Governor Signs Job Creator Boosting Spaceflight Efforts

A California Chamber of Commerce-supported job creator bill that ensures California remains a competitive environment for an emerging multibillion-dollar industry was signed by Governor Edmund G. Brown Jr. this week.

**AB 777 (Muratsuchi; D-Torrance; Chapter 13)** has flown through the Legislature with unanimous support. The bill updates the California tax code to include equipment used for spaceflight transportation within the business inventory exemption.

AB 777 is consistent with the goals of CalChamber’s 2014 Solutions for a Strong California.

**Innovation**

California has long been the home of the world’s most advanced aeronautics and aerospace companies. Recently, this industry has seen innovation with the privatization of spaceflight transportation, which had historically been within the exclusive purview of the federal government.

See Governor Signs: Page 4

CalChamber Joins Labor Commissioner, Labor for Kickoff of Wage Theft Education Campaign

(From left) CalChamber Policy Advocate Jennifer Barrera, California Labor Commissioner Julie A. Su and California Labor Federation Legislative Director Angie Wei at the news conference announcing the multilingual “Wage Theft Is a Crime” education campaign. See Employer Harassment: Page 3.

Employer Harassment ‘Job Killer’ Bill Passes Committee

A California Chamber of Commerce-opposed “job killer” bill that creates a dangerous and unfair precedent in the wage-and-hour arena passed the Assembly Judiciary Committee this week on a party-line vote.

**AB 2416 (Stone; D-Scotts Valley)** allows employees to file liens on an employer’s real or personal property, or property where work was performed, based upon alleged-yet-unproven wage claims.

**Misleading Argument**

In a brief video, CalChamber President and CEO Allan Zaremberg sets the record straight on AB 2416, explaining that although the bill’s proponents say the bill is about wage theft, it isn’t. “Nobody condones wage theft,” he states in the video.

“This bill is about harassing employers, putting them out of business, and inappropriately, without due process, putting a lien on a business, making it impossible to sell their inventory or pay their employees. This bill is about harassment, this bill is outrageous and this bill is a real job killer,” Zaremberg states.

**Better Approach**

A better approach to preventing wage theft would be an education campaign, such as the one launched this week by the Labor Commissioner, rather than

See Employer Harassment: Page 4

*Inside*

Civics Education Important to Business: Page 5
Steps to Follow When Employee Has Stroke/Is Unconscious at Work

If the employee has provided a person to notify in the event of an emergency at work, that person should be notified as soon as possible to let him/her know what has occurred.

Workers’ Compensation

In most cases, workers’ compensation will not be involved with an employee’s personal medical condition unless it is caused by work or deemed to be work related.

Unless an employee expresses a desire to file for workers’ compensation, most employers do not file this type of claim with the carrier. If, however, you have facts that lead you to believe that something at work may have preceded the medical condition, then it is best to do a first report of injury to the carrier, and it is up to the carrier to determine whether the incident is work related.

In investigating what might have preceded the onset of the medical condition, look to see if the employee was experiencing stress at work, such as a heated exchange, heat exhaustion due to high temperature in the work environment, or whether the employee was in a disciplinary meeting.

This knowledge may provide some clue as to whether the onset of the medical condition grew out of something that occurred at work.

Report to Cal/OSHA

Regardless of whether the incident is work related, all employers have an obligation to report within eight hours to the California Division of Occupational Safety and Health (Cal/OSHA) any serious injury or illness that happens at work and results in the employee’s death or hospitalization for 24 hours for treatment other than observation; and loss or disfigurement of any body part (California Code of Regulations, Title 8 Section 344).

Employers that fail to report will face substantial fines.

For more information about this reporting obligation, please visit “Reporting Serious Injury or Death” in the HR Library on HRCalifornia.

Provide Notice of FMLA Rights

If your company is covered by the Family Medical Leave Act (FMLA) and the employee is eligible for that benefit, you must provide Notice of FMLA Rights to the employee. These rights allow an eligible employee to be placed on a leave of absence if the medical condition warrants.

The length of the leave is determined by the medical provider for up to a maximum of 12 weeks. Continuing the same terms of the health insurance is required when on this leave and the employee must be reinstated to his/her job when given a full release to return to work.

For purposes of providing notice to the employee of these rights, it may be essential that you communicate with the employee’s emergency contact person as a go between if the employee is not able to communicate directly with you.

Provide a Disability Leave

In addition, if the employee needs to be off work and has no FMLA rights or has already exceeded his/her FMLA time, the employee may be entitled to reasonable accommodation under the state Fair Employment and Housing Act and the federal Americans with Disabilities Act.

Because a stroke may cause permanent damage, it is essential that employers of five or more employees at the state level and 15 or more employees at the federal level provide reasonable accommodation for the employee if he/she needs to be off work. Entering into the interactive process of what accommodations are needed is required in order to satisfy an employer’s legal obligation to provide reasonable accommodation.

Because these situations often are gray, it is best to get as much information about the situation as possible to assess your obligations under the law, or by your own policies or practices.

In addition, consult with your attorney before you consider terminating an employee in this situation.
CalChamber Joins Labor Commissioner, Labor in Wage Theft Education Campaign

The California Chamber of Commerce joined California Labor Commissioner Julie A. Su and the California Labor Federation this week in announcing the start of a statewide, multilingual campaign to educate workers and employers about wage theft.

Featuring the slogan “Wage Theft Is a Crime,” the campaign illustrates how workers in low-wage industries—including agriculture, garment, construction and hospitality—are affected by wage theft.


The campaign, which also educates workers and employers about labor standards, such as minimum wage, overtime and meal and rest break requirements, features outreach to community-based organizations, as well as a combination of print, radio and online media in order to reach a broad range of low-wage workers.

Su explained at an April 30 news conference that the campaign also will target employers because “honest employers shouldn’t have to compete against wage theft violators.”

Supporting Su’s message in combating wage theft was CalChamber Policy Advocate Jennifer Barrera, who spoke at the news conference.

“Bad actors that operate in the underground economy not only hurt employees, but also law-abiding employers that are competing at an unfair disadvantage,” Barrera said. “We are hopeful that Commissioner Su’s efforts through this campaign to educate both employees and employers on their rights and responsibilities with regard to payment of wages will help to eliminate wage theft and balance the playing field amongst employers in California.”

Wage Theft

The “Wage Theft Is a Crime” public awareness campaign completes increased enforcement actions by the Labor Commissioner over the last three years that focus on the workers most at risk of experiencing wage theft.

The Labor Commissioner’s targeted enforcement efforts have resulted in record-high amounts of minimum and overtime wages found owing to California workers and monetary penalties for illegal business practices. In addition, the Labor Commissioner’s efforts have protected law-abiding businesses from unfair competition by employers committing wage theft.

Labor Comment

While it doesn’t happen often that the California Labor Federation, AFL-CIO, and the CalChamber share the same agenda, Labor Federation Legislative Director Angie Wei complimented CalChamber and all businesses for their dedication to protecting businesses and workers.

In this “unicorn moment” as Wei dubbed it, “We stand together with the Chamber because we agree that wage theft is a crime and their support acknowledges that it’s not fair and it’s not right for responsible employers who are trying to abide by the rules to compete against employers whose business practice, and whose whole business model is to cheat workers.”

Investigation Unit

In 2012 Su announced the creation of a Criminal Investigation Unit (CIU) to target employers who perpetrate “wage theft.”

Generally, “wage theft” is a phrase used to refer to infractions of the California Labor Code involving the payment of wages to workers. Wage theft might refer to employers who fail to pay for all hours worked, fail to pay nonexempt employees overtime, fail to pay minimum wage or fail to properly classify workers as employees and report them to the various state and federal agencies.

The goal is to protect workers and to allow companies that follow the law to compete. Cases handled by the CIU include:

- Workers’ compensation violations;
- Theft of labor (felony or misdemeanor);
- Payment of wages with bounced checks or insufficient funds;
- Unlicensed farm labor contractors and garment manufacturers;
- Kickbacks on public works projects;
- Violations involving minors on the job.

The CIU conducts investigations, makes arrests for Labor Code violations, files criminal charges and serves subpoenas and inspection warrants. The CIU is made up of sworn peace officers who have completed the police academy and who qualify to carry firearms.

Wage Theft Media Campaign

In keeping with the campaign’s focus on California’s immigrant communities, the ads are tailored to best communicate with the ethnic groups in each region. Although English and Spanish advertisements and radio ads are slated to run statewide, print ads in the Bay Area will be published in Chinese, Vietnamese, Hmong, Tagalog in order to communicate with Asia immigrant groups.

Su highlighted her agency’s focus on targeting labor law violators and protecting law-abiding businesses from indiscriminate investigations at a meeting with the CalChamber Labor and Employment Committee in March (see April 4 Alert).
CalChamber Organizing Trade/Investment Mission to Mexico

Governor Edmund G. Brown Jr. announced this week that he will lead a Trade and Investment Mission to Mexico organized by the California Chamber of Commerce to strengthen ties with California’s neighbor and largest export market.

The trade/investment mission will occur during the last week of July. Governor Brown will be joined on the mission by a diverse delegation of California government, business, economic development, investment and policy leaders.

The mission will focus on boosting direct investment in California, expanding bilateral economic and environmental cooperation and connecting California businesses with new opportunities and partnerships.

Watch for more information in the next Alert.

Staff Contact: Susanne Stirling

Employer Harassment ‘Job Killer’ Bill Passes Committee

From Page 1

what is proposed in AB 2416, which would allow harassment of employers even if they follow the law.

Unproven Wage Liens

AB 2416 would cripple California businesses by allowing any employee, governmental agency, or anyone “authorized by the employee to act on the employee’s behalf” to record super-priority liens on an employer’s real property or any property where an employee “performed work” for an alleged, yet unproven, wage claim.

This bill would severely disrupt commercial and personal real estate markets in this state as AB 2416 would allow a wage lien to take precedence over almost all other liens or judgments.

Concerns

The CalChamber has repeatedly stated its concerns with AB 2416, including:

• not just limited to minimum wage violations;
• holds nonemployer third parties liable for unpaid wages;
• precludes any financing option for real property/super-priority lien;
• forces a violation of the mortgage contract;
• freezes future financing options;
• violates state and federal constitutions;
• increases neighborhood blight;
• contains no effective statute of limitations on timing to record lien;
• places no limit on the number of liens recorded;
• forces property owners to courts that are already underfunded.

See the April 25 Alert for details.

AB 2416 will be considered next by the Assembly Appropriations Committee.

Key Vote

AB 2416 passed Assembly Judiciary, 7-3 on April 29

Ayes: Wieckowski (D-Fremont), Alejo (D-Salinas), Chau (D-Monterey Park), Dickinson (D-Sacramento), Garcia (D-Bell Gardens), Muratsuchi (D-Torrance), Stone (D-Scotts Valley).

Noes: Wagner (R-Irvine), Gorell (R-Camarillo), Maienschein (R-San Diego).

Action Needed

Contact your Assembly representatives and members of Assembly Appropriations and urge them to oppose AB 2416. An easy-to-edit sample letter is available at www.calchambervotes.com.

Staff Contact: Jennifer Barrera

Governor Signs Job Creator Boosting Spaceflight

From Page 1

AB 777 codifies a recent Board of Equalization (BOE) legal opinion that recognizes propulsion systems—rockets used for spaceflight transportation—fit within the business inventory exemption in the tax code.

This issue stems from a recent decision by the Los Angeles County Assessor to tax propulsion systems as property that does not fit within the exemption.

Inventory Exemption

In a well-reasoned opinion, the BOE found that these systems should qualify under the business inventory exemption when evaluated in the context of the policy that created the exemption and the heavily regulated nature of the spaceflight transportation industry.

Not only does the spaceflight transportation industry create high-pay manufacturing and engineering jobs for thousands of Californians; it draws billions in investment and, when space tourism begins, will attract millions in tourism revenue.

The growth of this industry is poised not only to be a potential economic shot in the arm, but also a new phase of California’s innovative prowess.

Staff Contact: Jeremy Merz

CalChamber Calendar

International Luncheon Forum:
May 6, Sacramento

Legislative Briefing and Host Breakfast:
May 20–21, Sacramento

International Forum:
May 20, Sacramento

Water Committee:
May 20, Sacramento

Fundraising Committee:
May 20, Sacramento

Environmental Regulation Committee:
May 20, Sacramento

Board of Directors:
May 21, Sacramento
Civics Education: Business Relies on Population Educated in Democracy

Why should business leaders and innovators care about civics education? After all, consumers don’t need to be voters to engage in the economy. A worker’s aptitude for the job won’t be measured by knowledge of the Constitution.

Entrepreneurs and innovators, however, are principal beneficiaries of our form of democracy and will suffer dramatically if the core values of democracy are not promoted, understood and embraced by our future generations.

Independent Judiciary

Risk takers in our economy are intensely reliant on a judiciary independent of politics and enforcers of a stable rule of law.

It is no coincidence that technology and innovation thrive in California rather than in countries that do not have three truly independent branches of government.

We need no better example than intellectual property to understand the protections that democracy provides to capitalism. Often it is a firm’s most valuable asset. The ability to have certainty in the law and enforcement by a transparent judiciary provides protection for innovation and incentives for business investors.

The chief justice of California, Tani Cantil-Sakauye, recently has been highlighting the lack of basic knowledge of civics and the principles of democracy by our K-12 student population.

As leaders work to change this unacceptable situation, it is crucial to understand what will be sacrificed if we don’t support the fundamentals of democracy and the significance of the three independent branches of government unique to America and vital to California.

Essential to Entrepreneurship

Our form of democracy—which far too many people take for granted—is essential to an economy built on innovation and entrepreneurship. Democracy promotes innovation because it promotes freedom to succeed, freedom to fail and freedom to realize one’s dreams. By securing property rights and enforcing contracts, our system of justice guarantees that future returns to private investments are accepted, and promises of future payments are fulfilled.

Whether it is a software developer or a manufacturer, without a robust judiciary independent of the executive and legislative branches—unlike many other countries—risk taking and its economic benefits will be stifled.

Trustworthy Judiciary

Businesses are more willing to expand their sphere of contracts if they know a fully funded, robust judiciary is there to enforce the contracts. Investors are willing to finance growth and job creation if they have rules developed by a transparent Legislature, implemented fairly by an executive branch that is held accountable by both the voters and a trustworthy judiciary.

American entrepreneurs are secure in trying out their ideas on the world—knowing that for the most part they will succeed based on the marketplace, and not because the deck is stacked against them politically.

American democracy is sustained only to the extent it is renewed by citizens who are convinced of, and invested in, its success. The best exposure, especially for young people, is the example set by the family—informing themselves about and discussing current events, participating in civic activities and voting.

Chief Justice Cantil-Sakauye has pointed out that California doesn’t teach civics until the end of the 12th grade. She strongly believes that civics education deserves greater attention in our schools.

Task Force

Last year, the chief justice and State Schools Superintendent Tom Torlakson established a Task Force on K-12 Civic Learning to address this issue head on.

The task force is developing recommendations to bolster civic education in California: strengthening academic standards and curriculum, improving accountability, better educating teachers themselves on civics and generating support from institutions and businesses outside of education.

With your help we can enhance the understanding of democracy. Visit www.powerofdemocracy.org to find out how.

Commentary

By Allan Zaremberg

Allan Zaremberg is president and CEO of CalChamber. This commentary first appeared in the San Jose Mercury News.
CalChamber Files Friend-of-Court Briefs to Defend Workers’ Compensation Reforms

The California Chamber of Commerce is defending major provisions of workers’ compensation reform legislation and working to ensure fairness in the workers’ compensation system. The briefs filed in three cases.

**Lien Fee**
- The fate of a $100 reimbursable “lien activation fee” is at the heart of Angelotti Chiropractic, Inc., et al. v. Christine Baker, et al.
- The fee was imposed as part of the 2012 workers’ compensation reform package in hopes of addressing the needs of a system overburdened by lien claims while still meeting the constitutionally mandated goal of providing compensation to injured workers in an expeditious, inexpensive, and unencumbered manner.
- The lien activation fee is not a penalty; rather, it constitutes user funding payable to sustain and maintain the system in which lien claimants seek to participate.

**Review of Medical Decisions**
- The process for reviewing medical decisions is central to the case of José Dubon v. World Restoration, Inc., and State Compensation Insurance Fund (SCIF).
- The CalChamber and the California Self-Insurers Association are asking the state Workers’ Compensation Appeals Board to reconsider its decision returning determinations of medical necessity back to the hands of nonmedical, nonexpert judges.
- The board’s decision is directly contrary to the legislative intent of the workers’ compensation reform law—that medical decisions are to be made by medical professionals—and results in a confusing, ill-defined two-track process for reviewing workers’ compensation medical decisions.
- Ultimately, the CalChamber argues, the two-track approach will result in more litigation and increased costs, effectively removing any cost savings of either the Utilization Review or the Independent Medical Review processes.

**Calculating Future Earnings**
- The method of determining the future earning capacity of an injured worker is a key question in Contra Costa County v. Workers’ Compensation Appeals Board and Doreen Dahl.

Legislators Vote to Triple Tax on California Oil

A “job killer” bill that triples the tax on California oil is moving in the Senate. The bill, SB 1017 (Evans; D-Santa Rosa), imposes a $2 billion severance tax on oil produced only in California—a 9.5% severance tax on the average price per barrel of oil severed from the earth or water, and a 3.5% severance tax on the average price per unit of gas.

The idea of an oil severance tax has already failed in the Legislature numerous times.

As a result of the passage of Proposition 30 in 2012, California now has the highest sales and use tax rate in the nation at 7.5%, as well as the highest personal income tax bracket at 13.3%. This has increased Californians’ cost of living, which to which SB 1017 will only further contribute.

It is unlikely that this proposed severance tax will be absorbed solely by the oil-and-gas-producing companies. Rather, the burden of the tax will be shared with consumers through higher prices for gas, and higher prices for goods.

Californians already pay the highest gasoline taxes and prices in the country. Many jobs are tied to oil production. Imposing a new tax just on California oil could jeopardize jobs in areas of the state where oil is a significant part of the local economy. It will penalize the poorest parts of California where there already are unacceptable high unemployment rates. The San Joaquin Valley in particular would experience a devastating effect.

**Key Vote**

SB 1017 passed the Senate Education Committee on April 24, 5-3.

Ayes: Block (D-San Diego), Hancock (D-Oakland), Hueso (D-Logan Heights), Liu (D-La Cañada Flintridge), Monning (D-Oakland), Hueso (D-Logan Heights), Liu (D-La Cañada Flintridge), Monning (D-Oakland).

Noes: Galgiani (D-Stockton), Huff (R-Diamond Bar), Wyland (R-Escondido).

No Vote Recorded: Correa (D-Santa Ana).

The bill will be considered next by the Senate Governance and Finance Committee; no hearing date set.

**Staff Contact: Jennifer Barrera**
May 9 Response Deadline

Host Breakfast Speaker Line-Up: Governor, CalChamber Chair, Appeal Court Justice

A trio of speakers will be featured May 21 at the California Chamber of Commerce-sponsored Sacramento Host Breakfast.

Preceding Governor Edmund G. Brown Jr. at the podium will be CalChamber Chair Anne Buettner, a senior vice president of The Walt Disney Company, and Vance Raye, presiding justice of the 3rd District Court of Appeal.

May 9 is the deadline to RSVP to the invitation-only Host Breakfast and to register for the CalChamber Legislative Briefing on May 20.

The Host Breakfast and the Host Reception the evening before the breakfast provide venues at which California’s top industry and government leaders can meet, socialize and discuss the contemporary issues facing businesses, the economy and government.

Legislative Briefing

The May 20 briefing will give attendees the opportunity to get the inside scoop from CalChamber President and CEO Allan Zaremberg about the politics behind major issues affecting employers’ ability to stay competitive.

Also on the agenda will be a rundown on key contested legislative races for the June primary, and updates on the status of CalChamber job creators and “job killers.” Zaremberg will be the moderator as Sacramento political journalists Anthony York and John Myers, both longtime members of the Capitol Press Corps, offer their insights on political currents in California.

Lunch is included in registration for the briefing, set for 10:30 a.m.–1 p.m.

Registration

Registration for the briefing, Host Reception and Host Breakfast is $50. Space is limited. The registration deadline is May 9.

For more information or to register, visit www.calchamber.com/2014briefing-host.

Staff Contact: Danielle Fournier

CalChamber-Sponsored Seminars/Trade Shows

More information: calchamber.com/events.

Labor Law

Business Resources


International Trade


Recruiting and hiring employees certainly isn’t easy. When handled incorrectly, you can find yourself with a discrimination claim or jeopardize the at-will employment relationship.

At CalChamber’s upcoming Hiring No-No’s and Know-How webinar, you’ll learn practical pointers for avoiding common and potentially costly hiring mistakes. Our employment law experts are ready to identify proper HR procedures, from the importance of accurate job descriptions to confidentiality issues and more.

Cost: $199.00 | Preferred/Executive Members: $159.20

LEARN MORE at calchamber.com/May15 or call (800) 331-8877 and mention priority code REG.