

ALERT

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Governor's Budget Plan Saves, Pays Down Debt

Includes New Approach to Workforce Development



Governor Edmund G. Brown Jr. has outlined a “carefully balanced” budget plan for 2015–16, demonstrating his commitment to keep the state on a steady fiscal path.

This week, California Finance Director Michael Cohen presented a detailed analysis of the proposed budget at a California Chamber of Commerce Luncheon Forum.

The same day, a report from the non-partisan Legislative Analyst's Office described the Governor's budget priorities as “generally prudent.”

Highlights of Cohen's presentation

appear in the latest CalChamber Capitol Report video at youtube.com/calchamber.

In his presentation, Cohen discussed budget priorities, including continued investments in key programs, saving money in the rainy day fund and paying down state debts.

“It's a good budget that's still in balance... we are continuing to invest in the key programs that we've made major decisions on over the last few years, but we are also saving money and paying down our debts,” Cohen told luncheon attendees.

Saving Money/Paying Down Debt

Director Cohen pointed to CalChamber's efforts as key to securing passage of Proposition 2 last November. The

See Governor's Budget: Page 4

Proposed Prop. 65 Warning Rules Create New Avenues for Litigation



The state Office of Environmental Health Hazard Assessment (OEHHA) on January 12 released proposed regulations to substantially revise Proposition 65 warning

requirements.

The California Chamber of Commerce remains very concerned that the revised regulation will alarm consumers and further exacerbate the already-problematic Proposition 65 litigation climate.

The CalChamber is urging businesses to voice their concerns to OEHHA on the proposed warning changes.

OEHHA's formal rulemaking proposal is extensive, and the CalChamber will review it thoroughly over the next several weeks.

At first glance, however, OEHHA notes in its Initial Statement of Reasons that compliance with its new regulations regarding the contents of Proposition 65 warnings will help businesses avoid litigation.

OEHHA fails to recognize, however, that under the regulations as they exist today, the vast majority of threatened or actual Proposition 65 litigation relates,

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Inside

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- 2014 Major Victories



California Finance Director Michael Cohen presents an analysis of the Governor's budget proposal at a CalChamber Luncheon Forum on January 13. See highlights of his presentation at youtube.com/calchamber.

*Labor Law Corner***Progressive Discipline Best Remedy for Workplace Cellphone Abuse****Dana Leisinger**
HR Adviser

We are having problems with employees taking long rest breaks. These employees take their cellphones and go to the restroom for long periods of time. What can we do to curb this problem?

This is a problem that has been increasing steadily, as employees are tied to their cellphones for communication/calls, playing games, and surfing the Internet.

There are a number of ways to handle the problem, but the best remedy is progressive discipline.

Rest Break Policies

When employees are taking long rest breaks, it becomes a matter of the employer's rest break policies and what happens when there is noncompliance.

Noncompliance usually leads to a disciplinary action, frequently starting with an oral warning, with the classic progress of going to a written warning next if the situation doesn't improve. The progression can continue up to and including termination if the problem is severe enough and the employee does not respond.

Some employers have reported that employees are taking rest breaks of 30 minutes, twice a day—this can result in a substantial loss of productivity, and “overpayment” if nonexempt employees are not reporting time properly.

Medical Concerns

Occasionally, an employee might claim to have medical issues that require longer rest breaks. If this is the situation, the Americans with Disabilities Act (ADA) requirements come into play, and the employer and employee can enter into

the “interactive process.”

During this process, both parties explore ways to resolve the problem, with the employee participating equally in searches for solutions. Sometimes it might become necessary to get a doctor's note, with possible recommendations from the doctor.

Restricting Cellphone Use

It is important to remember that employees have no absolute right to bring their cellphones (or any other electronic devices) to the workplace. Some employers are restricting the use of cellphones in the workplace, or even banning their presence entirely. This is permissible and it is not illegal.

Many businesses, however, need various electronic devices for their employees. If this is the case, it is recommended that you consult with legal counsel to draft the appropriate policies accordingly.

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.

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CalChamber-Sponsored Seminars/Trade Shows

More information: calchamber.com/events.

Labor Law

2015 Employment Law Update. CalChamber. January 21, Emeryville; January 28, San Jose; January 29, webinar. (800) 331-8877.

HR Boot Camp. CalChamber. January 27, San Jose; February 26, Redding; March 4, Los Angeles; April 23, San Diego. (800) 331-8877.

Business Resources

How to Apply for California Competes Tax Credit. Governor's Office of Business and Economic Development. January 20, Fresno, January 21, Los Angeles; January 22, Moreno Valley; January 23, Irvine and San Diego; January 26, webinar.

Two Steps Ahead: Protect Your Digital Life. National Cyber Security Alli-

ance. January 29, Sacramento.
Visit California's Outlook Forum 2015.
Visit California. February 23–24, Greater Palm Springs. (916) 444-0410.
Responsible Sourcing Summit 2015. UL. March 3–4, West Hollywood. (310) 215-0554.

International Trade

SelectUSA Forum in Hong Kong. U.S. Commercial Service. January 19–20, Hong Kong, China.

SelectUSA Road Show-China Webinar Briefing. U.S. Consulates in Guang-

See CalChamber-Sponsored: Page 3

Next Alert: January 30

Voting for CalChamber Off-the-Wall Poster Contest Now Open

Help the California Chamber of Commerce pick the winners of the Off-the-Wall Poster Contest by voting for your favorite 2014 California and Federal Employment Notices Poster creation.

People from all over California have upcycled their outdated posters and submitted photos of their creations to compete for an Apple® iPad Air 2 (\$499 value) or an Amazon Kindle Fire HD (\$199 value).*

First-place and runner-up winners are chosen in two separate categories: by popular vote and a panel of CalChamber judges (four winners in all).

To vote for your top picks through **January 30**, visit www.calchamber.com/postercontest.



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CalChamber Cosponsoring Cyber Security Education in Sacramento

Representatives from the FBI, Attorney General's Office, Federal Trade Commission and other groups will explain how small businesses and consumers can make their digital information more secure at a free event in Sacramento cosponsored by the California Chamber of Commerce.

Featured Speakers

"Two Steps Ahead: Protect Your Digital Life," hosted by the National Cyber Security Alliance (NCSA) and Google, will take place on January 29 and will feature presentations from:

- Mark S. Ghilarducci, director, California Governor's Office of Emergency Services;
- Michele Robinson, state chief information officer, California Information Security Office;
- Joanne McNabb, director, privacy education and policy, California Office of Attorney General;
- Michael Kaiser, executive director, National Cyber Security Alliance;
- Sylvia Kundig, attorney, Western Region, Federal Trade Commission;
- Gary Almond, president/CEO, Better Business Bureau of Northeast California;

- Wes Drone, special agent, Federal Bureau of Investigation;
- Dr. Isaac Ghansah, professor of computer science, California State University, Sacramento;
- Kristin Judge, program lead, National Cyber Security Alliance.

Registration

To register for this event, visit twostepssacramento.eventbrite.com.



CalChamber-Sponsored Seminars/Trade Shows

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zhou, Hong Kong, Shanghai and Shenyang. January 22, webinar. (877) 951-7311.

Legal and Business Strategies for Exporting to Japan and the Philippines. Port of Los Angeles and Los Angeles County Bar Association. January 23, Los Angeles. (310) 732-7765.

U.S.-Australia: Assessing the Future of Asia-Pacific. University of California Los Angeles. January 30, Los Angeles. (310) 206-6365.

Discover Sustainable Solutions. U.S.

Commercial Service. February 9–11, Santa Clara.

Internet Export Marketing. Port of Los Angeles. February 11, Santa Ana. (310) 732-7765.

7th Annual International Trade Celebration. Consulate General of Mexico. February 20, Los Angeles. (310) 922-0206.

Exporters for Ex-Im Fly-In. U.S. Chamber. February 24–25, Washington, D.C. (202) 659-6000.

SelectUSA Investment Summit. Select USA. March 23–24, National Harbor, Maryland. (202) 482-6800.

World Trade Week Kickoff Breakfast. Los Angeles Area Chamber. May 5, Beverly Hills. (213) 580-7569.

SelectUSA Road Show in Mexico. SelectUSA. May 12–14, Merida, Mexico City and Tijuana, Mexico. (202) 482-6800.

SelectUSA Greater China Road Show. SelectUSA. May 18–29, Hong Kong, Shenzhen, Dongguan, Guangzhou, Shanghai, Shenyang and Dalian, China. (202) 482-6800.

9th World Chambers Congress. International Chamber of Commerce. June 10–12, Torino, Italy.

Governor's Budget Plan Saves, Pays Down Debt

From Page 1

measure amended the State Constitution to strengthen the requirement for a budget reserve and to pay down budget-related debt.

Cohen said the state's rainy day fund will have a balance of \$2.8 billion by the end of the year. Having the fund in place will obviate the need for higher taxes during the next recession.

"The way Proposition 2 works is that if capital gains continue to rise, if the stock market continues to do what it's been doing the last few months, and that is certainly a possibility, more money will go into the rainy day fund," Cohen explained.

This means an additional \$1.2 billion from Proposition 2 funds will go to paying off loans from special funds and past liabilities from Proposition 98; the remaining \$1 billion in deferrals to schools and community colleges will be repaid; and the last payment on the \$15 billion in Economic Recovery Bonds borrowed to cover budget deficits from as far back as 2002 will be made. Finally, the money will allow the state to repay local governments \$533 million in mandate reimbursements.

The result, says Cohen, is that a year from now, school finance will be back to a place where "when schools spend the money, they will receive the money in the same fiscal year."

Retiree Health Care

Previous budgets dealt with state pensions and teachers' retirement. This year's budget deals with the third piece of the state's retirement liability—retiree health care costs. "If California does nothing, the unfunded liability will exceed \$300 billion by 2047," Cohen explained.

"That's really the next major retirement liability the administration is looking to tackle," Cohen said. "We are going to use everything in our tool kit to both contain health care cost inflation and also start setting aside money so that both employees and the state contribute equally."

State health care benefits for retired employees remain one of the fastest growing areas of the state budget. In 2001, retiree health benefits made up 0.6% of the General Fund budget (\$458 million) but today absorb 1.6% (\$1.9 billion). Without action, the state's unfunded liability will grow to \$100 billion by 2020–21 and \$300 billion by 2047–48. The budget addresses

the need to develop solutions to correct this problem.

Workforce Development

In addition, the budget proposes a major new approach to workforce development. There is \$1.2 billion in funding to expand workforce training—supporting a coordinated regional framework for adult education, career technical education, workforce investment and apprenticeships.

"We are really looking to have a coordinated and regionally based system to make sure that our workers get the right training and our schools and educational entities are providing the right training for business and for these areas where job training can actually get people into a job," Cohen said.

Water

Turning to infrastructure, Cohen discussed funding for water projects. In addition to \$533 million from the Proposition 1 water bond to continue implementing the administration's five-year Water Action Plan for sustainable water management, the budget proposes spending the last \$1.1 billion from the 2006 flood bond.

"This is all designed to prepare the state's water infrastructure for the future and move toward better water sustainability," Cohen explained.

Transportation

The state's largest deferred maintenance liability is on the state's highways, bridges and other transportation infrastructure which totals \$59 billion, Cohen pointed out. He reaffirmed the Governor's commitment to addressing how the state will deal with needed state transportation improvements.

Budget Cycle

In closing, Cohen reflected on the difficulties of the last few budgets and reiterated the Governor's resolve to avoid the patterns of the past:

See highlights of state Finance Director Michael Cohen's analysis of the Governor's proposed 2015–16 budget at youtube.com/calchamber.

"It's too easy to get back into budget deficits of tens of billions of dollars... what we've done over the last few years is really commit to those things we really feel we can continue to commit to for the long term and not over commit so that when the next recession comes, we'll have some money in our rainy day fund and we won't have made more ongoing commitments than we should have. We will be better prepared," Cohen said.

Legislative Analyst

The report from the Legislative Analyst's Office (LAO) commented that "the Governor's reluctance to propose significant new program commitments outside of Proposition 98 could help avoid a return to the boom and bust budgeting of the past."

Over the long run, eliminating the state's liability for retiree health care would "significantly lower state costs, affording future generations more flexibility in public budgeting," the LAO report stated.

The LAO repeated the Governor's caution that current strong revenues "bolstered by a soaring stock market last year, may not continue for long."

"As the Governor argues, the budget remains vulnerable to downturns that may re-emerge with little warning. Building budget reserves and paying down state debts remain important goals."

Budget Summary

The full summary of the Governor's budget proposal is available at www.ebudget.ca.gov or www.dof.ca.gov.



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— Part of Alameda and Contra
Costa. (916) 319-2015. **(2026)**



Phil Ting (D), AD 19 — Part of
San Francisco and San Mateo.
(916) 319-2019. **(2024)**



Donald Wagner (R), AD 68
— Part of Orange.
(916) 319-2068. **(2016)**



Marie Waldron (R), AD 75
— Part of Riverside and San
Diego. (916) 319-2075. **(2024)**



Shirley Weber (D), AD 79
— Part of San Diego.
(916) 319-2079. **(2024)**



Scott Wilk (R), AD 38 — Part
of Los Angeles and Ventura.
(916) 319-2038. **(2024)**



Das Williams (D), AD 37
— Part of San Luis Obispo,
Santa Barbara and Ventura.
(916) 319-2037. **(2016)**



Jim Wood (D), AD 2 — Del
Norte, Humboldt, Mendocino,
Trinity and part of Sonoma. (916)
319-2002. **(2026)**

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| 3. Lois Wolk (D-Davis) | 17. Bill Monning (D-Carmel) | 31. Richard Roth (D-Riverside) |
| 4. Jim Nielsen (R-Gerber) | 18. Bob Hertzberg (D-Van Nuys) | 32. Tony Mendoza (D-Artesia) |
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| 8. Tom Berryhill (R-Twain Harte) | 22. Ed Hernandez (D-West Covina) | 36. Pat Bates (R-Laguna Niguel) |
| 9. Loni Hancock (D-Berkeley) | 23. Mike Morrell (R-Rancho Cucamonga) | 37. Vacant * |
| 10. Bob Wieckowski (D-Fremont) | 24. Kevin de León (D-Los Angeles) | 38. Joel Anderson (R-Alpine) |
| 11. Mark Leno (D-San Francisco) | 25. Carol Liu (D-La Cañada Flintridge) | 39. Marty Block (D-San Diego) |
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| 13. Jerry Hill (D-San Mateo) | 27. Fran Pavley (D-Agoura Hills) | |
| 14. Andy Vidak (R-Hanford) | 28. Jeff Stone (R-Temecula) | |

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| 22. Kevin Mullin (D-South San Francisco) | 49. Ed Chau (D-Monterey Park) | 77. Brian Maienschein (R-San Diego) |
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| 25. Kansen Chu (D-San Jose) | 52. Freddie Rodriguez (D-Pomona) | 80. Lorena Gonzalez (D-Sherman Heights) |
| 26. Devon Mathis (R-Porterville) | 53. Miguel Santiago (D-Los Angeles) | |
| 27. Nora Campos (D-San Jose) | 54. Sebastian Ridley-Thomas (D-Los Angeles) | |
| | 55. Ling-Ling Chang (R-Diamond Bar) | |

Note: Term limit year shown in parentheses. Updates to the roster will be posted as needed at www.calchamber.com.

Successes help employers, jobs and the economy

CAPITOL WATCHDOG

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

GRASSROOTS ACTION

Comments from employers yield results. See hot issues at www.calchambervotes.com.

ABOUT US

CalChamber is the largest, broad-based business advocate, 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.

2014 Major Victories

Advocating Solutions for a Strong California

The California Chamber of Commerce is the voice of California business, expert at promoting pro-job policies and advising employers on the practical impact of state laws and regulations in the workplace. We track more than 3,000 legislative proposals every year, speaking up when a bill will hurt employers and the economy, and working to win support for legislation that will help the jobs climate. Policymakers listen to CalChamber policy advocates, knowing that we represent more than 13,000 member businesses that together employ a fourth of the state's private workforce and reflect the diversity of the California business community.

Further emphasizing our message are the thousands of individuals who use our Web-based grassroots center, www.calchambervotes.com, to make their views known to their elected representatives. Each year, website visitors use the grassroots center to send some 200,000 letters about state and federal issues affecting business operations.

Read on to learn how CalChamber advocacy in 2014 helped employers. See the **Advocacy Return on Investment** sheet for estimates of employer savings on some of these victories.

Stopping 25 of 27 'Job Killer' Bills

The skill of CalChamber policy advocates, joining forces with other business groups and pro-jobs legislators, prevented 25 of 27 "job killer" bills from becoming law in their original form. Below is a sampling of "job killers" stopped before they passed the Legislature. More information is available at www.calchamber.com/jobkillers.

- **Costly workplace mandates**, including minimum wage increases linked to the Consumer Price Index (SB 935); increased workers' compensation penalties and litigation (AB 2604); and expansion of discrimination litigation (SB 404).
- **Economic development barriers**, such as allowing liens on an employer's property based upon alleged-yet-unproven wage claims (AB 2416); significantly limiting in-state energy development by allowing local moratoriums on well stimulation treatments (AB 2420, SB 1132); a split roll parcel tax for school districts (SB 1021); increasing corporate tax rate by up to 15%, with another 50% increase thereafter (SB 1372); significant liability for car dealers on safety recalls (SB 686).
- **Lower vote requirement for tax increases**: Seven constitutional amendments proposed giving local governments new authority to enact special taxes, including parcel taxes, by lowering from two-thirds to 55% the vote required for approving new taxes (SCA 4, SCA 7, SCA 8, SCA 9, SCA 11, ACA 3, ACA 8).
- **Unwarranted expansion of product defect litigation** and associated claims by allowing consumers to pursue claims after the warranty has expired (SB 1188).
- **Dramatic increase in nuisance-based pollution penalties** for nonvehicular air quality violations (SB 691).
- **California-only new labeling requirements and increased litigation**: "job killer" status removed when private right of action amended out of bill; new labeling, packaging, distribution and recordkeeping requirements failed to pass (SB 1381).

In addition, at the CalChamber's insistence, legislation that would have created more opportunities for litigation and substantially increased project cost and delay by creating mandatory consultation requirements with Native American Tribes was **significantly amended to be more workable** (AB 52); and **the most onerous provisions were amended out of** a proposal to double penalties issued by the state air board, regional air districts and the Department of Toxic Substances Control (AB 1330).

Guiding Job Creator Proposals into Law

Won approval of five job creator proposals that help keep California in the competition for high-value jobs in **aerospace manufacturing** (AB 2389, SB 718); **film and television productions** (AB 1839); **spaceflight transportation** (AB 777); and **employer investment** in general - restoring full funding to the California Competes Tax Credit Program (AB 1560). More information is available at www.calchamber.com/jobcreators.

Investing in Water Supply Reliability

Supported voter-approved Proposition 1, providing funding for needed water storage projects, enabling the state to save in wet years for the inevitable droughts.

Promoting State Budget Stability

Supported voter-approved Proposition 2, forcing the state to put money in a constitutionally protected reserve fund that can be used to pay down debt and protect schools, public safety and other vital services from severe cutbacks during economic downturns.

Creating Legislative Environment for Forging Bipartisan Solutions

Candidate elections team secured victories that prevented two-thirds party dominance in either house of the state Legislature.

Preventing Health Care Cost Increases

- Promoted voter rejection of ballot measures that would have led to increased health care costs: Proposition 45 and its fundamentally flawed approach of giving the state Insurance Commissioner authority to approve health insurance rates (thereby potentially delaying health care decisions); and Proposition 46, which would have removed the longstanding cap on pain and suffering awards in medical malpractice lawsuits.
- Blocked legislative proposals that would have increased health care costs, including new health care mandates (AB 1771, SB 1053) and bills that would have undermined managed care plan savings (AB 2533) or nonprescription-based health care products and services (AB 1917).

Clarifying Health Care Issues

- Supported urgency measure helping small employers control health care costs by allowing them to extend pre-Affordable Care Act policies through the end of December 2015 (SB 1446).
- Advocated signing of bill eliminating confusion on waiting period limitations for health care coverage (SB 1034).

Controlling Workers' Compensation Costs

Supported veto of costly expansion of presumption that certain diseases and illnesses are caused by the workplace (AB 2616).

Keeping Lid on Fuel Costs

Stopped a plan to levy an oil severance tax (SB 1017) and to place a carbon tax on gasoline at the pump (SB 1156).

Moving Toward a Better-Educated Workforce

- Supported creation of pilot program allowing certain community colleges to offer a bachelor's degree in a subject related to an unmet workforce need (SB 850).
- Backed legislation promoting computer science education (AB 1764, SB 1200, AB 1539).

Protecting Franchise Contracts

Advocated veto of a bill that would have hurt small businesses, made it more difficult for a franchisor to terminate an underperforming franchisee and reduced investment opportunities for franchisees due to expanded risk of potential litigation (SB 610).

Limiting Liability for Business

Filed friend-of-the court briefs in several cases resulting in business-friendly decisions from the California Supreme Court:

- **For commercial property owners:** The court agreed that a business has no common law duty to have and make available an automatic external defibrillator for use in a medical emergency (*Verdugo v. Target Stores*).
- **For franchisors:** The court ruled that a franchisor can't be held vicariously liable for unlawful conduct by a franchisee's employee where the franchisor exercises no control over day-to-day operations (*Patterson v. Domino's Pizza*).
- **For employers:** The court ruled that a class action trial management plan must permit the litigation of relevant affirmative defenses even when the defenses turn on individual questions (*Duran v. U.S. Bank National Association*).
- **For employers:** Although the court concluded that the Federal Arbitration Act does not preempt a state law that prohibits waiving an employee's ability to pursue a claim on behalf of him/herself and others under the Private Attorneys General Act (PAGA), the court did hold that arbitration agreements in employment contracts can include class action waivers (*Iskanian v. CLS Transportation Los Angeles LLC*).

Easing Employer Burden

- Supported bill signed into law to clarify that employers don't violate state law regarding discrimination against employees with driver licenses that note they are not documented citizens if the employer must take action in compliance with immigration law (AB 1660).
- Backed bill easing compliance by allowing email or telephone reporting of work-related incident subject to immediate notification of Cal/OSHA (AB 326).

Advancing California Exports

Supported reauthorization of Export-Import Bank, thereby enabling U.S. companies—large and small—to turn export opportunities into real sales that help maintain/create U.S. jobs; funding extended from September 30, 2014 to June 30, 2015.

GO-Biz Hosting Workshops on How to Apply for Tax Credit



The Governor's Office of Business and Economic Development (GO-Biz) is hosting free workshops around the state and a webinar on how to apply for the California Competes Tax Credit.

GO-Biz opened the California Competes program on January 5 and began accepting applications for businesses that want to add jobs in California.

The state will provide \$151 million in tax credits this fiscal year to small, medium and large companies across the state.

In the last fiscal year, GO-Biz said it awarded \$28.9 million to 29 companies that are planning to create 6,000 jobs and

invest more than \$2 billion in the state.

Upcoming workshops are as follows:

- Fresno: Tuesday, January 20;
- Los Angeles: Wednesday, January 21;
- Moreno Valley: Thursday, January 22;
- Irvine: Friday, January 23;
- San Diego: Friday, January 23;
- Webinar: Monday, January 26.

To register or for more information, visit www.business.ca.gov.

Proposed Proposition 65 Warning Rules Create New Avenues for Litigation

From Page 1

not to the contents of a given warning (an issue which this regulation proposes to address), but rather to whether a warning is provided.

OEHHA's proposal opens a new frontier of litigation over the contents of warnings when the warning may or may not be required to specify one of 12 designated chemicals, an area of litigation that doesn't exist today.

Unfortunately, this aspect of the proposal contradicts OEHHA's repeatedly stated goal of not increasing litigation and the Governor's previous calls for "ending frivolous 'shakedown' lawsuits."

Governor Calls for Reform

In May 2013, noting that Proposition 65 has been abused by "unscrupulous lawyers driven by profit rather than public health," Governor Edmund G. Brown Jr. proposed reforms to strengthen and restore the intent of Proposition 65.

Specifically, the Governor proposed to end frivolous, "shakedown" lawsuits; improve how the public is warned about dangerous chemicals; and strengthen the scientific basis for warning levels.

Warning Regulations

On March 7, 2014, OEHHA proposed a "pre-regulatory" draft regulation overhauling the existing requirements for "clear and reasonable" warnings under Proposition 65.

The March 7 proposal, according to OEHHA, was "designed to provide more meaningful information for individuals in Proposition 65, facilitate the public's understanding of these warnings and make the warnings more consistent."

OEHHA also noted that the proposal was "intended to implement the Administration's vision concerning

improving the quality of the warnings being given and providing certainty for businesses subject to the Act."

On June 12, 2014, the CalChamber submitted an extensive comment letter, also signed by nearly 140 California-based and national organizations and businesses of varying sizes that, collectively, represented nearly every major business sector on which OEHHA's proposal would have an impact.

Proposition 65 Warnings: 12 Designated Chemicals

- | | |
|--------------------|-----------------------|
| • Acrylamide | • Hexavalent Chromium |
| • Arsenic | • Lead |
| • Benzene | • Mercury |
| • Cadmium | • Methylene Chloride |
| • Carbon monoxide | • Phthalate[s] |
| • Chlorinated Tris | |
| • Formaldehyde | |

The coalition explained in detail why OEHHA's proposal actually undermined the Governor's calls for reform. Specifically, the proposal would substantially exacerbate the already-problematic Proposition 65 litigation climate, further increase consumer alarm and confusion about Proposition 65 warnings, significantly decrease business certainty, and dramatically increase compliance costs and defense costs for businesses of all sizes.

The comment letter addressed virtually every provision of the OEHHA proposal, explained the basis for the coalition's opposition, and provided recommendations where appropriate.

On September 23, 2014, OEHHA circulated a revised draft of the regulation to several stakeholders, including the CalChamber.

In an informal memorandum dated October 10, 2014, the CalChamber noted that the revised draft, while an improvement from the original draft, still contained significant flaws that undermine the Governor's calls for reform. Additional refinements are needed to the improvements identified above, and some of the major flaws, including the requirement to specify one or more of 12 specific chemicals, are still present in the revised regulation.

Next Steps

The CalChamber will submit comments on the revised regulatory proposal dated January 12. Comments are due April 8.

The CalChamber is urging business to voice concerns to OEHHA on the proposed warning changes. Businesses interested in joining the CalChamber's coalition should contact Anthony Samson, anthony.samson@calchamber.com.

Staff Contact: Anthony Samson

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THURSDAY, JANUARY 29, 2015 | 10:00 - 11:30 A.M. PT

2015 Employment Law Updates Webinar

With new employment laws on the books for 2015, sound HR decisions hinge on having current information. CalChamber's annual webinar reviews recent state and federal court cases, new laws and regulatory changes, and how they apply to your workforce.

Anyone with employees in California will benefit from our employment law experts' compliance guidance on mandatory paid sick leave, immigration-related practices, employer contractor liability and more.

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



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