ALERT

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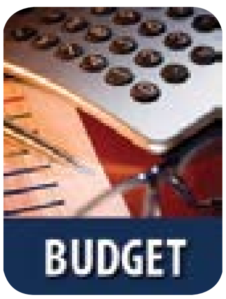
CalChamber®
CALIFORNIA CHAMBER OF COMMERCE

Prudent Budget Proposed by Governor for 2014–15



Balanced budget. No new taxes. Rainy day reserve. Debt repayment.

These are phrases rarely associated with California's fiscal outlook. But economics and politics have intervened to apply those phrases to today's circumstances.

Governor Edmund G. Brown Jr. proposed a fiscal plan in January that harvests the fruits of the state's economic recovery, and mostly reinvests right back into the state's balance sheet.

California's moderate economic recovery has proceeded steadily for the past year, but state revenues have blossomed. For the three fiscal years between 2012 and 2015, revenues are forecast to outpace initial estimates by $6.3 billion, almost all from the personal income tax. The reason: windfall capital gains tax receipts from a roaring stock market and rebounding real estate market.

The temporary tax increases passed in 2012 parlayed these windfall realizations into big tax receipts. The same taxpayers realizing capital gains profits also were the target of the tax increases. Indeed, revenues from capital gains in 2014 will be higher than in 2007, even though capital gains realizations were much lower in 2014 than in 2007.

The steeply progressive nature of

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California Chief Justice Unveils Blueprint to Reinvest in Court System, Restore Access

Photo by Sara Espinosa

California Chief Justice Tani Cantil-Sakauye announces a three-year plan to reinvest in the California judicial system.

California Chief Justice Tani G. Cantil-Sakauye was joined by California Chamber of Commerce President and CEO Allan Zaremberg, legislators, business owners and others on January 14 as she launched a three-year plan to reinvest in California's justice system, *Blueprint for a Fully Functioning Judicial Branch.*

Senate President Pro Tem Darrell Steinberg (D-Sacramento, Senator Noreen Evans (D-Santa Rosa), and Assemblyman Bob Wieckowski (D-Fremont) also spoke at the event, echoing Cantil-Sakauye in the call for more court funding.

Funding Cuts

Over the last five years, California's court system has faced more than $1

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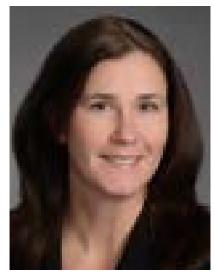
CalChamber Names Senior Employment Law Counsel



Jessica Hawthorne

The California Chamber of Commerce has hired Jessica Hawthorne, a seasoned attorney in compliance and employment law, as senior employment law counsel and Helpline manager.

In addition to managing and serving as a consultant for the CalChamber Labor Law Helpline, Hawthorne will bring her employment law knowledge and expertise to producing, writing, editing and conducting webinars, seminars and online events. She also will contribute to CalChamber publications.

Background

Hawthorne returns to the CalChamber from the California Correctional Peace Officers Association (CCPOA), where for more than four years she served as internal counsel to the general counsel/chief operating officer and the human resources director on employment issues, and policy analysis and guidance. She represented the CCPOA membership in disciplinary actions, administrative hearings and before state courts.

Before serving at CCPOA, Hawthorne was a senior associate attorney at Spector, Middleton, Young & Minney, LLC (now Young, Minney & Corr, LLP), reviewing contracts and policies for private and semi-private employers.

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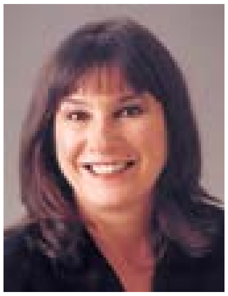
Inside

Labor Law Corner

Physician Determines Length of Time Off for Pregnancy Disability Leave



Dana Leisinger
HR Adviser

Our employee has told us she wants to take her Pregnancy Disability Leave (PDL) starting a month before her due date, and for three months afterward. She will be leaving at a very busy time for our business. Do we have to accommodate her request?

PDL protects a woman's job and benefits for up to four months to have a child, but when a woman takes PDL, the determinative factor is when her doctor says she's disabled by her pregnancy, not when she "wants" to take the time off.

Time Needed Varies

Typically, a doctor will place a woman on disability for her pregnancy anywhere from two to four weeks before her due date, and an additional six weeks after a normal delivery, or eight weeks after a caesarian. This is just a basic time frame, however, and the time needed can vary greatly woman to woman.

Employers do not have to automatically grant the maximum four-month leave of absence. Stay in touch with your employee to learn when the doctor releases her from disability—it may be only six weeks after delivery.

Most women need far less than four months, but occasionally will need more time in the event of a very difficult pregnancy. Recent laws in 2013 have mandated that a company make a reasonable accommodation to extend the PDL when this happens.

There are no definitions of a "reasonable accommodation." This is a case-by-case basis based on several factors beyond the scope of this article.

Other Types of Leave

When a woman works for a company with 50 or more employees and qualifies for Family Medical Leave Act (FMLA), the leave interaction becomes more complicated. The federal family leave runs at the same time as the PDL; however, the state family leave, California Family Rights Act (CFRA), does not recognize pregnancy as a disability, and therefore it doesn't run until after the woman is released from PDL by her doctor.

At that time, she can take CFRA for up to 12 weeks for baby bonding time. This highlights the importance of determining the end of PDL. Employers who allow PDL to run for the four-month maximum will end up offering a seven-month leave of absence, when the employee may have been legally entitled to much less.

'Leave Interaction' Chart

This is a very simple explanation of how these leaves work, and in reality, it can become very complicated. A "Leave

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CalChamber-Sponsored Seminars/Trade Shows

More information: ***calchamber.com/events***.

Labor Law

2014 Employment Law Updates (formerly HR 201). CalChamber. January 22, Emeryville; January 28, San Jose; January 30, webinar. (800) 331-8877.

HR Boot Camp. CalChamber. January 27, San Jose; March 5, Long Beach; April 10, Fresno; May 1, Sacramento. (800) 331-8877.

Responsible Sourcing Summit. UL. March 5–6, San Francisco. (310) 215-0554.

International Trade

Outlook on the Americas Luncheon. Association of American Chambers in Latin America. February 5, Los Angeles. (202) 463-5532.

Australia and New Zealand Business Mission. World Trade Center San Diego. February 8–16, Australia and New Zealand. (619) 615-0868.

Trade Mission to Mexico. California Centers for International Trade Development. February 10–14, Chihuahua City and Mexico City, Mexico. (916) 563-3219.

Venture Summit West 2014. California Spain Chamber of Commerce. February 12, Mountain View. (212) 202-1002.

Offshore Technology Conference 2014. Malaysia External Trade Development Corporation. March 25–26, Kuala Lumpur, Malaysia. (213) 892-9034.

World Trade Week Kickoff Breakfast. Los Angeles Area Chamber. May 2, Los Angeles. (213) 580-7569.

China International Food Exhibition 2014. MEREBO Messe Marketing. May 27–29, Guangzhou, China.

The 15th Malaysia International Food and Beverage Trade Fair. Sphere Exhibits Malaysia Sdn Berhad and Mutiara Sigma (M) Sdn Bhd. June 19–21, Kuala Lumpur, Malaysia.

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Chief Justice Unveils Three-Year Blueprint

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billion in budget cuts from the General Fund. In the 2012–2013 budget year, courts struggled to maintain services as they absorbed nearly a half billion dollars in cuts. This led to the closure of courthouses and hundreds of courtrooms, reduced service hours, and reduced self-help/family law facilitator services.

The courts have mitigated the impacts of some of these budget reductions using one-time solutions, such as increasing fines and user fees, and spending trial court reserves, local court fund balances and construction funds. The Legislative Analyst has indicated, however, that courts face ongoing cuts which will increase by more than $200 million in the 2014–2015 budget year, and courts will have fewer resources available to offset those cuts.

"A critical situation will become a desperate one, because in '14–15 the judicial system branch runs out of mitigation, runs out of any attempts and ability to backfill, because our funds have been used up," Cantil-Sakauye said at the press conference.

Business Concerns

Travis Hausauer, owner of Squeeze Inn restaurants, shared the business perspective on the issue, saying that an adequately funded and fully functional court system is crucial.

"Small businesses like mine rely on the courts to dispense justice quickly and efficiently so we can get back to doing what we do best: offering goods and services, and creating jobs in our communities," he said. "When I hear stories about how difficult it can be to resolve even the most routine of legal issues, I know California can do better."

Like Hausauer, Alzada Knickerbocker, owner of The Avid Reader bookstore in Davis and member of the leadership council for the National Federation of Independent Business, stressed how important the court system is to business owners, as they rely on trial and appellate courts, and delays in the system can make the difference of thousands of dollars in legal fees.

"A case that resolves in a year, rather than three, not only means less money in legal fees, but also less heartache for the parties involved and less diversion in time and energy taken away from businesses' prime productive activity: the successful daily running of the business," she said.

The monies proposed in the *Blueprint*, Knickerbocker said, will allow justice to move expeditiously.

Blueprint

Cantil-Sakauye pointed to the *Blueprint* for "the future funding of the judicial branch." The *Blueprint* outlines a three-year plan to restore and improve access to justice in California by focusing on four core elements:

- Implementing Access 3D: Physical Access (keeping courts open), Remote Access (increasing ability to conduct business online rather than in line), and Equal Access (providing services to people of all languages, abilities, needs and socio-economic levels);
- Closing trial court funding gap;
- Providing critically needed judgeships; and
- Modernizing court technology (a predominantly paper-based court system is costly and inefficient).

The *Blueprint* can be accessed at ***www.courts.ca.gov/documents/JudicialBranchBlueprint.pdf***.

New Senior Employment Law Counsel

From Page 1

She researched and prepared legal opinions and policies regarding constitutional law, employment issues, administrative law, and incorporations. Hawthorne also conducted seminars and presentations at local and statewide conferences and seminars regarding legal matters.

From 2006 to 2009, Hawthorne served as employment law counsel at the CalChamber, where she provided legal guidance to businesses, researched and analyzed legislative and regulatory updates, and wrote and edited numerous publications for the California business community.

Hawthorne earned a B.A. in sociology from the University of Pittsburgh and a J.D. from Widener University School of Law.

Predecessor

Hawthorne succeeds Susan Kemp as senior employment law counsel and Helpline manager. Kemp continues to serve as a presenter at CalChamber seminars and webinars. She joined the CalChamber in 1992 and helped launch the Labor Law Helpline. Kemp has written and edited several CalChamber publications on topics such as family and medical leave, sexual harassment investigations and exempt/nonexempt employees.

The Labor Law Helpline allows Preferred and Executive CalChamber members to speak directly by telephone with highly qualified and experienced professionals. Helpline advisers field an average of 1,800 calls per month, providing members with a better understanding of employment-related laws, regulations, court cases, human resources and administrative procedures.

The Helpline is not a legal service; Helpline advisers do not provide legal representation or legal advice to members.

Labor Law Corner

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Interaction" chart is available on ***HRCalifornia*** forms, explaining how the leaves can interact for varied times and situations.

Also explained is the pay the woman can receive from the state via State Disability Insurance and Paid Family Leave (the latter of which is arguably a misnomer, as it is not a protected leave of absence, but only a wage replacement).

This column is meant to be an introductory discussion only. When faced with a complicated leave interaction scenario, it is best to consult with legal counsel to proceed cautiously.

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.

Prudent Budget Proposed by Governor for 2014–15

From Page 1

California's tax system will guarantee rapid revenue growth as long as the taxes are in effect and the economy grows.

Although they may be wealthy, upper-income taxpayers are relatively scarce. Only 1% of income earners in California pay more than 40% of income taxes (in 2011). That ratio has only increased as the 2012 tax increases have taken effect. Therefore, a relatively small number of taxpayers will have a dominant effect on state revenues, and their decisions on whether and how much to do business in California will disproportionately affect the state's fortunes.

The temporary tax increases and the recovering economy played the largest roles in restoring fiscal health to California (see chart). But they don't tell the whole story.

'Live within Our Means'

Governor Brown has presided over three budgets that are notable for their frugality. With the exception of spending on schools (which are constitutionally guaranteed a generous share of new revenues), the Governor has kept the lid on spending and rejected legislative overspending. Indeed, Governor Brown began his administration in 2011 by reducing spending by about $10 billion. He also inherited a beneficial legacy from Governor Arnold Schwarzenegger—elimination of most automatic cost-of-living adjustments for state programs, which has reduced some of the pressure for annual budget increases.

But just because a tax increase was central to producing balanced budgets doesn't mean that new taxes will be the go-to policy in the future—at least according to the Governor.

"I don't think this is the year for new taxes," said Brown. "I just think we need to do everything we can to live within our means." This statement was in response to a question about an oil severance tax, but is supported by the absence of any new taxes in the budget proposal.

Multi-Year Goal

A balanced budget is apparently a multi-year goal for the administration, since a top fiscal priority is drawing down debts and creating a rainy day reserve.

Much of the windfall revenues from capital gains taxes will be used for one-time purposes:

• Making a deposit of *$1.6 billion* into the state's Rainy Day Reserve—the first such deposit in six years.

• Paying off early the Economic Recovery Bonds, which were first issued to cover budget deficits from 2002: *$1.6 billion.*

• Repaying ahead of schedule loans from special funds, including money back to transportation programs: *$440 million.*

• Eliminating deferral of scheduled payments to school districts, which had required schools to incur short-term debt while waiting for state payments: *$6.1 billion.*

The Governor also proposes to tweak a ballot measure, scheduled for the November ballot, to enshrine a rainy day reserve mandate in the state Constitution. His proposal would make some changes to the formula by which the reserve is calculated, and allows the reserve to be used for debt repayment, as well as economic downturns.

The California Chamber of Commerce has supported past measures to create such a requirement, and will review the Governor's proposal closely when it is revealed.

Much of the state's long-term liabilities remain unaddressed. The administration calculates more than $217 billion in unfunded retirement liabilities for state employees, the University of California and public school teachers (see pie chart). In addition, more than $100 million in additional infrastructure, maintenance and budget debt remain on the books.

Budget Priorities

Programmatically, the Governor maintains the priorities he has exhibited the past three years.

• **Public schools** again receive the major share of new General Fund spending: an additional $10 billion is devoted to schools over the three fiscal years between 2012 to 2014. The Proposition 30 tax increase was sold to voters in 2012 on a promise to restore public school funds and balance the state budget. So far, those priorities have driven state fiscal policy.

• **Higher education** spending is also being restored, but more slowly. State policy leaders' top goal has been to halt any tuition increase, which they have achieved. However, state funds to support colleges and universities are increasing

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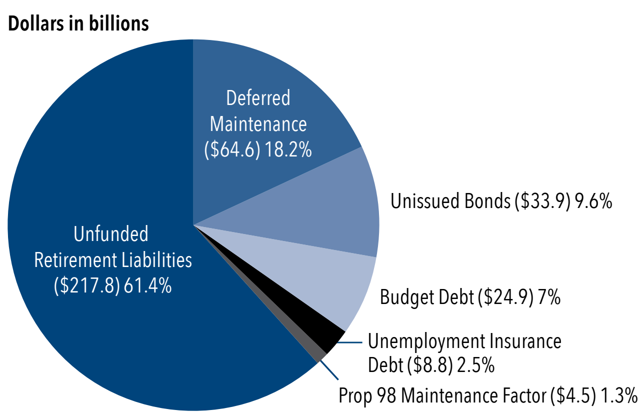
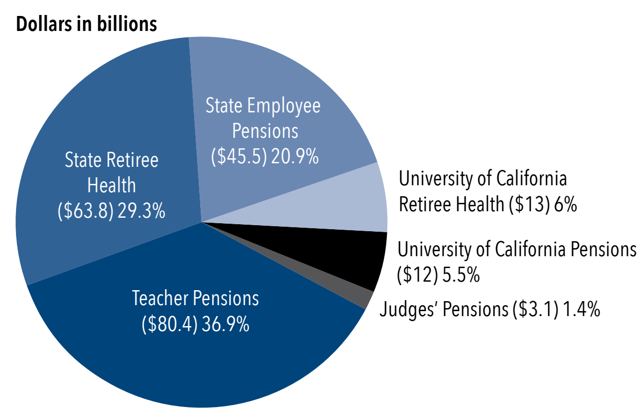
State of California Long-Term Liabilities



Unfunded Retiree Pension and Health Care Costs



Source: California Foundation for Commerce and Education

Prudent Budget Proposed by Governor for 2014–15

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by about 5%, which system leaders consider only a mild restoration of prior cuts.

• **Cap-and-trade auction revenues.** One of the most contentious items in the budget proposal will have nothing to do with general revenues or budget deficits, but will directly concern how tax revenues from large energy users will be spent. The cap-and-trade auction has thrown off hundreds of millions in new revenues over the past year; the new budget is the first to propose how to spend that revenue.

The Governor intends the money—totaling $850 million—to be spent on high speed rail, subsidies for zero-emission vehicles, weatherization projects for low-income residents, wetlands restoration, urban forestation and many other energy and carbon emission reduction projects. The CalChamber has challenged the legality of the cap-and-trade auction, and therefore believes that the proceeds of the auctions should not be spent, pending a final outcome of the litigation.

• The **Judicial Branch** has suffered some of the deepest cuts in recent years, resulting in less access to the civil justice system. The Governor proposes restoring $105 million, which stops the worst of the bleeding, but will not prevent additional service reductions next year, according to the courts. Past cuts were offset in part by using trial court reserves, which no longer are available.

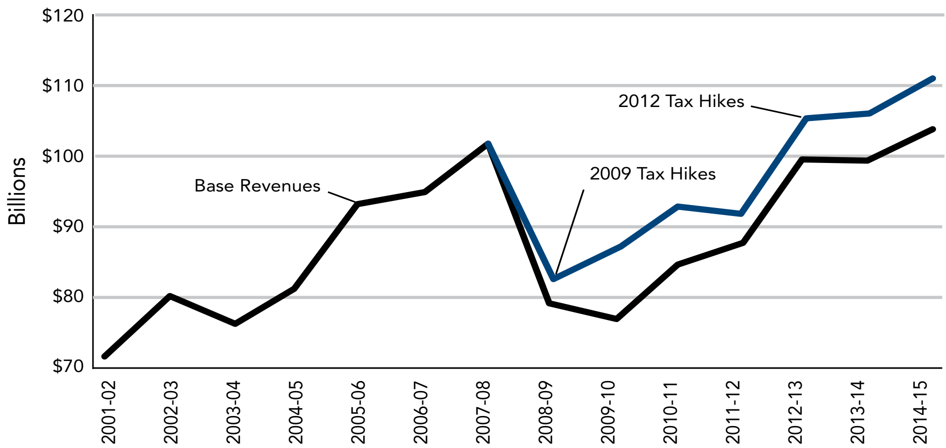
• A new **local economic development** proposal purports to provide some new, limited financing authority for local infrastructure projects. Local economic development has been dealt a serious blow with elimination of redevelopment agencies and enterprise zones. The administration proposes to expand the scope and streamline formation of Infrastructure Financing Districts to use property tax increments from new development (not including property taxes devoted to schools) under some limited circumstances. There are many legal and organizational hurdles to making this authority a practical tool, but the administration's attention to this local development financing void is welcome.

• **Statewide infrastructure** investment will benefit from the administration's policy of using one-time revenues for one-time purposes. The administration is proposing more than $800 million in one-time investments in deferred maintenance projects, primarily on highways and for schools and public buildings. However, the administration has not provided a road map to finance other public works needs in transportation, public schools and water facilities.

• New **health and welfare** spending will be dominated by continuing escalation in the cost of the Medi-Cal program, largely in response to implementation of federal health care reform. The Governor also proposes providing one of the first increases in family welfare grants in many years.

Contact: Loren Kaye, President, California Foundation for Commerce and Education

General Fund Revenue Trend (Includes realignment)



Source: California Foundation for Commerce and Education

Finance Director Spotlights Balanced Budget at First CalChamber Luncheon Forum

Photo by Sara Espinosa

Finance Director Michael Cohen presents highlights from the Governor's 2014–15 budget proposal at the first CalChamber Luncheon Forum of the year on January 14. Cohen said the budget is balanced, pays off more than $11 billion in debt, builds a lasting rainy day fund while continuing to invest in public schools, and strengthens the state's infrastructure

Senate Committee Passes Bill Regulating Consumer Products

OPPOSE

Another California Chamber of Commerce-opposed "job killer" bill from 2013 has been amended and the "job killer" designation has been removed because it no longer allows the state Department of Public Health (DPH) to ban products in California or require employers to change the way they market or manufacture their products. However, CalChamber remains **opposed** because the bill establishes an unworkable, costly, duplicative and burdensome new program for consumer products.

SB 747 (DeSaulnier; D-Concord) allows DPH to request information from selected manufacturers of consumer products the department determines contribute to a significant public health epidemic. It also allows the department to impose a fee of up to $20,000 per manufacturer to cover its costs.

SB 747 passed the Senate Health Committee on January 15 and will be considered by the Senate Appropriations Committee on January 21.

"The bill ignores the inherent complexity of the program's undertaking," CalChamber Policy Advocate Mira Guertin said in testimony to the Senate Health Committee. "We believe this program is unworkable, burdensome, duplicative of other state and federal regulatory programs, and creates a new avenue for product liability lawsuits against manufacturers. Further, there is no end-goal in the legislation that warrants such a threat to California manufacturers."

New Costs, Burdens

SB 747 charges DPH with identifying the largest manufacturers of consumer products that contribute to federally recognized public health epidemics with a fiscal impact on California's public health system of $50 million or more. Once identified, those manufacturers then may be required by DPH to prepare an analysis identifying the public health impacts resulting from sale of the relevant consumer product in the state and a list of mitigation strategies sufficient to reduce those impacts.

Although the bill no longer imposes any mandates on DPH, the department still would have the authority to target virtually any manufacturer of any consumer product it deems harmful and require a detailed analysis. In addition, DPH still has authority to impose a fee of up to $20,000 on each manufacturer to cover the costs of reviewing the information the manufacturer provides.

To What End?

Significantly, language indicating what DPH should do with the information it gathers from manufacturers has been removed from the bill; DPH is no longer required to report to the health and budget committees in the Legislature, and no longer has authority to require manufacturers to implement any of their mitigation strategies or ban a product from sale.

These changes are comforting in that the immediate threat to manufacturers of consumer products has been reduced, but it is now unclear why the state is requiring anything from manufacturers of consumer products at all, much less imposing a huge fee to cover the costs of DPH having to read manufacturers' responses.

SB 747 appears to be turning DPH into a public health research agency, funded by employers, without any end product. Although the impact on employers will be smaller, the merits of the policy are now less clear.

Highly Duplicative

To the extent that SB 747 envisions the regulation of chemicals within consumer products that pose a risk of cancer or other health epidemic, the program is duplicative. Consumer products already are subject to regulation through Proposition 65, administered by the Office of Environmental Health Hazard Assessment, and by the Safer Consumer Products Regulation run by the Department of Toxic Substances Control (DTSC).

Virtually all consumer products are under the regulatory authority of one or both of these agencies, and the criteria for toxicity includes public health, not just environmental criteria.

In addition, food preparation safety is already regulated by local public health directors and inspectors, who coordinate with the DPH Food and Drug Branch and the U.S. Department of Agriculture. Food sourcing safety also is regulated already by the state Department of Food and Agriculture. Tobacco is regulated already by DPH, and alcohol by the U.S. Treasury Tax and Trade Bureau, and both also are covered by Proposition 65. Toxic metals (lead, cadmium) are regulated in consumer products by the DTSC.

Manufacturers also are subject to a number of federal rules (for example, Food and Drug Administration, Consumer Product Safety Commission, Environmental Protection Agency). Given this broad array of regulatory programs that exist to protect the public from harm caused by consumer products, it is unclear what value would be obtained from creating a costly new reporting program.

Key Vote

SB 747 passed Senate Health 5-2:

Ayes: Beall (D-San Jose), De León (D-Los Angeles), DeSaulnier (D-Concord), Monning (D-Carmel), Pavley (D-Agoura Hills).

Noes: **Hernandez (D-West Covina), Wolk (D-Davis).**

No Vote Recorded: Anderson (R-Alpine), Nielsen (R-Gerber).

Staff Contact: Mira Guertin

"CalChamber advocacy protects employers from the constant stream of harmful proposals. Our successes help contain costs and encourage businesses to hire and grow in California."

Frederick E. Hitchcock
Chairman and Chief Executive Officer
Hitchcock Automotive Resources
2013 CalChamber Chair

CAPITOL WATCHDOG
Each year, CalChamber tracks more than 3,000 legislative proposals on behalf of member businesses.

MAJOR VICTORIES
CalChamber scores major victories for employers through targeted advocacy and political action. See *www.calchamber.com/majorvictories*

ABOUT US
CalChamber is the largest broad-based business advocate in California, working at the state and federal levels to influence government actions affecting all California business. As a not-for-profit, we leverage our front-line knowledge of laws and regulations to provide affordable and easy-to-use compliance products and services.

CalChamber
CALIFORNIA CHAMBER OF COMMERCE

Advocacy Return on Investment

2013 Sample Return on Investment for CalChamber Members

Split Roll Property Tax Stopped (AB 188)	$6 Billion Saved
Lower Vote Requirement for Local Tax Hikes Stopped (SCA 3)	$6 Billion Saved
Oil Severance Tax Stopped (SB 241)	$4 Billion Saved
Targeted Tax on Beverages Stopped (SB 622)	$3.7 Billion Saved
Premature Spending of AB 32 Auction Revenues Stopped (AB 26, AB 574, AB 1023, AB 1051, AB 1375, SB 64)	$3 Billion Saved
Targeted Tax on Cigarettes Stopped (SB 768)	$1.8 Billion Saved
Workers' Compensation Increase Stopped (SB 626)	$500 Million Saved
Tax Exemption for Manufacturing/Research and Development Equipment Signed into Law (SB 90)	$400 Million Available
Workforce Development with California Careers Pathway Trust	$250 Million Available
Retroactive Tax Plan Repealed (AB 1412/SB 209)	$120 Million Saved
Health Insurance Tax Stopped (AB 1176)	$100 Million Saved
Repeal of Net Operating Loss (NOL) Carryback Deduction Stopped (AB 769)	$75 Million Saved
Higher Fuel/Energy Prices Stopped (moratorium on hydraulic fracturing: AB 1323, AB 1301, AB 649)	$5 Million Saved
$6 Per Vehicle Registration Fee Increase Vetoed (AB 1002)	$2.6 Million Saved
Workers' Compensation Cost Increase Vetoed (AB 454)	$2.5 Million Saved
Increase in Nuisance-Based Pollution Penalties Stopped (SB 691)	$1.5 Million Annually Saved
Increased Costs for Workplace Safety Citation Appeals Vetoed (AB 1165)	$1.1 Million Saved
Burden/Risk for Use of Foreign Labor Contractors Amended/Vetoed (SB 516)	$900,000 Averted
Total Definable Return	**$25.96 Billion**
Return Per California Employee	**$2,127**

Other Savings from Legislation Stopped or Amended

California Environmental Quality Act (CEQA) Expansion Stopped (SB 754)	$100,000 per lawsuit
Expansion of Discrimination Litigation Stopped (SB 404)	$70,000 per lawsuit
Expansion of Discrimination Lawsuits Amended (SB 400)	$70,000 per lawsuit
Expansion of Paid Family Leave Stopped (SB 761)	$70,000 per lawsuit
Expanded Liability for Use of Independent Contractors Amended (SB 556)	$70,000 per lawsuit
Expansion of Discrimination Litigation Stopped (AB 880)	$70,000 per lawsuit
Expanding Meal/Rest Period Rules/Costs to Exempt Employees Amended (SB 435)	$70,000 per lawsuit
Unwarranted Workplace Safety Litigation Stopped (AB 1277)	$70,000 per lawsuit
Proposition 65 Drive-by Lawsuits Prevented (AB 227)	$10,000 per lawsuit

Improved Trade/Investment Relations with China

Supported/participated in Governor's trade mission to China and opening of California office, which put the state in a better position to capture China's growing foreign investment and to continue exporting more than $14 billion in goods to California's third largest export destination.

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