

ALERT

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Disability Access Reform/ Education Bill Still Alive



A California Chamber of Commerce-sponsored job creator bill that incentivizes

disability access and education awaits assignment to an Assembly policy committee after passing the Senate with unanimous support.

SB 251 (Roth; D-Riverside) is a balanced approach between preserving the civil rights of those who are disabled to ensure access to all public accommodations, and limiting the number of frivolous lawsuits threatened or filed against businesses that do not improve accessibility.

The bill passed the Senate on June 3, 40-0.

See CalChamber Policy Advocate Jennifer Barrera describe SB 251 at the CalChamber Capitol Summit, www.calchamber.com/summit.

Access

SB 251 seeks to incentivize businesses to proactively take steps to become accessible by providing them with 90 days from receiving a Certified Access Specialist (CASp) inspection to resolve any violations identified without being subject to statutory penalties or litigation costs. This proposal will assist businesses that are trying to ensure they are compliant with the law from being subject to frivolous claims or litigation.

SB 251 also provides a limited time period for businesses to resolve technical

See Disability Access: Page 4

CalChamber Stops Two More ‘Job Killers’ on Assembly Floor



Two “job killers” failed to move off the Assembly Floor on June 4, missing Friday’s deadline for bills to pass the house in which they were introduced.

Of 19 “job killer” bills identified by the California Chamber of Commerce to date, just 10 remain active.

Seven Senate “job killer” bills and three Assembly “job killer” bills remain alive. Two of the Senate bills and one Assembly bill still alive are tax measures and not subject to the house of origin deadline.

The following “job killer” bills failed to pass the Assembly by the house of origin deadline, June 5, and are likely dead for the year:

- **AB 356 (Williams; D-Carpinteria)**

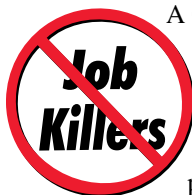
Limits In-State Energy Development: Potentially shuts down certain in-state oil production operations by redefining critical components of the Underground Injection Control program which would, in turn, compromise oil production without providing any additional environmental and groundwater protections beyond those recently proposed by state regulators. Failed to pass the Assembly on a vote of 28-33; Failed deadline, 6/4/15.

- **AB 357 (Chiu; D-San Francisco)**

Predictable Scheduling Mandate/Protected Leave of Absence: Imposes an unfair, one-size-fits-all, two-week notice scheduling mandate on certain retail and

See CalChamber Stops: Page 4

Anti-Arbitration ‘Job Killer’ Passes Committee



A California Chamber of Commerce-opposed bill that could significantly drive up litigation costs for all California employers, if enacted, passed a Senate policy committee this week on a

party-line vote.

AB 465 (Hernández; D-West Covina) passed the Senate Labor and Industrial Relations Committee, 4-1, on June 10.

A “job killer” bill, AB 465 will increase pressure on the already-overburdened judicial system by precluding mandatory employment arbitration agreements, which both the California Supreme Court and the U.S. Supreme Court have already authorized.

As such, AB 465 will serve only to drive up litigation costs, increasing individual claims, representative actions and class action lawsuits against California employers of all sizes until such legislation can work through the judicial process to be challenged again.

Mandatory Arbitration

AB 465 directly conflicts with numerous prior and recent rulings from both the California and U.S. Supreme Courts, which have consistently stated any state law that interferes with the Federal Arbitration Act is preempted.

CalChamber believes AB 465 would ultimately be found to be preempted as well. However, the time, cost and uncertainty created for all California employers

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Labor Law Corner

Salary Just One Part of California Requirements for Overtime Exemption



David Leporiere
HR Adviser

I just read an article about paying employees for the time they spend using their personal cell phones for company business, and it said that if my employee earns more than \$100,000 per year, he/she is exempt from overtime. Is this true in California?

Not necessarily. The article you read must have been referencing the federal Fair Labor Standards Act regulations.

Employers and employees in Califor-

nia are covered by both federal and state laws. Employers in California must abide by whichever law provides greater protection or advantages to its employees.

Federal Exemption

The federal laws relating to wages and hours for employees are set forth in the Fair Labor Standards Act (29 U.S. Code, Chapter 8). Section 13(a)(1) does provide an exemption from the federal overtime and minimum wage requirements for highly compensated employees (those earning in excess of \$100,000 per year).

California Law

California law, however, does NOT have a similar exemption. In California, for an employee to be exempt from overtime obligations, he or she must be paid a salary equivalent to twice the state's minimum wage, based upon a 40-hour work-week AND the nature of the employee's

work must be such that it meets one of several tests established for overtime exemptions by the California Industrial Welfare Commission.

Generally speaking, for an employee to be exempt from overtime in California, he or she must perform certain types of work deemed by the state to make the employee exempt from overtime compensation.

If the employee's job duties do not meet the requirements set forth by California law, then regardless of how much the employee earns per year, he or she will not be exempt from overtime pay requirements.

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 at www.calchamber.com/events.

Labor Law

HR Boot Camp. CalChamber. August 18, Sacramento; September 2, Laguna Beach. (800) 331-8877.

Business Resources

Unemployment Insurance 101: The Basics. National Foundation for Unemployment Compensation and Workers' Compensation. June 17, San Diego. (916) 501-6347.

34th National UI Conference. National Foundation for Unemployment Compensation and Workers' Compensation. June 17-19, San Diego. (202) 223-8904.

California Travel Summit 2015. Monterey County Convention and Visitors Bureau. June 17-19, Monterey. (559) 289-9396.

International Trade

Energy Conference—Mexico City. Geoskope and ProMexico. June 22-24, Mexico City. (213) 382-3179.

Korea Overseas Investment Fair. Korea Trade-Investment Promotion Agency. June 24-25, Gyeonggi-do, South Korea. (408) 432-5021.

Philippine Economic Briefing/Investment Conference. Philippine Trade and

Investment Center-Silicon Valley. June 29, San Francisco. (408) 980-9637.

Hong Kong/China Trade and Leadership Mission. California Asian (CalAsian) Pacific Chamber of Commerce.

August 14-27, Hong Kong, Guangzhou, Shanghai, and Beijing, China. (916) 446-7883.

Trade Winds-Africa Trade Mission. U.S. Commercial Service. September 14-21, Johannesburg, South Africa. (304) 347-5123.

CalAsian Business Summit. CalAsian Pacific Chamber. September 17-18, Costa Mesa. (916) 446-7883.

Export Leaders Roundtable. Small Business Administration. September 17, Southern California (location to be determined). (415) 744-7730.

Bilateral Forum: CA and Latin America. The Port of Los Angeles and The Elden Company. October 1-3, San Pedro. (949) 300-5700.

Academia and Related Export Controls. U.S. Commercial Service. October 14, Claremont. (909) 390-8429.

Defense Trade Essentials. U.S. Commercial Service and California Inland Empire District Export Council. October 15, Claremont. (909) 390-8429.



Anti-Arbitration Bill Passes Committee

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while any legal challenge to AB 465 is pending in the judicial system would be detrimental to businesses and unnecessary.

Adequate Protections Exist

The California Supreme Court has already mandated contractual provisions that must be included in a mandatory, predispute arbitration employment agreement as follows: 1) provide for a neutral arbitrator; 2) no limitation of remedies; 3) adequate opportunity to conduct discovery; 4) written arbitration award and judicial review of the award; and 5) no requirement for the employee to pay unreasonable costs that they would not incur in litigation or arbitration fees.

Arbitration agreements that have not included these mandatory provisions have regularly been struck down as unconscionable.

Arbitration Effective, Efficient

According to the U.S. District Court Judicial Caseload Profiler, there were 29,312 civil cases filed in California in 2014. As of June 2014, approximately 2,132 cases had been pending in federal court in California for more than three years and the median time from filing of a civil complaint to trial in Northern

California was 31 months.

Comparatively, a 2003 article in the New York University School of Law legal journal authored by Theodore Eisenberg and Elizabeth Hill found that arbitration was resolved within a year while litigation usually lasted more than two years.

A 2006 study by Mark Fellows, legal counsel at the National Arbitration Forum, concluded that consumers and employees actually fare better in arbitration than in court.

Fellows specifically analyzed data from California and found that consumers prevail in arbitration 65.5% of the time, as compared to 61% of the time in court.

In a presentation to the George Washington University Law School in March 2011, attorney Andrew Pincus also agreed that the national data and evidence available demonstrate that consumers do the same if not better in arbitration than litigation, as one of the largest arbitration providers documented at least 45% of consumer arbitrations result in a damages award, while more than 70% of consumer-initiated securities arbitrations result in a recovery to the consumer.

Overburdened Judicial System

In her March 2015 State of the Judiciary address, California Chief Justice Tani G.

Cantil-Sakauye commented that the judicial system is still falling short in its necessary funding, which has resulted in closed courthouses, reduced hours of service, and reduced number of employees.

This funding shortage has significantly increased the length of time to resolve civil lawsuits. Arbitration is a valuable alternative method to resolve disputes in an efficient manner and should be encouraged.

Instead, AB 465 will force more employment disputes into the already-overburdened judicial system, thereby delaying any recovery of potential wages for an employee even longer by essentially banning any predispute, mandatory employment arbitration agreements.

Key Vote

The June 10 vote on AB 465 in Senate Labor and Industrial Relations was 4-1:

Ayes: Jackson (D-Santa Barbara), Leno (D-San Francisco), Mendoza (D-Artesia), Mitchell (D-Los Angeles).

No: Jeff Stone (R-Temecula).

AB 465 will be considered next by the Senate Judiciary Committee.

[Staff Contact: Jennifer Barrera](#)

Water Association Exec Recaps State's Experience in Managing Droughts



Timothy Quinn, executive director of the Association of California Water Agencies, explains to the CalChamber Board of Directors on May 28 that the state is good at managing its way through droughts (10 in the last century), as befits a Mediterranean climate. The current "millennial drought" is a "humdinger," Quinn says, consisting of the driest sequence of three or four years in 1,200 years, with 2014 being among the hottest and driest on record. The economy is still strong, Quinn says, noting that the Brown administration strategy, like that of the Wilson administration in the 1990s drought, aims to reduce ornamental uses of water and protect business uses to minimize the economic and jobs impact of the water shortage.

Disability Access Reform/Education Bill Still Alive

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construction-related standards. Specifically, SB 251 provides small businesses with 15 days from the service of the summons and complaint to resolve any alleged violation regarding signage, parking lot striping, and truncated domes.

This limited period will provide a business owner the opportunity to devote financial resources to resolving these issues before being subjected to statutory penalties and attorney fees.

Education

SB 251 also requires the California Commission on Disability Access to post educational materials for business owners regarding how to comply with California's construction-related accessibility standards, as well as share that information with local agencies and departments.

The bill requires landlords to notify tenants as to whether a building has been

inspected by a CASp, as well as who is liable for any alleged violations. Notice and education are key components to helping create more accessible public accommodations and limiting frivolous claims or litigation.

Tax Credit

Finally, SB 251 creates an additional incentive for small businesses to become accessible by providing a tax credit for access expenditures.

Other Job Creators

Also still moving are the following job creator bills:

Creates Construction Jobs

- **[AB 35 \(Chiu; D-San Francisco\)](#)**
Creates Affordable Housing Opportunities. Expands the existing low-income housing tax credit program, making the state better able to leverage an estimated \$200 million more in Federal Tax Credits.

- **[AB 323 \(Olsen; R-Modesto\)](#)**
Expedites and Reduces Cost for Roadway Repair and Maintenance Projects.

Streamlines infrastructure development by extending until January 1, 2020 the current California Environmental Quality Act (CEQA) exemption for certain roadway repair and maintenance projects.

Tourism

- **[SB 249 \(Hueso; D-San Diego\)](#)**
Enhanced Driver's License. Encourages international trade and tourism by authorizing the Department of Motor Vehicles to issue enhanced driver licenses to U.S. citizens to expedite legal traffic at the border.

For more information on the 2015 job creators, visit www.calchamber.com/jobcreators.

Staff Contacts: [Jennifer Barrera](#), [Anthony Samson](#), [Jeremy Merz](#)

CalChamber Stops Two More 'Job Killers' on Assembly Floor

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food employers that penalizes these employers with "additional pay" for making changes to the schedule with less than two weeks notice, and additionally imposes a new, protected leave of absence from work for employees who are seeking public assistance. Assembly Floor Inactive File, 6/4/15.

Key Vote

AB 356 failed to pass the Assembly on June 4, 28-33:

Ayes: Atkins (D-San Diego), Bloom (D-Santa Monica), Bonta (D-Oakland), Burke (D-Inglewood), Campos (D-San Jose), Chau (D-Monterey Park), Chiu (D-San Francisco), Chu (D-San Jose), Dababneh (D-Encino), Dodd (D-Napa), Eggman (D-Stockton), Gatto (D-Glen-dale), Gomez (D-Los Angeles), Gordon (D-Menlo Park), Irwin (D-Thousand Oaks), Jones-Sawyer (D-South Los Angeles), Levine (D-San Rafael), Lopez (D-San Fernando), McCarty (D-Sacramento), Mullin (D-South San Francisco), Nazarian (D-Sherman Oaks), Rendon (D-Lakewood), Santiago (D-Los Angeles), Mark Stone (D-Scotts Valley), Thumond (D-Richmond), Ting (D-San Francisco), Williams (D-Carpinteria), Wood (D-Healdsburg).

Noes: Achadjian (R-San Luis Obispo), Travis Allen (R-Huntington Beach), Bigelow (R-O'Neals), Brough (R-Dana Point), Brown (D-San Bernardino), Chang (R-Diamond Bar), Chávez (R-Oceanside), Cooley (D-Rancho Cordova), Daly (D-Anaheim), Frazier (D-Oakley), Beth Gaines (R-El Dorado Hills), Gallagher (R-Yuba City), Gray (D-Merced), Grove (R-Bakersfield), Harper (R-Huntington Beach), Kim (R-Fullerton), Lackey (R-Palm-dale), Linder (R-Corona), Maienschein (R-San Diego), Mathis (R-Visalia), Mayes (R-Yucca Valley), Melendez (R-Lake Elsinore), Obernolte (R-Big Bear Lake), Olsen (R-Modesto), Patterson (R-Fresno), Perea (D-Fresno), Quirk (D-Hayward), Ridley-Thomas (D-Los Angeles), Salas (D-Bakersfield), Steinorth (R-Rancho Cucamonga), Wagner (R-Irvine), Waldron (R-Escondido), Wilk (R-Santa Clarita).

Absent/abstaining/not voting: Alejo (D-Salinas), Baker (R-San Ramon), Bonilla (D-Concord), Calderon (D-Whit-tier), Cooper (D-Elk Grove), Dahle (R-Bieber), Cristina Garcia (D-Bell Gardens), Eduardo Garcia (D-Coachella), Gipson (D-Carson), Gonzalez (D-San Diego), Hadley (R-Torrance), Roger Hernández (D-West Covina), Holden

(D-Pasadena), Jones (R-Santee), Low (D-Campbell), Medina (D-Riverside), O'Donnell (D-Long Beach), Rodriguez (D-Pomona), Weber (D-San Diego).

'Job Killers' Still Moving

- **[SB 3 \(Leno; D-San Francisco/Levy; D-Chino\)](#)**, automatic minimum wage increase.

- **[SB 406 \(Jackson; D-Santa Barbara\)](#)**, significant expansion of California Family Rights Act.

- **[SB 350 \(de León; D-Los Angeles\)](#)**, mandating 50% reduction in petroleum use, 50% of energy from renewable sources and increasing building energy efficiency by 50%.

- **[SB 32 \(Pavley; D-Agoura Hills\)](#)**, mandates further greenhouse gas emission reductions for 2030 and 2050.

- **[SB 654 \(de León; D-Los Angeles\)](#)**, creating unworkable hazardous waste permitting process.

- **[AB 359 \(Gonzalez; D-San Diego\)](#)**, costly employee retention mandate.

- **[AB 465 \(Roger Hernández; D-West Covina\)](#)**, precluding mandatory employment arbitration agreements. *See story on Page 1.*

For more information on the 2015 "job killer" bills, visit www.CA.JobKillers.com.

President's Circle Award

28 Local Chambers Receive Recognition for Advocacy, Helping Labor Law Compliance

The California Chamber of Commerce has named 28 local chambers of commerce to receive the [President's Circle award](#). The award, first presented in 2009, recognizes chambers for excellence in business advocacy and helping their members comply with California employment laws.

Eight of the chambers have received the award all seven years it has been presented.

The 2015 recipients of the President's Circle award are as follows. Seven-year recipients are marked with an *:

- Greater Bakersfield Chamber*: Nicholas Ortiz, president/CEO;
- Brawley Chamber: Jason Zara, executive director;
- Camarillo Chamber: Gary Cushing, president/CEO;
- Catalina Island Chamber & Visitors Bureau: Jim Lutjohann, president/CEO;
- Chico Chamber: Katie Simmons, president/CEO;
- Greater Conejo Valley Chamber*: Jill Lederer, president/CEO;
- Corona Chamber: Bobby Spiegel, president/CEO;
- Culver City Chamber*: Steven Rose, president/CEO;
- El Centro Chamber & Visitors Bureau*: Darletta Willis, CEO;

- Fullerton Chamber: Theresa Harvey, president/CEO;
- Gilroy Chamber: Mark Turner, president/CEO;
- Lake Elsinore Valley Chamber: Kim Joseph Cousins, president/CEO;



- Lodi District Chamber: Pat Patrick, president/CEO;
- Long Beach Area Chamber*: Randy Gordon, president/CEO;
- Murrieta Chamber: Patrick Ellis, president/CEO;
- Oakdale Chamber: Mary Guardiola, CEO;
- Orange Chamber: Charla Lenarth,

president/CEO;

- Oxnard Chamber: Nancy Lindholm, president/CEO;
- Palm Desert Area Chamber*: Katie Stice, vice president;
- Porterville Chamber: Stephanie Cortez, president/CEO;
- Greater Riverside Chambers*: Cindy Roth, president/CEO;
- Roseville Chamber: Wendy Gerig, CEO;
- San Jose Silicon Valley Chamber: Matthew Mahood, president/CEO;
- Simi Valley Chamber: Gioia Goudrum, president/CEO;
- Temecula Valley Chamber: Alice Sullivan, president/CEO;
- Torrance Area Chamber: Donna Duperron, president/CEO;
- Turlock Chamber*: Sharon Silva, president/CEO; and
- Victor Valley Chamber: Michele Spears, president/CEO.

President's Circle award recipients published vote records of their state legislators on key business issues, generated letters to state elected officials on issues of interest to members and participated in the CalChamber compliance product resale program at an exemplary level.

[Staff Contact: Cathy Mesch](#)



Representatives from 16 of the 28 President's Circle chambers receive their awards at the CalChamber Capitol Summit on May 27.

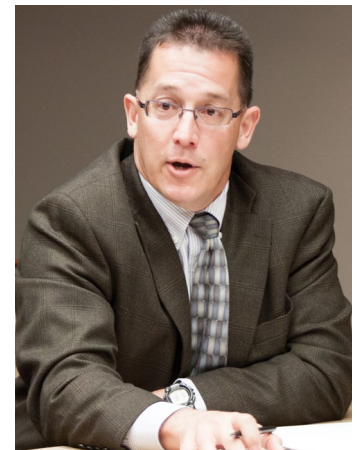
CalChamber Education Committee Hosts Panel with Legislative Leaders



Legislative leaders of Assembly and Senate Education committees gather for a panel moderated by CalChamber Policy Advocate Mira Morton at the CalChamber Education Committee meeting on May 27. Discussion centered on some of the most pressing issues affecting education in the state, including funding, teacher retention and addressing achievement gaps. First row, left to right: Assemblymember Jose Medina (D-Riverside), chair, Assembly Higher Education Committee; Senator Carol Liu (D-La Cañada Flintridge), chair, Senate Education Committee; Assemblymember Catharine Baker (R-San Ramon), vice chair, Assembly Higher Education Committee. Second row, left to right: Assemblymember Patrick O'Donnell (D-Long Beach), chair, Assembly Education Committee; Senate Republican Leader Bob Huff (Diamond Bar), former vice chair, Senate Education Committee.

Photos by Sara Espinosa

State Environmental Officials Meet with CalChamber Committee



Gina Solomon (right), deputy secretary for science and health at the California Environmental Protection Agency, talks about the Proposition 65 warning regulations and the Safer Consumer Products Regulation with the CalChamber Environmental Regulation Committee, chaired by Cindy Starrett (left) of Latham & Watkins, LLP.

Richard Corey, executive officer of the California Air Resources Board, discusses climate change and air toxics policies with the CalChamber Environmental Regulation Committee on May 27.

Jason Marshall, chief deputy director of the California Department of Conservation, speaks about hydraulic fracturing regulations and Surface Mining and Reclamation Act legislation.

Photos by Russell Lahodny

CalChamber, Broad Business Coalition Support Federal Ports Legislation



The California Chamber of Commerce has joined a large coalition to ensure that port disruptions due to labor contract negotiations do not have a negative impact on the U.S. economy.

The coalition is **supporting** federal legislation introduced recently by U.S. Senator Cory Gardner (R-CO) as the “Protecting Orderly and Responsible Transit of Shipments Act of 2015” (PORTS Act).

Coalition members include manufacturers, farmers and agribusinesses, wholesalers, retailers, importers, exporters, distributors, and transportation and logistics providers.

PORTS Act

While the coalition supports the collective bargaining process, the coalition believes the negotiating process should not threaten the national economy.

The PORTS Act amends the National Labor Relations Act (NLRA) to provide

governors a mechanism under federal law to mitigate the destructive impact of a port labor dispute on the economy in their state and nationally.

The bill explicitly includes slowdowns as a trigger for Taft-Hartley emergency powers. Coalition members believe this approach correctly reforms the Taft-Hartley process to promote government action in response to the great harm these disputes cause the national economy. Most important, the bill clearly defines and expands situations in which Taft-Hartley can be invoked, preventing legal ambiguity from causing inaction.

Recent Labor Disputes

Contract negotiations and related labor disputes between the longshoremen and management at U.S. ports on both the East and West coasts have become increasingly complex and contentious over the last decade.

The strikes, lockouts and slowdowns that frequently accompany contract negotiations have caused significant harm to the U.S. economy and the millions of businesses and jobs that rely on the efficient movement of cargo through the ports.

The 2002 West Coast ports lockout

cost the U.S. economy \$1 billion a day, by some estimates, while re-establishing normal operations took more than six months. Although there weren't any disruptions during the 2012 East/Gulf Coast negotiations, the constant threat of labor action forced companies to institute costly contingency plans to avoid threatened disruption.

The West Coast ports have finally cleared the backlog created by the congestion and slowdowns during the 2014–2015 negotiations, but the economic damage has been done. The operational meltdown just experienced is a chief cause of the negative growth in the nation's gross domestic product (GDP) in the first quarter.

The coalition believes the PORTS Act is a tool that will help provide certainty to future negotiations.

Action Needed

CalChamber is urging businesses to contact members of the California congressional delegation and urge them to **support** the PORTS Act. An easy-to-edit sample letter is available at www.calchambervotes.com.

Staff Contacts: [Jeremy Merz](#), [Susanne Stirling](#)

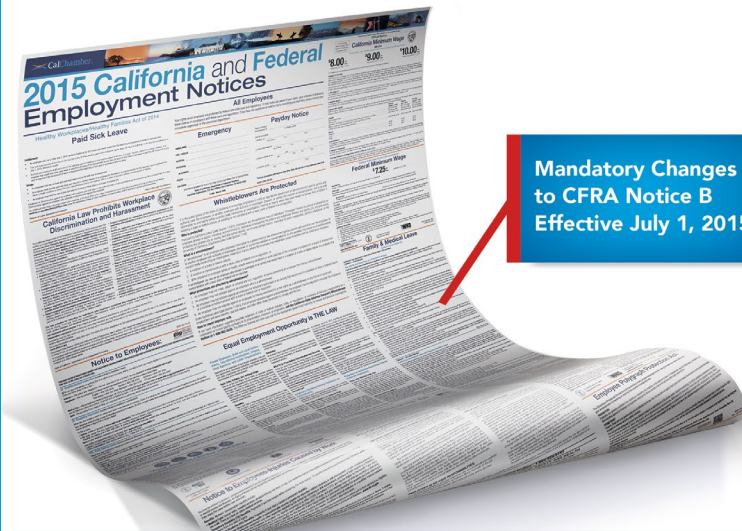
CalChamber Hosts California District Export Council Members



Photo by Steve Yeater

Members of the four California District Export Councils (DEC) gather at the CalChamber offices on May 27 to hear from National DEC Chair Roy Paulson (center front) of Paulson Manufacturing and attend several international trade-related events ([see June 5 Alert](#)).

July 1 Compliance Alert



**Mandatory Changes
to CFRA Notice B
Effective July 1, 2015**

California Employers: You must post the **revised CFRA notice** on July 1, 2015 if you are a:

- Private-sector employer with 50 or more employees in 20 or more workweeks in the current or preceding calendar year, including a joint employer or successor in interest to a covered employer; or
- Public agency, including a local or state government agency, regardless of the number of employees you employ.

Order CalChamber's updated all-in-one poster today and **save 20%** through June 30. **Preferred and Executive members save an extra 20%** after their member discount.

PURCHASE at calchamber.com/july1alert or call (800) 331-8877 with priority code JPNA.

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