembly or Senate.

- Awaiting a vote by the Assembly is **SB 1099 (Wright; D-Inglewood)**, which provides certainty for business by creating a predictable and easy-to-track implementation schedule for new regulations and provides language of new regulations online for easier access.
- On the Senate floor awaiting action is AB 1612 (Lara; D-Los Angeles), which promotes government accountability and a transparent process by requiring proposed new residential building standards to include the cost of compliance, potential benefits of the proposed standard and the underlying model used to achieve those estimates.

#### **Regulatory Certainty**

SB 1099 provides that all regulations must go into effect quarterly on January

1, April 1, July 1 or October 1, while still allowing for the adoption of emergency regulations when necessary.

The bill also requires the Office of Administrative Law (OAL) to make available on its website a list of regulations awaiting implementation. State agencies must post each regulation filed with the Secretary of State on their websites and provide OAL with electronic links to those regulations.

Keeping track of regulations that go into effect throughout the year presents a difficult challenge for California businesses, especially small firms. SB 1099 will create a single, reliable source from which businesses can learn about any pending regulations. It also increases certainty for businesses by allowing them to predict and prepare for when pending rules could take effect.

#### **Administrative Practices**

For regulations related to housing, AB 1612 requires the proposing agency to specifically cite its "estimated cost and benefit of compliance" with the proposed regulation and to make available upon request the assumptions/analysis used in arriving at the estimate.

Since 1982, state agencies have been required to prepare an economic impact analysis that clearly identifies any adverse economic impacts on business, small business and housing.

Currently, the economic impact analysis is most often accompanied by boiler-plate language that gives no indication to the interested parties as to what it will actually cost (in dollars) to comply with the proposed regulation.

SB 1612 will assist in presenting a clear understanding of economic impacts to the ailing residential construction industry.

#### Action Needed

Contact your legislators and urge them to **support SB 1099 and AB 1612**. Easy-to-edit sample letters are available at **www.calchambervotes.com**. **Staff Contact: Marc Burgat** 

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# 'Job Killer' Mandates Still Alive

From Page 1

the price of food and force growers to move their crop production to other states and countries, thereby hurting California exports, by creating unprecedented and excessive consequences for perceived and actual violations of heat illness prevention regulations. Senate Floor.

## **Expensive, Unnecessary Regulatory Burdens**

• SB 568 (A. Lowenthal; D-Long Beach) Polystyrene Food Container Ban—Threatens thousands of manufacturing jobs within the state by inappropriately banning all food vendors from using polystyrene foam food service containers, ignoring the numerous environmental benefits associated with polystyrene products. Assembly Floor.

#### **Inflated Liability Costs**

• SB 1528 (Steinberg;
D-Sacramento) Inflates Litigation and Insurance Costs—Artificially inflates medical damage awards in personal injury cases by allowing an injured party to recover expenses never actually incurred, which will ultimately increase legal costs as well as insurance rates. Assembly Floor.

#### **Fuel Price Increases**

• AB 1532 (John A. Pérez; D-Los Angeles) Illegal Tax Increase—Increases energy costs, including fuel prices, on consumers and businesses by allocating funds from an illegal tax to various programs that are not necessary to cost-effectively implement the market-based trading mechanism under AB 32. Senate Floor.

- SB 535 (De León; D-Los Angeles) Illegal Tax Increase—Increases energy costs, including fuel prices, on consumers and businesses by allocating funds from an illegal tax to various programs that are not necessary to cost-effectively implement the market-based trading mechanism under AB 32. Assembly Floor.
- SB 1572 (Pavley; D-Agoura Hills) Illegal Tax Increase—Increases energy costs, including fuel prices, on consumers and businesses by allocating funds from an illegal tax to various programs that are not necessary to cost-effectively implement the market-based trading mechanism under AB 32. Assembly Floor.

#### 'Job Killers' Stopped

The following bills were held on the Senate Appropriations Committee Suspense File last week and are dead for the year:

◆ AB 1999 (Brownley; D-Santa Monica) Expansion of Discrimination Litigation—Makes it virtually impossible for employers to manage their employees and exposes them to a higher risk of litigation by expanding the Fair Employment and Housing Act to include a protected classification for any person

who is, perceived, or associated with a family caregiver.

• AB 2039 (Swanson; D-Alameda)
Expansion of Protected Leave
Requirements for California
Employers—Creates a burdensome,
California-only mandated benefit that
significantly expands the category of
individuals with serious health conditions
for whom an employee can take a leave
of absence beyond what is currently
included under the federal Family
Medical Leave Act.

#### **Action Needed**

Contact your legislators and urge them to **oppose** the "job killer" bills listed above. Easy-to-edit letters are available at *www.CAJobKillers.com*.

# Sign Up to Receive *Alert* Via Email on Publication Day

No waiting to read updates on job killer bills or the latest *Labor Law Corner* article. Sign up today to receive the *Alert* via email the day it's published. To get to the sign-up form, visit *www. calchamber.com/ealert* or scan the code.

# CAJobKillers.com Offers Easy Way to Help Support Pro-Jobs Candidates

Visitors to *CAJobKillers.com* can contribute to ChamberPAC, the political action arm of the CalChamber.

Contributions will help the effort to elect representatives to the Legislature who understand the need to support job growth and economic recovery, and defeat those who do not.

By working together, the business community will have the resources needed to elect pro-business, pro-jobs candidates in California.







## Job Creator Passes to Governor's Desk



A California Chamber of Commercesupported job creator bill that reaffirms and

clarifies California's existing policy of regulating Internet-enabled communications services to conform to federal law is headed to the Governor's desk.

SB 1161 (Padilla; D-Pacoima) provides certainty and creates a level playing field for California business by assuring that Voice over Internet Protocol- and Internet Protocol-enabled services will not be regulated at the state level but rather at the federal level.

SB 1161 passed the Assembly on August 20 on a vote of 63-12. The Senate concurred in Assembly amendments, 28-7, on August 22, sending the bill on for consideration by the Governor.

The new global Internet economy—with California as its epicenter—has fostered economic growth, stimulated

investment, and resulted in technological innovation and advancement.

Attempts to regulate this technology outside the Legislature by the California Public Utilities Commission or any other department, agency or commission could hinder the progress and innovation that has stimulated substantial economic growth in the state.

#### **Advancing Technology**

SB 1161 will ensure that California maintains its competitive edge and continues to provide a regulatory environment that promotes advancements in Internet technology.

Such continued advancements would result in widespread access to communication technologies and would allow for solutions to challenges in health care, energy, education, public safety, and economic development.

This legislation is consistent with the goals of the CalChamber 2012 Renew Agenda and will help position California for economic recovery.

#### **Action Needed**

The CalChamber is calling on all employers to write Governor Edmund G. Brown Jr. and urge him to sign SB 1161. Staff Contact: Marc Burgat

They won't know unless you tell them. Write your legislator.

## calchambervotes.com

## CalChamber Representatives Meet with Delegation from Argentina

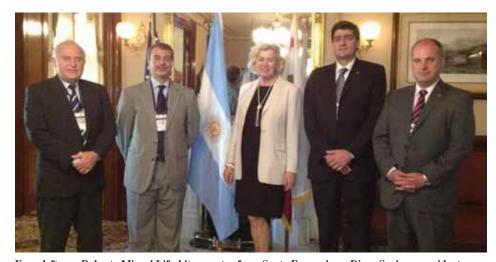
California Chamber of Commerce representatives and members of the California Legislature met last week with a delegation from Santa Fe province in Argentina.

Santa Fe Lieutenant Governor Jorge Henn led the delegation, which included top-level government officials and major business and trade representatives.

California and Santa Fe (located inland, northeast of Buenos Aires) have an ongoing exchange program, which began in 2004 between the California Senate International Relations Foundation and Argentina New Generation Foundation (FNGA).

The goal is to increase political and economic ties, as well as discuss specific public policy issues, including sustainable energy, port security and goods movement, and public safety.

Of the 23 provinces in Argentina, Santa Fe province has one of the most important economies, accounting for nearly 10% of output. More than 20% of Argentina's cultivated lands are in Santa Fe, whose main crops include soybeans, sunflowers, maize, wheat and



From left are: Roberto Miguel Lifschitz, senator from Santa Fe province; Diego Sueiras, president, Argentina New Generation Foundation (FNGA); Susanne T. Stirling, CalChamber vice president, international affairs; Juan Pablo Galleano, secretary of the stock market, City of Rosario; Santa Fe Lieutenant Governor Jorge Antonio Henn, delegation leader.

rice. Strawberries, honey and cotton also are produced. In addition, 20% of the nation's livestock in meat and dairy are in the province.

More information is available at the newly created trading partner portal, www.calchamber.com/argentina.



# CalChamber Urges Making Permanent Normal Trade Relations with Russia

U.S. Jobs, Exports Will Grow as Businesses, Workers, Farmers Gain Opportunities



Russia joined the World Trade Organization (WTO) on August 22, becoming the 156th member of the organization that serves as arbiter of international trade rules.

Russia's

accession to the WTO will culminate 18 years of on-again, off-again negotiations. Absent congressional approval of permanent normal trade relations (PNTR) with Russia, however, U.S. companies may be denied the full benefits of the wide-ranging market reforms Russia is undertaking as part of its accession.

The California Chamber of Commerce is urging members to ask their representatives in Congress to **support PNTR with Russia**.

Congress adjourned for the August district work period without approving PNTR with Russia, but welcomed strong signals of support from key congressional leaders for moving the bill forward in September. It is hoped both houses of Congress will vote on the bill when they return in September.

#### **Governor Signs Support Letter**

California Governor Edmund G. Brown Jr. joined with other governors in a July 25 letter, asking President Barack Obama, and U.S. Senate and U.S. House leaders of both parties to graduate Russia from the Jackson-Vanik amendment and establish PNTR with Russia.

The Jackson-Vanik amendment to the Trade Act of 1974 was enacted with the chief purpose of ending the policy that prevented emigration of Jews from the then-Soviet Union. With respect to Russia, the Jackson-Vanik amendment has accomplished its objective. Russia terminated its exit fees on Jewish emigrants in 1991, and today Russian Jews freely emigrate to Israel and elsewhere.

Since 1992, U.S. presidents of both parties have certified annually that Russia complies with the Jackson-Vanik amendment's provisions, and this has allowed the United States to maintain normal trade relations (NTR) status with Russia.

#### **Background**

The Russian Federation applied to the WTO in June 1993 and WTO ministers formally invited Russia to become a member at the Eighth Annual WTO Ministerial Conference in Geneva, Switzerland on December 16, 2011.

Subsequently, the State Duma ratified Russia's WTO Accession Protocol on July 10, 2012, and the Russian Federation Council ratified on July 18, 2012. Russian President Vladimir Putin signed the WTO Accession Protocol on July 20, 2012.

The U.S. Senate Finance Committee passed a bill establishing PNTR with Russia and removing Jackson-Vanik on July 18, 2012.

The U.S. House Ways and Means Committee voted on HR 6156, repeal of the Russia and Moldova Jackson-Vanik Act, and ordered the bill sent to the House floor for a full vote on July 26, 2012.

Russia is by far the largest economy in the world that has yet to join the WTO, and doing so will require Moscow to further open its market, safeguard intellectual property and investments, and strengthen the rule of law. The result will be more U.S. exports and more American jobs, as U.S. companies see huge potential in Russia.

The PNTR legislation is crucial to enable U.S. manufacturers, service providers, agricultural producers and their employees to take advantage of the many market opening and transparency commitments that form Russia's accession package to the WTO. PNTR also gives the United States a powerful tool by enabling it to ensure that Russia abides by those commitments through internationally binding WTO dispute settlement.

If Congress fails to enact PNTR

with Russia, U.S. industry will be on the sidelines of Russia's market, at a disadvantage for lucrative contracts, and without the full tools provided by a WTO relationship

Meanwhile, European and Asian companies will be able to build on their already-significant head start in tapping the growing Russian market.

#### Trade Opportunities

Russia has the world's ninth largest economy and 140 million increasingly prosperous consumers. Of the top 15 U.S. trading partners, Russia was the market where American companies enjoyed the fastest export growth last year (38%).

The President's Export Council estimates that U.S. exports to Russia—which, according to estimates, topped \$11 billion in 2011—could double or triple once Russia joins the WTO. Meanwhile, the United States gives up nothing—not a single tariff—in approving PNTR with Russia.

Russia is an important part of U.S. business' global strategy to create and sustain jobs at home by enhancing America's long-term competitiveness abroad. Many U.S. companies have developed vibrant, profitable and rapidly growing business and trade with Russia, with clear strategic benefits to parent companies, exports from, and employment in, the United States. Without PNTR, U.S. companies and their employees will be left behind competitors in this growing and profitable market.

#### **Action Needed**

Contact your representatives in Congress and urge them to **support PNTR with Russia**. Congress must pass PNTR as soon as possible after returning from recess in September, or else risk putting U.S. businesses, workers and farmers at a long-term disadvantage in this important market.

For further information, see www. calchamber.com/RussiaPNTR.
Staff Contact: Susanne Stirling





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