CalChamber-Opposed Bills Await Legislative Action

With just one week to go in the legislative year, the fate of numerous bills opposed by the California Chamber of Commerce was undecided as Alert went to press.

Both houses had scheduled floor sessions for Friday, September 6, with some reports indicating the legislative work would spill over into Saturday.

‘Job Killers’

Awaiting action in the Assembly were:

• **AB 10 (Alejo; D-Salinas)** Automatic Minimum Wage Increase. Unfairly imposes an automatic $2 increase in the minimum wage over the next five years, that will continue to increase costs on employers of all sizes, regardless of other economic factors or costs that California employers are struggling with to sustain their business.
• **SB 365 (Wolk; D-Davis)** Limitations on Tax Credits. Creates uncertainty for California employers making long-term investment decisions by requiring that tax incentives end 10 years after their effective date.
• **SB 691 (Hancock; D-Oakland)** Dramatically Increases Pollution Penalties. Dramatically increases existing strict-liability penalties for nuisance-based, non-vehicular air-quality violations without adequately defining what types and levels of pollution would trigger those penalties.

CalChamber Opposes

Following is a sampling of CalChamber-opposed bills awaiting action. Negotiations are ongoing on a number of proposals not listed here.

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Health Care Act-Required Notices Due Oct. 1

Although the employer mandate provision has been delayed, October 1, 2013 is still the deadline for notices required by the federal Patient Protection and Affordable Care Act (ACA).

Before October 1, all employers covered by the Fair Labor Standards Act are required to provide current employees with notices regarding new health insurance marketplace coverage options—in California, that’s Covered California.

The notices inform the employee of the existence of the marketplace, a description of services, how to contact the marketplace and other required information.

Also starting October 1, employers must provide the notices to each new hire within 14 days of the employee beginning work.

The U.S. Department of Labor (DOL) has created two model notices—one for employers that do not offer a health plan and another for employers that do offer a health plan to some or all employees. The model notices—OMB No. 1210-0149—are available at HRCalifornia.com.

Covered California

Californians without access to affordable health insurance through their employer can purchase health coverage

‘Job Killer’ Among Costly Proposals Held in Legislature

Strong opposition from the California Chamber of Commerce and other employer groups has succeeded in keeping one “job killer” and other costly proposals from advancing in the legislative process.

Friday, August 30 was the deadline for legislation to pass the fiscal committees, whose task is to consider the financial impacts of proposals.

Held in the Assembly Appropriations Committee, were:

• **SB 404 (Jackson; D-Santa Barbara)** Expansion of Discrimination Litigation. This “job killer” 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 to be, or associated with an individual who provides medical or supervisory care to a listed family member.
• **SB 605 (Lara; D-Bell Gardens)** Greenhouse Gas Emissions Reductions. Increases the cost of AB 32 compliance and leads to leakage of emissions and jobs by requiring specified criteria be included in the California Air Resources Board scoping plan and requiring greenhouse gas emission reductions be achieved within the areas that are most impacted by greenhouse gas

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We have a “No Pets” policy posted. Do I have to allow a customer to bring her dog into our store? Can I ask about the individual’s disability? Can I ask for a training certificate as proof that the dog is trained?

The answer to that question depends on whether the dog is a pet or a service dog. If the dog is a pet then you may enforce a no pets policy.

If the dog is a service animal, however, it is not a pet, but a working animal and you must allow the dog to accompany the individual with the disability on your premises.

Service Animals

Under the Americans with Disabilities Act (ADA), privately owned businesses that are open to the public may not discriminate against individuals with disabilities and they must allow individuals to bring service animals on the premises to assist them.

Although state and local law may more broadly define what is a service animal, under the 2010 U.S. Department of Justice regulations, only dogs and miniature horses are recognized as service animals. Service animals are trained to do work or perform tasks that an individual with a disability cannot perform.

Examples may include the following:

- Alerting an individual who has a hearing impairment.
- Alerting and protecting an individual who is having a seizure.
- Calming an individual with post-traumatic stress disorder during an anxiety attack.
- Guiding an individual who is blind or visually impaired.
- Pulling a wheelchair or picking up objects for an individual with mobility impairment.

Although supervising and controlling the dog is the responsibility of the individual with the disability, under the ADA, the dog must be harnessed, leashed or tethered, unless those devices would interfere with the service animal’s work or the individual’s disability prevents using these devices. If that is the case, the individual must maintain control over the dog through voice, signals or other effective controls.

If the dog displays vicious behavior that is a threat to the safety of other customers, such as growling or snarling, and the owner is not able to control the behavior, the dog may be removed from the premises. Fear of dogs or being allergic to dog dander are not reasons that would prevent the dog from being on the premises.

Verifying a Service Animal

Often the service animal will wear a special harness or vest, but that is not required. When it is not obvious what service the dog will provide, you may ask whether the dog is required because of a disability, and what work or task the dog has been trained to perform.

You may not ask about the individual’s disability or require medical documentation of a disability, or require a special identification card or training certificate for the dog.

In California, assistance dogs must have an identification tag verifying that the animal has been properly trained as a guide, signal or service dog. Tags may be applied for at the county clerk’s office or at the animal control department.

Most assistance dogs do wear tags and are easily identifiable by a harness or vest. Because the federal law does not have these requirements, however, it is better not to focus on those aspects in deciding whether you need to accommodate a service dog on your premises.

In addition, assistance dogs in training also need to be allowed on the premises to accompany a trainer.

More Information

Different laws apply to employment-related issues and situations.

For questions about service animals or other requirements of the ADA, you may call the CalChamber Helpline or the toll-free U.S. Department of Justice ADA Information Line at (800) 514-0301 (voice) or (800) 514-0383 (TTY).

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.
Legislation Would Reduce Access to Justice

California’s courts are struggling to accommodate years of budget cuts. The judiciary has absorbed ongoing reductions of more than a half-billion dollars. More than $1 billion in construction projects for courthouses has been diverted to the General Fund to balance the state budget.

The consequence of these reductions are reduced access to justice: closing courthouses, reducing hours and shuttering self-help centers.

No Relief in Sight

Even as the economy begins its recovery, relief for the judiciary is not in sight. The Governor has urged the courts to “control and manage their costs,” and has dampered expectations that there will be more general revenues provided to the judicial branch.

Understanding this crisis roiling the courts, the Legislature is acting—to make matters worse.

The California Assembly has approved, and the Senate is now considering, legislation to make it more difficult for local courts to enter into contracts for various support services.

That’s right, judicial officers around the state are trying to maintain access to justice by finding the least disruptive efficiencies that would still provide service to the courthouses and the public. The Legislature, so far, disagrees.

According to the Judicial Council of California, trial courts are currently contracting out for a wide range of services, including court reporters, interpreters, child custody evaluations; probate investigations; mediators/alternative dispute resolution, security guards, back office support, and many more.

Cost-Cutting Stymied

The legislation (AB 566; Wieckowski; D-Fremont) would stymie these cost-cutting moves by setting a high bar for contracting—that any duty “currently or customarily performed by a court employee” not be outsourced unless clear cost savings can be shown—but excluding the major source of cost savings, namely, employee wages.

The bill also would nix the contract if any existing employee would lose seniority, hours or require a transfer. For larger contracts, the court would have to provide a 10-year history of the contractor’s performance, plus undergo extensive bureaucratic oversight tasks.

Strangling Trial Courts

In short, the legislation stacks the deck against new cost-saving contracts, strangling the trial courts’ ability to manage their operations at the same time their revenues have been slashed. When the public asks why their access to justice is being squeezed, this is one of the reasons.

Loren Kaye is president of the California Foundation for Commerce and Education, a nonprofit think tank affiliated with the California Chamber of Commerce.
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will provide a union representative with an unfair opportunity to preclude relevant evidence during litigation regarding labor disputes or collective bargaining, that may ultimately result in the miscarriage of justice. AB 729 passed the Senate on September 3, 23-10 and goes back to the Assembly for concurrence in Senate amendments.

● **SB 54 (Hancock; D-Oakland)**

**Prevailing Wages on Private Projects.** Significantly expands the mandate to pay prevailing wages to the construction of refineries that are privately funded and do not qualify as “public works.” Awaits action by the Assembly. If approved, it will return to the Senate for concurrence in Assembly amendments.

● **AB 566 (Wieckowski; D-Fremont)**

**Unnecessary Restrictions on Trial Courts.** Unfairly limits the trial courts’ ability to minimize costs in light of the budget reductions they have faced by placing severe restrictions on their ability to contract for services. Awaiting action by the Senate. If approved, it will return to the Assembly for concurrence in Senate amendments.

● **AB 976 (Atkins; D-South Park/Golden Hill)**

**Coastal Commission Enforcement.** Inappropriately expands the Coastal Commission’s enforcement authority by allowing the commission to impose administrative civil penalties and incentivizes the imposition of fines and penalties at the expense of due process that occurs in the judicial system. Awaiting action by the Senate. If approved, it will return to the Assembly for concurrence in Senate amendments.

**Action Needed**

The CalChamber is urging members to contact their Senate and Assembly representatives to ask that they oppose these harmful proposals.

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emissions and other air pollutants. Prematurely spends AB 32 auction revenues.

Although SB 605 was held in Assembly Appropriations, there is some speculation that provisions of the bill could resurface in another proposal before legislators adjourn for the year on September 13.

● **SB 124 (Corbett; D-San Leandro)**

**Bid Preference.** Increases the cost of state contracts and limits choice by establishing a 5% bid preference to businesses that use a clean energy device, technology or system manufactured in California.

Put on hold Friday in the Senate Appropriations Committee were:

● **AB 889 (Frazier; D-Oakley)**

**Increased Health Insurance Premiums.** Reduces health plan flexibility in benefit management, increases health care costs and premiums and reduces employers’ choice of benefit packages to offer their employees by limiting step-therapy protocols to manage prescription drug use.

● **AB 453 (Mullin; D-South San Francisco)**

**Barrier to Development.** Undermines the implementation of SB 375 by adding Local Agency Formation Commissions (LAFCOs) to the list of governmental agencies required to consider greenhouse gas emissions related to development.

Health Care Act-Required Notices Due October 1

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through Covered California. Enrollment begins this October for coverage starting January 1, 2014. Covered California is designed to help individuals and small businesses compare health plans, get answers, find out if they qualify for federal tax credits, and enroll in a plan that meets their needs and budget.

**HRCalifornia Help**

A special section at HRCalifornia. com includes an overview of federal health care reform and helpful tools and resources, including links to relevant forms, webinar recordings (free to CalChamber members) and government sources of information on the ACA.

A September 5 CalChamber-moderated webinar featured a representative of Covered California explaining what small businesses (1–50 employees) need to know about the state’s new insurance marketplace.

Previous webinars in the CalChamber series on the ACA included an overview of the act’s employer requirements, tax and accounting considerations, and strategies for employee benefits compliance. Recordings of the webinars are free to CalChamber members, $99 for nonmembers. More information is available at www.calchamber.com/acaevents.
Workshop to Explain How Business Can Make a Difference in Elections

Key strategies for business success in state and local elections will be the focus of the upcoming California Chamber of Commerce political action committee (PAC) training workshop on September 27.

New regulations from the Fair Political Practices Commission (FPPC) are among the factors to consider as employers and local chambers of commerce prepare for the 2014 state and local elections.

Workshop Sessions

The day-long workshop at Woodbury University in Burbank will include sessions on:

- Legal issues and requirements associated with a PAC, led by attorney Bradley Hertz, partner, The Sutton Law Firm.
- How to interact with the California FPPC, featuring Lynda Cassady, chief of the FPPC Technical Assistance Division.
- Keynote presentations by legislators, including Assemblyman Jeff Gorell (R-Camarillo) and Senator Alex Padilla (D-Pacoima).

- How to recruit, train and endorse candidates featuring Joe Savarise, senior vice president of the Business Industry Political Action Committee (BIPAC). BIPAC was founded in 1963 as the first business PAC with the goal of electing pro-prosperity candidates to higher office. An independent, bipartisan organization, BIPAC is supported by several hundred of the nation’s leading businesses and trade associations.
- What endorsements mean for candidates, elections and local chambers. Panelists for this session will include Howard Fine, political reporter for the Los Angeles Business Journal; longtime political campaign strategist Darryl Sragow, partner, Denton US LLP; and Brendan Huffman, Huffman Public Affairs LLC, executive director of the Chambers of Commerce Alliance of Ventura and Santa Barbara Counties.

Registration

Online registration is available at www.regonline.com/calchamber2013pacworkshop. The deadline to register is September 16.

For more information, contact CalChamber Grassroots Coordinator Cathy Mesch at (916) 930-1295 or cathy.mesch@calchamber.com.

CalChamber-Sponsored Seminars/Trade Shows

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West Coast Trade/Export Finance Conference. Northern California World Trade Center. October 9, San Jose. (916) 319-4276.
StartmeupHK. InvestHK. December 4–7, Hong Kong.
Legislative Outlook

An update on the status of key legislation affecting businesses. Visit www.calchambervotes.com for more information, sample letters and updates on other legislation. Staff contacts listed below can be reached at (916) 444-6670. Address correspondence to legislators at the State Capitol, Sacramento, CA 95814. Be sure to include your company name and location on all correspondence.

A California Chamber of Commerce-supported bill aimed at easing the regulatory burden on employers has been signed by Governor Edmund G. Brown Jr. AB 393 (Cooley; D-Rancho Cordova) provides centralized information for business on permits and fees. The bill eases the burden on employers to locate permit information from a variety of websites and offices by centralizing the information regarding permits and fees at the Governor’s Office of Business and Economic Development (GO-Biz) website.

Current law requires GO-Biz to post on its website information or links to information about licensing, permitting and registration requirements for starting a business. AB 393 adds to that website the associated fee information or links to the fee schedules. California has many requirements that fit into this category and it often is difficult for businesses to know and comply. Compiling the information all in one place will ease the burden and facilitate a path to compliance.

Staff Contact: Marti Fisher

GO-Biz Adds Mobile Interface to Business Permitting Website

The Governor’s Office of Business and Economic Development (GO-Biz) has unveiled a revamped version of CalGOLD, its business permitting resource. In addition to updating its ability to respond to new business sectors, GO-Biz also debuted a new mobile Web interface. The new feature allows users to more easily find all the necessary local, state and federal permits from both iOS and Android devices.

The CalGOLD permitting site, which already receives more than 20,000 hits a month, can be found at: www.calgold.ca.gov.

The CalGOLD mobile feature can be found at: http://ca.gov/mobile.

A video outlining the new features of CalGOLD can be found on YouTube.com by searching for “The New Cal-Gold.”

GO-Biz Services

GO-Biz offers a range of services to business owners, including attraction, retention and expansion services, site selection, permit streamlining, clearing of regulatory hurdles, small business assistance, international trade development, assistance with state government, informational briefings and more. For more information, visit: www.business.ca.gov.

Fall Public Affairs Conference

October 17 & 18, 2013

The Ritz-Carlton Laguna Niguel

California Chamber of Commerce

For more information and to register, visit www.calchamber.com/fall2013.
CalChamber Highlights Trade Priorities as Congress Returns from Summer Break

The California Chamber of Commerce is calling attention to international trade priorities for the business community as Congress prepares to reconvene on Monday, September 9. The CalChamber outlines those priorities in communications with the California congressional delegation, U.S. Commerce Secretary Penny Pritzker and Ambassador Michael Froman, the U.S. trade representative.

Issues detailed range from support of Trade Promotion Authority, the Trans-Pacific and Trans-Atlantic trade negotiations, and continuing the Generalized System of Preferences to admonishing India for current protectionist practices.

California is one of the 10 largest economies in the world with a gross state product of more than $2 trillion. International-related commerce (including exports and imports of goods and services, plus investments) accounts for approximately one-quarter of the state’s economy. California exports to more than 220 foreign markets.

Trade Promotion Authority

The CalChamber supports 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.

Trans-Pacific Partnership

Leaders of the current 12 Trans-Pacific Partnership (TPP) countries—Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States, and Vietnam—have announced the achievement of the broad outlines of an ambitious, high-standard, regional, 21st century TPP Trade Agreement.

The TPP Agreement is important as a vehicle for Trans-Pacific-wide economic integration. It sets a high standard that will enhance the competitiveness of the countries that are part of it and help facilitate trade and promote investment between them, increasing their economic growth and development.

Moreover, the TPP is reinforcing the Asia-Pacific Economic Cooperation goal of promoting regional economic integration and could serve as a way to build toward the Free Trade Area of the Asia-Pacific.

Trans-Atlantic Trade and Investment

The trans-Atlantic economic partnership is a key driver of global economic growth, trade and prosperity, and represents the largest, most integrated and longest-standing regional economic relationship in the world. The CalChamber is supportive of Europe and the United States launching talks on a Transatlantic Trade and Investment Partnership (T-TIP) to deepen the world’s largest trading relationship.

Total bilateral goods trade between the European Union and United States was nearly $636 billion in 2012, with the United States exporting $265 billion worth of goods to EU member nations.

California exports to the European Union in 2012 totaled $25.8 billion. California is one of the top exporting states to Europe.

Tariffs on goods traded between the U.S. and the EU average less than 3%, but even a small increase in trade could have major economic benefits. EU-U.S. commercial links are unrivaled.

According to the U.S Trade Representative’s office, the United States and the European Union are the world’s largest sources and destinations for foreign investment. Trans-Atlantic investment benefits companies and workers by creating high-paying jobs, boosting exports, and spurring innovation in both the U.S. and EU.

World Trade Organization

The WTO 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 future.

Generalized System of Preferences

The CalChamber supports the continuation of the Generalized System of Preferences (GSP) program designed to promote economic growth in the developing world by providing preferential duty-free entry for products from designated beneficiary countries and territories.

GSP is an important tool for boosting economic growth and job creation. Many U.S. companies source raw materials and other inputs from GSP countries, and the duty-free treatment of these imports reduces production costs for these U.S. manufacturers, making them more competitive.

According to analysis by the Coalition for GSP, approximately 82,000 jobs are directly or indirectly associated with the importation and use of GSP-eligible imports. It is hoped that Congress will renew the program through September 2015.

India

The CalChamber is supportive of the United States pushing for fair trade with India. Currently, many U.S. companies are facing serious issues doing business in India that limit the potential of that relationship.

These issues are systemic, going far beyond any one industry sector. Many companies face measures that are discriminatory, unfair, and/or inconsistent with international norms.

India also is failing to respect intellectual property rights by denying, breaking or revoking patents and has taken inadequate action to address runaway copyright infringement, particularly online. It is time the government of India ends discrimination against U.S. exporters.

For further information, see www.calchamber.com/international.

Staff Contact: Susanne Stirling
Protect your business and employees.

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 state 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 nonsupervisory employees as well. Learners can start and stop anytime because the system tracks their progress.

Take 20% Off Our Online California Harassment Prevention Training.

Preferred and Executive members get 20% on top of their 20% member discount! Use priority code HPTDE2 by 9/30/13.

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