10-Year Tax Credit Sunset Awaiting Action by Senate

A California Chamber of Commerce—opposed “job killer” bill that imposes an arbitrary maximum 10-year sunset on all future tax credits has advanced and already awaits action by the entire Senate.

SB 365 (Wolk; D-Davis) creates uncertainty for California employers making long-term investment decisions by requiring tax incentives end 10 years after their effective date.

The CalChamber supports efforts of the state to consider the effectiveness of tax policies and programmatic expenditures.

SB 365, however, attempts to address this periodic review and good government structure related to tax policy by mandating a maximum 10-year sunset on all future tax credits. This would have the adverse effect of creating uncertainty about the future of the state’s tax structure.

Stability Key to Decisions

When businesses choose to locate in a state, factors such as the availability of a skilled workforce, infrastructure, regulatory environment, and tax structure all play a significant role. Businesses evaluate whether they can rely on these factors to remain relatively stable and consistent in the long term.

Furthermore, for capital-intensive

Governor Brown Leads Successful Trade/Investment Mission to China

Governor Edmund G. Brown Jr. returned this week from a successful eight-day mission to China including the opening of California’s first foreign office in nearly a decade.

Joining the Governor was a 75-member business delegation that included a number of California Chamber of Commerce members.

The goal of the mission was to expand trade and investment between California and China by identifying opportunities of mutual benefit.

With more investment deals from China than any other state, California is positioned to capture China’s growing foreign investment.

The Governor’s schedule included high-level meetings with government officials—including China Premier Li Keqiang—meetings with current and
Labor Law Corner

When Payday Falls on a Holiday, Wages Can Be Paid Next Business Day

If a payday falls on a holiday, when is an employer obligated to pay?

If you are closed on a payday that falls on a Saturday, Sunday or holiday listed in the California Government Code, you can pay wages on the next business day.

Holidays

The following holidays are listed in the California Government Code:

- January 1 — New Year’s Day;
- January 20 — Martin Luther King Jr. Day;
- February 12 — Lincoln’s Birthday;
- February 15 — Washington’s Birthday;
- May 1 — Labor Day;
- May 21 — Memorial Day;
- May 25 — Memorial Day;
- May 27 — Memorial Day;
- July 4 — Independence Day;
- September 2 – Columbus Day;
- November 11 — Veterans Day;
- November 24 – Thanksgiving Day;
- December 25 — Christmas;
- December 26 — Christmas;
- December 26 – Christmas.

The following holidays are listed in the California Civil Code and on Section 12a of the California Code of Civil Procedure. Those sections define holidays as Saturdays, Sundays and those days specified in the Government Code as set forth above.

State law does not require private employers to provide holidays. The payday exception applies only if the business is closed.

Enforcement

The State Division of Labor Standards Enforcement has established an enforcement position that relies on the provisions of Sections 7, 9, 10 and 11 of the California Civil Code and on Section 12a of the California Code of Civil Procedure. Those sections define holidays as Saturdays, Sundays and those days specified in the Government Code as set forth above.

Those sections also provide that when an act required to be performed on a certain day, such as a payday, falls on a holiday, the obligation to perform the act moves to the next regular work day.

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: calchamber.com/events.

Law & Labor


Leaves of Absence: Making Sense of It All. CalChamber. May 9, Sacramento. (800) 331-8877.

HR Strategies Webinars. CalChamber.

May 16: Flexible Work Options; June 20: Multigenerational Workforce Challenge. (800) 331-8877.


Ask the HR Compliance Experts Webinar. CalChamber. August 15. (800) 331-8877.

Business Resources


CalChamber Calendar

Legislative Briefing:

May 21, Sacramento

International Forum:

May 21, Sacramento

Environmental Regulation Committee:

May 21, Sacramento

Water Committee:

May 21, Sacramento

CalChamber Fundraising Committee:

May 21, Sacramento

Board of Directors:

May 21–22, Sacramento

Host Breakfast:

May 22, Sacramento
Split Roll, Discrimination Litigation Bills Held Pending Reviews of Fiscal Impacts

U.S. Agency Corrects Date for Use of Form I-9

Starting May 7, employers may no longer use previous versions of the Form I-9 in verifying employment eligibility, according to the U.S. Citizenship and Immigration Services (USCIS).

USCIS published a revised Form I-9 on March 8 and incorrectly described the effective date as being after May 7.

In a correction notice published in the Federal Register, the USCIS corrected its error and clarified that beginning May 7, only the form bearing the 03/08/13 revision date would be acceptable.

All employers are required to complete a Form I-9 for each employee.

Revisions

The USCIS previously stated that the revisions to the form include:

- A new field;
- Reformattting to reduce errors; and

According to the USCIS, employers should not complete a new Form I-9 for current employees if a properly completed Form I-9 is already on file.

HRCalifornia has been updated with the new form.

Spanish Version

A Spanish version of Form I-9 (Rev. 03/08/13N) is also available, and HRCalifornia is updated with the new form. The Spanish version is for use in Puerto Rico only. Spanish-speaking employers and employees in the 50 states, Washington, D.C., and other U.S. territories may use the Spanish version for reference, but must complete the English version of the form.

Employer Handbook

The USCIS has updated the Handbook for Employers: Guidance for Completing Form I-9 (M-274) to correspond to the new form. According to the USCIS, helpful new images have been added to illustrate how employees and employers can complete Sections 1–3 of the new form. The revised handbook is available at www.uscis.gov.

California Chamber of Commerce members can read more on recruiting and hiring, the I-9 form and verifying eligibility in HRCalifornia’s HR Library, which has been updated to reflect the recent changes.

Staff Contact: Gail Cecchettini Whaley
Discrimination Litigation Bill Held Pending Review of Fiscal Impacts

From Page 3

Employees Already Protected

California already protects employees from discrimination on the basis of sex, pregnancy, medical condition, mental disability, or physical disability.

Similarly, California provides employees with leave to care for the serious medical condition of family members, which may be compensated through California's Paid Family Leave Act.

In addition, California also requires "kin care," mandating that an employee be allowed to use at least half of any accrued sick leave to care for family members.

These various leaves and protections are in addition to those provided by federal law. Given these existing protections, there is no reason to include under California law the broad protected classification SB 404 proposes, other than to increase litigation opportunities.

Costly Litigation

Approximately 19,500 discrimination claims citing FEHA were filed in 2010 with the state Department of Fair Employment and Housing, which was 1,000 complaints more than in 2009.

Notably, more than 4,000 of these complaints were dismissed due to lack of evidence of any violation. Adding this new expansive classification to FEHA will only cause such cases to increase dramatically, thereby burdening the state agency as well as California employers with costly litigation.

Action Needed

SB 404 will be considered by Senate Appropriations at the committee's next hearing and may be voted off the suspense file and sent to the full Senate for a vote.

Contact your Senate representatives and members of Senate Appropriations and urge them to oppose SB 404.

Staff Contact: Jennifer Barrera

Legislation to Prevent Prop. 65 Drive-By Lawsuits Passes Committee

From Page 1

and Toxic Enforcement Act of 1986," which is designed to protect California's drinking water from chemicals known to cause cancer or birth defects, and to warn members of the public about the presence of those chemicals in their environment to help them avoid exposure.

Since its enactment, Proposition 65 has helped protect the public by incentivizing businesses to renovate their facilities, reformulate their products, and update their manufacturing processes to eliminate the use of listed chemicals.

Proposition 65 requires, among other things, that a private business with more than 10 employees post warnings when it knowingly exposes workers or the public to listed chemicals. These warnings can take the form of placards in business establishments where listed chemicals exist or are released into the environment, or as part of the labeling of a consumer product that contains any of the 774 chemicals currently on the list.

Drive-By Lawsuits

These benefits have not come without a cost to the economy, however. AB 227 addresses one very avoidable cost that results from a handful of law firms targeting businesses with drive-by lawsuits, alleging the businesses lack the signage required by Proposition 65.

These lawsuits can easily cost thousands of dollars to litigate, causing many small businesses to settle out of court regardless of whether they actually needed to have signage posted at their business establishments, if the failure to post was made in good faith, or if the signage they did have was merely the wrong size.

Lengthy List

The 774 chemicals on the Proposition 65 list range from those that pose limited or no risk based solely on their presence at a business establishment—such as alcoholic beverages and aspirin—to others that pose an obvious and widely known risk, like diesel engine exhaust and tobacco smoke.

Given the range of listed chemicals, it's easy to understand why business owners sometimes fail to realize a warning sign is required.

Further, many business owners rightly determine that signage is not warranted given the exposure levels of a particular chemical at the business establishment, or that no listed chemicals are present at all, but this does not prevent a firm from making an allegation in a demand letter in order to pressure the business into handing over a small settlement.

Nor does the act of actually posting warning signs. Many small businesses have actually been targeted because the dimensions of their signs did not precisely match the requirements of the law, although they provided adequate warning in compliance with the spirit of the law.

Hundreds of businesses are targeted in these lawsuits each year, costing millions of dollars in lost productivity and jobs.

AB 227 will help eliminate the inappropriate use of litigation, while ensuring that the public does receive Proposition 65 warnings when appropriate.

Key Vote

AB 227 passed the Assembly Environmental Safety and Toxic Materials Committee on April 16, 7–0.

Ayes: Alejo (D-Salinas), Bloom (D-Santa Monica), Chesbro (D-North Coast), Dahle (R-Bieber), Donnelly (R-Twin Peaks), Stone (D-Scotts Valley), Ting (D-San Francisco)

The bill now moves to the Assembly Judiciary Committee.

Staff Contact: Mira Guertin
Bill Increasing Environmental Litigation Clears Assembly Policy Committee Hurdle

Similar Senate Legislation Scheduled for Consideration in May

A California Chamber of Commerce-opposed “job killer” bill that increases California Environmental Quality Act (CEQA) litigation passed an Assembly policy committee this week.

AB 953 (Ammiano; D-San Francisco) invites more litigation over CEQA projects by overturning a recent court decision and allowing project opponents to challenge environmental impact reports (EIRs) that don’t adequately evaluate and mitigate impacts related to conditions and physical features in the environment like sea-level rise and fault lines.

In other words, it would require project applicants to evaluate and mitigate for effects of the environment on their projects, not just the effects their projects might have on the environment.

Similar legislation, SB 617 (Evans; D-Santa Rosa), is scheduled to be considered by the Senate Environmental Quality Committee on May 1.

Update Needed

Both AB 953 and SB 617 dramatically expand CEQA’s requirements at a time when the Legislature should be more appropriately focused on updating the 43-year-old law to address legitimate concerns about unnecessary litigation while reinforcing the existing statute’s core purpose of environmental protection and public review.

Attack on CEQA

AB 953 and SB 617 are an attack on the core of the CEQA, namely, that CEQA requires consideration of the impacts of a project on the environment, not the other way around.

As detailed below, a variety of other California laws already address issues such as floods, fire hazards, and earthquakes (for example, natural issues that may have an impact on projects).

Both bills ignore these robust bodies of law and inject into CEQA further uncertainty and increased litigation costs for projects ranging from affordable housing and hospitals to schools and infrastructure.

Covered by Other Laws

The natural hazards AB 953 and SB 617 seek to address are already covered in a myriad of substantive laws in California:

- Flood hazards are addressed in the Legislature’s package of flood bills in 2007 and building codes. In addition, flood damage prevention measures also are found in the California Building Code.
- Fire hazards are addressed in both the building code and defensible space regulations.
- Seismic hazards (the entire State of California falls within the three worst “seismic design categories”) are addressed in the building codes.

All of these subjects are covered in the Natural Hazards Disclosure Statement and many more are covered in other disclosure laws. There are a myriad of potential impacts of the existing environment on a project that are required to be addressed in substantive ways outside of, and more effectively than by injecting them into CEQA, in order to protect the occupants of new development.

Key Vote

AB 953 passed the Assembly Natural Resources Committee on April 15, 5-3.

Ayes: Chesbro (D-North Coast), Garcia (D-Bell Gardens), Skinner (D-Berkeley), Stone (D-Scotts Valley), Williams (D-Santa Barbara).

Noes: Bigelow (R-O’Neals), Grove (R-Bakersfield), Patterson (R-Fresno).

Absent/abstaining/not voting: Muratsuchi (D-Torrance).

Staff Contact: Mira Guertin
Regulatory Certainty for Carbon Capture Wins Unanimous Senate Committee OK

California Chamber of Commerce-supported legislation that creates regulatory certainty for carbon capture and storage projects passed a Senate policy committee this week with unanimous support.

SB 34 (R. Calderon; D-Montebello) advances the state’s environmental policies and promotes job creation by reducing the regulatory burdens for the permitting process of carbon capturing and storage projects.

Investment Incentive

In addition, by requiring the California Air Resources Board to establish methodologies that would recognize these projects as important compliance instruments under AB 32, SB 34 will provide further incentive for economic investment in this safe and proven method of capture and storage.

California is aggressively working to meet its ambitious environmental goals set forth by AB 32, The California Global Warming Solutions Act of 2006. AB 32 established a goal of returning California greenhouse gas emissions (including carbon dioxide) to 1990 levels by 2020.

SB 34 helps realize these goals by recognizing the important role that carbon capture and storage projects play in achieving overall greenhouse gas emission reductions.

Advancing Projects

Confirming the regulatory framework for the planning, construction and operation of carbon capture and storage projects will enable several projects to move forward that have been stalled due to existing regulatory uncertainties that were identified by the California Energy Commission and the Public Utilities Commission.

Passage of SB 34 will send the confidence signal necessary to spur investment in carbon capture and storage projects. SB 34 is an important measure that will help lead California toward economic recovery, creating jobs and stimulating the economy.

The bill provides a “win-win” situation by facilitating California businesses’ ability to comply with greenhouse gas emission reductions under AB 32 while also providing much-needed jobs in the state.

Key Vote

SB 34 passed the Senate Environmental Quality Committee on April 17 on a unanimous vote.

Ayes: R. Calderon (D-Montebello), Corbett (D-San Leandro), Fuller (R-Bakersfield), T. Gaines (R-Rocklin), Hancock (D-Oakland), Hill (D-San Mateo), Jackson (D-Santa Barbara), Leno (D-San Francisco).

Absent/abstaining/not voting: Pavley (D-Agoura Hills).

SB 34 will be considered next by the Senate Natural Resources and Water Committee.

Staff Contact: Amy Mmagu

Tax Credit Sunset

From Page 1, industries like manufacturing and research and development, investment decisions are made many years into the future. The ability for corporate decision makers in these industries to plan anticipated costs over a span of many years is an important factor when determining locations for these investments.

Establishing an arbitrary maximum 10-year sunset puts the long-term viability of any credit in jeopardy and, in many cases, could ultimately render the credit’s value useless in a company’s final decision on a location.

Amendments Needed

The CalChamber believes that the arbitrary maximum 10-year sunset requirement should be amended to allow tax credits introduced in the future to be evaluated on their own merit. A reasonable sunset should be applied only if appropriate.

Action Needed

SB 365 is awaiting a vote by the entire Senate. Contact your senator and urge a vote to oppose SB 365.

Staff Contact: Jeremy Merz

CalChamber-Sponsored Seminars/Trade Shows

From Page 2

(831) 335-4780.

Innovation Economy Expo, Innovation Economy Konnekt, Inc. May 9, Ontario. (310) 613-4131.

International Trade


World Trade Week Kickoff Breakfast.

Los Angeles Area Chamber. May 2, Los Angeles. (213) 580-7569.


China International Technology Fair.

Shanghai International Technology Exchange Center. May 8–11, Shanghai, China.


The BRICS (Brazil, Russia, India, China and South Africa) Countries Conference. MBITA. May 24, Monterey. (831) 335-4780.

Think Asia, Think Hong Kong. Hong Kong Trade Development Council. June 14, Los Angeles. (212) 838-8688.

Spanish Language/Media Conference.


Kong Trade Development Council.


China Trade Mission Builds Relationships

From Page 1
potential investors in the California market, and several events highlighting the Golden State’s many resources.

The Governor promoted California tourism, agricultural products, and green technology services and products, among other activities.

CalChamber Participation

The business delegation was organized by the Bay Area Council and included: CalChamber President and CEO Allan Zaremberg; Susanne Stirling, CalChamber vice president of international affairs; and CalChamber Board members Janet Lamkin, California state president of Bank of America, who also chairs the Bay Area Council; Margaret Wong, president and CEO of McWong International, Inc.; and Thomas Conley, senior vice president of State Farm Insurance Companies.

In addition, 28 member companies of the CalChamber were represented on the delegation, including: Deloitte LLP; FedEx; Harris Farms, Kaiser Foundation Health Plan, Paramount Farming Company (a part of Roll Global), Siemens, United Airlines, The Walt Disney Company and Wells Fargo.

During the mission, Stirling kept a blog providing daily updates on the activities of the business delegation. The blog updates, including photos and news links, are available at www.calchamber.com/2013ChinaTradeMission.

California-China Office

A highlight of the mission was the April 12 unveiling of the seal for the California-China office, a public-private program led by the State of California through the Governor’s Office of Economic and Business Development (GO-Biz), the Bay Area Council, and economic development groups and private sector companies across the state.

The office, located in the Yangpu District of Shanghai, will be California’s flagship vehicle for promoting both trade and investment between the state and China.

This is California’s first official permanent presence in China in nearly a decade.


Initial Deals

Following the unveiling of the California-China office seal, there was a ceremony in which representatives of California companies signed deals with Chinese companies.

Among those deals was a $20 million contract involving Sacramento-based McWong International (a CalChamber member) and Emeryville-based New Logic Research with Inner Mongolia-based ChinaCoal Mengda New Energy Chemical Company and China National Coal Group for a zero-liquid-waste discharge project.

Investment Opportunities

An April 12 reception allowed California delegates to meet with Chinese business and government leaders—and discuss possible investment opportunities.

With government influence, Chinese foreign direct investment into the United States has grown dramatically, from less than $1 billion in 2008 to an estimated $6.5 billion in 2012. The Rhodium Group projects that China’s cumulative out-bound foreign direct investment will grow to between $1 trillion and $2 trillion by 2020; of that, California has the potential to attract between $10 billion and $60 billion of Chinese investment.

Tourism Promotion

The Governor and Visit California, a non-profit organization that works in partnership with the state’s travel industry, also launched a consumer marketing campaign in China and announced the appointment of model-actress Miss Gao Yuanyuan as California tourism ambassador.

Energy Innovation

An April 11 forum at the prestigious Tsinghua University (THU) focused on China and California’s “shared path toward energy innovation and low carbon development.”

As reported in Stirling’s blog, Governor Brown “stressed that today climate change is the issue…. The Governor went on to indicate California’s goal of having 1 million electric cars on the road by 2025. And that China could help by making better batteries!”

Past Trade/Investment Missions

Over the years, CalChamber delegations have participated in the state’s trade and investment missions to Tokyo, London, Mexico City, Frankfurt, Hong Kong, Taipei and Johannesburg.

CalChamber Board members and officials have accompanied five California Governors to various worldwide destinations, including Mexico City, Canada, Japan, Southeast Asia, China and Europe.

In keeping with long-standing policy, the CalChamber supports free trade worldwide. The CalChamber encourages the expansion of trade and investment, fair and equitable market access for California products abroad and the elimination of disincentives that impede the international competitiveness of California businesses.

Staff Contact: Susanne Stirling
Simplify your required AB 1825 training.

California companies with 50 or more employees are required to provide two hours of sexual harassment prevention training to all supervisors within six months of hire or promotion, and every two years thereafter. CalChamber’s online supervisor course meets AB 1825 training requirements and helps your company avoid work situations that put you at risk for costly lawsuits. Regardless of company size, we recommend training for all supervisors and employees. Learners can start and stop anytime because the system tracks their progress.

Get a $5 Starbucks eGift Card for every California Harassment Prevention training seat you purchase by 5/31/13.

Use priority code HPTST3. Preferred and Executive members receive their 20% discount in addition to this offer.

ORDER online at calchamber.com/harassment1 or call (800) 331-8877.

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