

# ALERT

VOLUME 41, NUMBER 20 • JUNE 26, 2015



## Victory for Trade Promotion with CalChamber Support



federal legislation renewing the authority of the President and/or U.S. Trade representative to negotiate trade agreements advanced this week.

The U.S. Senate voted 60-38 on June 24 to approve the Trade Promotion Authority (TPA) bill.

The President is expected to sign the bill shortly.

### Engine for Economic Growth

"Trade is an important engine for California's economic growth and jobs. In fact, 4.7 million jobs in California are

In a victory for the California Chamber of Commerce and other longtime supporters of free trade,

generated from our successful trade economy," said CalChamber President Allan Zaremberg.

"The California business community particularly appreciates votes by members of our congressional delegation in support of TPA," said Zaremberg. "Those who supported this important measure understand that California will reap big rewards."

California, ranked as one of the nation's top exporting states, currently has the seventh largest economy in the world with a gross state product exceeding \$2 trillion.

"Senate approval of TPA, with a vote by Senator Dianne Feinstein, will put our state one step closer to opening markets and broadening opportunities for California goods and firms so we can remain a leader

*See Victory for Trade: Page 4*

## Senate Sends Job Creator Bill to Governor



A California Chamber of Commerce-supported job creator bill that expedites and

reduces costs for roadway repair and maintenance projects passed the Senate on June 22 on a unanimous vote.

**AB 323 (Olsen; R-Modesto)** streamlines infrastructure development by extending until January 1, 2020 the current California Environmental Quality Act (CEQA) exemption for certain roadway repair and maintenance projects.

This exemption is set to expire on January 1, 2016. Importantly, the exemption AB 323 proposes to extend applies only if certain requirements are met,

including that the project must not cross a waterway, there must be negligible expansion of use, the site must not contain wetlands or riparian habitat, and there must be no impact to cultural resources.

Ensuring that minor roadway maintenance and repair projects in small to mid-size jurisdictions move forward expeditiously is critically important from a public safety standpoint.

Although such projects may fall within certain categorical exemptions under the CEQA Guidelines, AB 323 ensures that roadway repair and maintenance projects would continue to be statutorily exempt from CEQA and thus would not be subject to exceptions that may defeat their use.

*See Senate: Page 4*

## Gender Equity Pay Bill Moves with CalChamber-Backed Changes



California Chamber of Commerce-supported legislation that seeks to eliminate pay disparity based on gender won approval from an Assembly policy committee this week.

**SB 358 (Jackson; D-Santa Barbara)** specifies that employees who are similarly situated and performing substantially similar duties should be paid the same wage rate.

The bill strengthens a section of the Labor Code that precludes an employer from discriminating against an employee in pay on the basis of gender.

Section 1197.5 mandates that an employer shall provide equal pay for equal work, unless a bona fide factor other than gender justifies the differential.

In an effort to eliminate the risk of a stringent interpretation of this standard, SB 358 proposes to amend the section to specify that an employee shall not be paid less than another employee who is performing "substantially similar" job duties, unless a bona fide factor exists.

The CalChamber and other groups that worked with the author to make the legislation acceptable to employers believe the language in the bill will

*See Gender Equity Pay: Page 3*

### Inside

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## Labor Law Corner

# Religious Wear at Work: Interactive Dialogue Best When Questions Arise



**Dana Leisinger**  
HR Adviser

*Our employee wants to wear a St. Christopher medal on a chain around his neck, which is in violation of our company policy since we're a machine shop. He is claiming religious discrimination, and I don't even think his faith requires him to wear this.*

Generally, employers can't enforce a policy that employees can't wear articles of religious importance at work.

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*Alert (ISSN 0882-0929) is published weekly during legislative session with exceptions by California Chamber of Commerce, 1215 K Street, Suite 1400, Sacramento, CA 95814-3918. Subscription price is \$50 paid through membership dues. Periodicals Postage Paid at Sacramento, CA.*

*POSTMASTER: Send address changes to Alert, 1215 K Street, Suite 1400, Sacramento, CA 95814-3918. Publisher: Allan Zaremberg. Executive Editor: Ann Amioka. Associate Editor: Sara Espinosa. Art Director: Neil Ishikawa. Capitol Correspondent: Christine Haddon.*

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### Safety, Health Concerns

Employers, however, do have rights when safety is at issue. If the religious article/piece of jewelry could become caught in machinery, such as in this case, the employer can enforce its policy—safety issues don't need to be disregarded just for the sake of accommodation.

Health concerns can occur even if a piece of jewelry drops into chemicals that cause volatile fumes. Of course, the employer must enforce its policy for all jewelry for people working in the shop, not just pieces of religious importance.

### Court Rulings

Keep in mind that religious belief has been defined by the U.S. Supreme Court as "a belief that is both 'religious' in the employee's own scheme of things and sincerely held by the employee."

Therefore, an employer should not question the employee's belief. Indeed, one case specifically ruled that the employee doesn't have to show that the issue itself is a "true religious tenet," but only that the person "sincerely believed it to be religious in her own scheme of things."

This issue of accommodating religious apparel or insignia has recently been enforced by the Equal Employment Opportunity Commission (EEOC) in a high-profile case against Abercrombie & Fitch.

That case upheld the right of a practicing Muslim woman to wear a headscarf which didn't meet the "look" that the company required.

### Interactive Process

In most of these cases, exploring alternative solutions is a good idea. The request for a religious accommodation can trigger the "interactive process," wherein the employer and employee discuss possible ways to honor the employee's requests.

Sometimes if management is informed of the request and gets more information, options might appear that weren't considered earlier in the process.

This is an expanding area of the law, as more individuals are involved with religions that have stricter requirements than previously. Before denying any religious accommodation, try engaging in the interactive process noted above, and if that's not successful, it's recommended to seek legal counsel.

*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](http://www.hrcalifornia.com).*

## CalChamber-Sponsored Seminars/Trade Shows

More at [www.calchamber.com/events](http://www.calchamber.com/events).

### Labor Law

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

### International Trade

U.S.-Ukraine Business Forum. U.S. Chamber. July 13, Washington D.C. (800) 638-6582.

Investment Opportunities in Thailand Seminar. Thailand Board of Investment. July 15, Los Angeles. (514) 495-5283.

Trade Mission to California. Western United States Agricultural Trade Association. July 22–24, Salinas and Fresno. (360) 693-3373.

Development Banks: Your Finance Partner. U.S. Department of Commerce. July 30, San Jose. (408)

535-2758.

Export E-Commerce with China and Hong Kong. Port of Los Angeles. August 11, San Gabriel. (310) 732-7765.

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 See *CalChamber-Sponsored: Page 5*

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# Gender Equity Pay Bill Moves

*From Page 1*

achieve the intent of the law and eliminate any employer from seeking to justify a wage differential through meaningless differences in job duties under the guise that such positions are not “equal.”

## More Clarity

SB 358 also seeks to provide further clarity to the term “bona fide factor” under which an employer may provide differential pay for a legitimate business purpose, such as to compensate an employee who has more extensive training, education or experience.

The CalChamber and other supporters believe the clarification will help employers navigate their pay structure and avoid unnecessary litigation regarding what business purposes qualify as a bona fide factor.

The CalChamber believes that employees who are similarly situated and who generally perform the same duties or the same position should be compensated in the same manner, regardless of any protected classification, including gender.

In a letter printed in the *Senate Journal* at the author’s request, the author of SB 358 clarified that a “bona fide factor” for justifying a wage differential could be that work is performed at different geographic locations or on different shifts or at different times of day, so long as the

employer can prove the factor is consistent with business necessity, as specified in the bill.

## Earlier Version

Before the CalChamber-sought amendments, SB 358 contained language that would have created unnecessary litigation and limited an employer’s ability to compensate employees for their skill, experience and education.

Among other changes, SB 358 sought to modify the term “equal work” to “comparable work”—a term that was considered, but rejected, at the federal level when the U.S. Equal Pay Act was enacted due to the significant controversy it created.

In opposing the previous version of the bill, the CalChamber pointed out that trying to determine “comparable” work for different job duties can be extremely subjective, leading to different interpretations and thus the potential for litigation.

In place of that subjective term, the CalChamber proposed the standard of “substantially similar” work, which is used under the Equal Pay Act and which California courts have applied.

Also of concern was SB 358’s proposed definition of the term “business necessity” that requires an employer to prove the disparity in compensation is “necessary to the safe and efficient opera-

tion of the business” and that “there is no alternative practice to the factor relied upon that would accomplish the business purpose.”

In the previous version of the bill, it was unclear how an employer could ever utilize one of the listed bona fide factors as a justification for wage disparity, as such factors are not likely “necessary” for the “safe” operation of the business. It also would have been extremely difficult and unlikely that an employer would ever be able to prove a negative, that no other alternative practice in the employer universe could be used to satisfy the same purpose, without a disparity in pay. Therefore, the prior version of the bill would have limited an employer’s ability to attract employees with higher education, training and skill to their workforce.

## Key Vote

SB 358 passed the Assembly Labor and Employment Committee on June 24, 6-1:

**Ayes:** R. Hernández (D-West Covina), Chu (D-San Jose), Low (D-Campbell), McCarty (D-Sacramento), Patterson (R-Fresno), Thurmond (D-Richmond).

No: Harper (R-Huntington Beach).

SB 358 passed the Senate on May 26 with unanimous bipartisan support.

**Staff Contact:** Jennifer Barrera

# Costly Employee Retention Mandate Passes Senate Labor Committee



A California Chamber of Commerce-**opposed** job killer bill that denies employers the basic choice of whom to hire passed the Senate Labor and Industrial Relations Committee this week.

**AB 359 (Gonzalez; D-San Diego)** inappropriately alters the employment relationship and increases frivolous litigation by allowing a private right of action and by requiring any successor grocery employer to retain employees of the former grocery employer for 90 days and continue to offer continued employment

unless the employees’ performance during the 90-day period was unsatisfactory.

The bill passed the full Assembly on May 26, 46-27.

The CalChamber considers AB 359 a job killer because it:

- Subjects employers to multiple threats of litigation.
- Denies employers the basic choice of whom to hire in their workforce.
- Eliminates an employer’s opportunity to investigate applicants before hiring.
- Undermines the at-will presumption in order to protect the incumbent union.
- Forces an employer to adhere to terms of a contract to which it is not a

party.

- Does not provide stability or reduce unemployment in the grocery industry.
- Discourages investment in grocery establishments and jeopardizes jobs.
- Offers no evidence that it preserves health and safety standards.

## Key Vote

Senate Labor and Industrial Relations passed AB 359, 4-1, on June 24.

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

**No:** Jeff Stone (R-Temecula).

**Staff Contact:** Jennifer Barrera

## Victory for Trade Promotion with CalChamber Support

*From Page 1*

in global trade," said CalChamber Vice President of International Affairs Susanne T. Stirling. "Lowering tariffs through trade agreements is the equivalent of lowering taxes on exports that contribute to a strong national and state economy."

TPA is vital for the President of the United States to negotiate new multilateral, bilateral and sectoral agreements that will continue to tear down barriers to trade and investment, expand markets for farmers and businesses and create higher-skilled, higher-paying jobs in California and the nation.

Canada, Mexico, the European Union and Chile are among the economies that are actively pursuing trade agreements to take advantage of the enhanced opportunities that result.

The U.S. Chamber of Commerce points out: "Many countries slap tariffs on U.S. exports that are 10 or 20 times as high as our own, and a web of nontariff barriers overseas often shut out U.S. goods and services."

### California Benefits

Trade with the 20 nations currently covered by free trade agreements (FTA) with the United States accounted for 40% of California's exports in 2014, according to the latest report of the CalChamber Economic Advisory Council.

Since 2005, the council reports, exports to these markets have grown by 50%, with the largest dollar increases in the North American Free Trade Agreement (NAFTA) countries, Korea, Chile, Dominican Republic-Central America FTA countries, and Australia.

Mexico and Canada, which signed the NAFTA with the United States, rank as California's largest and second largest export markets, respectively.

## Senate Sends Job Creator Bill to Governor

*From Page 1*

Accordingly, if a proposed project fits within the terms of AB 323's stated exemption, then that is the end of the inquiry and the exemption applies.

CalChamber also emphasizes that CEQA was initially passed to ensure that California's environment is considered before moving forward with a project.

Over time, however, CEQA has

### Earlier Votes

On June 12, the U.S. House of Representatives narrowly approved, 219-211, the portion of the Congressional Trade Priorities and Accountability Act of 2015 that would renew TPA. A linked provision renewing Trade Adjustment Assistance (TAA), which was part of the U.S. Senate bill, failed to pass the House, preventing the entire package from being sent to the President to sign.

California congressional delegation members who voted in support of TPA on June 12 held firm in their support in a second vote on June 18, helping pass TPA, 218-208.

The Senate bill, TPA-15, garnered strong bipartisan support when it first passed the Senate on May 22, 62-37. Among those voting "aye" were 14 Democrats, including California U.S. Senator Dianne Feinstein, and most Republicans.

### Other Support

During the U.S. Conference of Mayors, [14 California mayors](#), led by Sacramento Mayor Kevin Johnson, sent a letter to leaders in the U.S. House of Representatives, urging passage of TPA-2015.

A majority of Americans support trade; 80% believe that the President and Congress should work together to put new trade agreements in place, according to the National Association of Manufacturers.

The Business Roundtable reports that 76% of Americans favor congressional action to update and pass TPA legislation.

Every president since Franklin Delano Roosevelt has been granted the authority to negotiate market-opening trade agreements in consultation with Congress.

For more information, see [www.calchamber.com/tpa](http://www.calchamber.com/tpa).

**Staff Contact:** [Susanne T. Stirling](#)

become a hook for litigation and a means to delay worthy projects for reasons that have nothing to do with the environment. Until changes are made to the underlying process, CalChamber supports legitimate CEQA exemptions, such as AB 323, which will encourage the expeditious approval and implementation of minor but important roadway projects.

**Staff Contact:** [Anthony Samson](#)

### California Congressional Delegation Vote on TPA

**Senate (June 24)**

**Ayes (1 of 60)**  
**Feinstein (D-San Francisco)**

**Noes (1 of 38)**  
**Boxer (D-Rancho Mirage)**

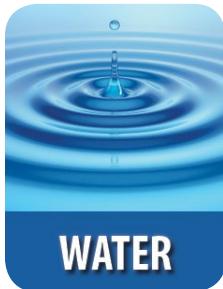
**U.S. House of Representatives (June 18)**

**Ayes (16 of 218)**  
**Bera (D-Elk Grove)**  
**Calvert (R-Corona)**  
**Costa (D-Fresno)**  
**Davis (D-San Diego)**  
**Denham (R-Atwater)**  
**Farr (D-Carmel)**  
**Issa (R-Vista)**  
**Knight (R-Palmdale)**  
**LaMalfa (R-Richvale)**  
**McCarthy (R-Bakersfield)**  
**McClintock (R-Roseville)**  
**Nunes (R-Tulare)**  
**Peters (D-La Jolla)**  
**Royce (R-Fullerton)**  
**Valadao (R-Hanford)**  
**Walters (R-Irvine)**

**Noes (37 of 208)**

**Aguilar (D-Redlands)**  
**Bass (D-Los Angeles)**  
**Becerra (D-Los Angeles)**  
**Brownley (D-Santa Monica)**  
**Capps (D-Santa Barbara)**  
**Cárdenas (D-San Fernando Valley)**  
**Chu (D-Monterey Park)**  
**Cook (R-Yucca Valley)**  
**DeSaulnier (D-Concord)**  
**Eshoo (D-Palo Alto)**  
**Garamendi (D-Walnut Grove)**  
**Hahn (D-San Pedro)**  
**Honda (D-San Jose)**  
**Huffman (D-Marin)**  
**Hunter (R-Alpine)**  
**Lee (D-Oakland)**  
**Lieu (D-Torrance)**  
**Lofgren (D-San Jose)**  
**Lowenthal (D-Long Beach)**  
**Matsui (D-Sacramento)**  
**McNerney (D-Pleasanton)**  
**Napolitano (D-Norwalk)**  
**Pelosi (D-San Francisco)**  
**Rohrabacher (R-Huntington Beach)**  
**Royal-Allard (D-Los Angeles)**  
**Ruiz (D-Coachella)**  
**Sánchez, Linda T. (D-Lakewood)**  
**Sanchez, Loretta (D-Anaheim)**  
**Schiff (D-Burbank)**  
**Sherman (D-Sherman Oaks)**  
**Speier (D-Hillsborough)**  
**Swalwell (D-Dublin)**  
**Takano (D-Riverside)**  
**Thompson (D-St. Helena)**  
**Torres (D-Pomona)**  
**Vargas (D-Golden Hill)**  
**Waters, Maxine (D-Los Angeles)**

# Drought-Related Actions Reminder of Need for Long-Term Water Solution



With no immediate end to California's millennial drought in sight, regulators and legislators continued steps this month aimed at managing the limited water supply.

The continued restrictions and resulting headlines and legal battles are just the latest reminders of the importance of ongoing work on a long-term plan for fixing California's aging water infrastructure and creating a more secure water supply for the state.

On June 12, the State Water Resources Control Board informed senior water rights holders (1903–1914) in the Sacramento-San Joaquin watersheds and the Delta that water diversions must stop. Some limited exceptions (including hydroelectric generation) were allowed. The board clarified on June 16 that anyone intending to continue water diversions with a riparian right claim should submit a form stating the intention to exercise the riparian claim.

The notice followed the board's emergency mandate for a 25% reduction in urban water use starting June 1, and earlier decrees for post-1914 water rights holders to curtail water diversions from the Sacramento-San Joaquin watersheds and Delta.

Shasta Dam is warming quicker than expected, causing the state water board to consider holding back an additional 250,000 acre-feet through August to control water temperature in summer and fall for spawning fish. Farmers who planted crops relying on earlier information from the board about water allocations showed up at a board workshop this week, saying that the change will cause them to lose their crops, putting them in financial jeopardy. The board is due to finalize the new plan soon.

## Drought Budget Trailer Bill

Adding even more enforcement clout to the state water board's actions, the Legislature approved and the Governor

signed a drought trailer bill to the budget that expands local enforcement authority to impose penalties for violations of conservation measures.

The state water board already had authority to set penalties and had established a fine of up to \$500 a day for violations of its emergency water conservation rule.

The drought trailer bill, SB 88, expanded that civil liability to violation of any regulation adopted by the state water board and extended it beyond drought years.

SB 88 also increased the maximum fine for violating a local water conservation ordinance from \$1,000 to \$10,000. A residential water user's first fine could not exceed \$1,000 (with some specified exceptions), but could go to the maximum of \$10,000 plus \$500 for each additional day of the violation starting on the 31st day after the individual was notified of the violation.

In addition, SB 88 authorizes the state water board to force water district consolidations for disadvantaged communities, expands authority to impose drought monitoring and reporting requirements with no sunset date, and waives California Environmental Quality Act requirements for recycled water projects.

## Lawsuits

Pending drought-related lawsuits include one asserting that two state entities and a federal agency are hurting fish (the Chinook salmon and Delta smelt) and endangered species by redirecting water for human uses. The group filing the lawsuit is led by the California Sportfishing Protection Alliance.

Water districts also have sued the state water board, contending it has no author-

ity to order the curtailment of water diversions by senior water rights holders, some of whose claims to water date to before the state set up its water rights system in 1914.

The city of Riverside lawsuit against the state water board argues that the city is "water independent"—it imports no water from Northern California (and has no plans to do so), depends on local groundwater, has at least a four-year supply in its groundwater basins, and those basins are naturally recharged.

## Comprehensive Solution

The California Chamber of Commerce supports a comprehensive solution to California's chronic water shortage. The CalChamber and a broad-based coalition, Californians for Water Security, are supporting the Governor's California Water Fix, a state-of-the-art solution providing reliable, clean water for the state.

As CalChamber President and CEO Allan Zaremberg has commented, "We've had nearly a decade of extensive scientific and environmental analysis, thoughtful engineering and preparation, and unprecedented public review and involvement. The CalChamber strongly supports this fix to our main water infrastructure."

Features of the California Water Fix (an update to the proposed Bay Delta Conservation Plan) include improving the safety of the state's water system and protecting water supplies by delivering them through a modern water pipeline, rather than solely through today's deteriorating dirt levee system.

More information is available at [www.watersecurityca.com](http://www.watersecurityca.com).

**Staff Contact:** Valerie Nera

## CalChamber-Sponsored Seminars/Trade Shows

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

International Business Culture. Port of Los Angeles. September 29, Santa Ana. (310) 732-7765.

Bilateral Forum: CA and Latin America.

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.

# Japan-California Trade/Investment Ties in Spotlight at Annual Business Gathering

An annual meeting between the California Chamber of Commerce and Japan business leaders highlighted California's continuing interdependence with one of its largest export partners.

Leading the Japanese business delegation were Hitoshi Yamamuro, president of the [Japanese Chamber of Commerce of Northern California \(JCCNC\)](#), and Hideo Miyake, president of the [Japan Business Association of Southern California \(JBA\)](#).

Representing the CalChamber at the luncheon were Allan Zaremberg, president and CEO, and Susanne T. Stirling, vice president, international affairs.

## Memorandum of Cooperation

On September 5, 2014, the State of California and the government of Japan signed a Memorandum of Cooperation (MOC) to support California's efforts on fighting climate change and protecting the environment by sharing the intention to cooperate in the following areas:

- Climate change;
- Renewable energy;
- Energy storage;
- Trade and investment;
- Vehicles, particularly zero emission vehicles (ZEVs);
- Joint engagement with cities, sister agencies, nongovernmental organizations, academia and the private sector;
- Cooperation on possible demonstration projects on the effectiveness of SC fast charging and enhanced EV use;

- High-speed rail and other passenger rail services;
- Water conservation and management; and



*Seated from left:* Hiroshi Tomita, executive advisor, Japanese Chamber of Commerce of Northern California (JCCNC)/Konica Minolta Laboratory USA, Inc.; Ken-ichi Sato, JCCNC first vice president/Kokusai Semiconductor Equipment; Hitoshi Yamamuro, JCCNC president/Japan Airlines Co., Ltd.; Allan Zaremberg, CalChamber president/CEO; Hideo Miyake, president, Japan Business Association of Southern California (JBA)/All Nippon Airways Co., Ltd.; Satoshi Okawa, JBA vice president and chair, JBA Business & Commerce Committee/Sumitomo; Naoki Kawada, vice chair, JBA Business & Commerce Committee/Perkins Coie.  
*Standing (from left):* Dr. Hayato Urabe, assistant to Makoto Katayama, Innovation Core SEI, Inc.; June-ko Nakagawa, JCCNC executive director; Yoshiharu Nakamura, JCCNC member/Obayashi Corporation; Makoto Katayama, chair, JCCNC Government Relations/Innovation Core SEI (Sumitomo Co.); Eiji Namba, JCCNC New Year's party chair/The Bank of Tokyo – Mitsubishi; Hitoshi Ishikawa, member, JBA Business & Commerce Committee/Mitsubishi; Susanne T. Stirling, CalChamber vice president of international affairs; Yuji Takahashi, JBA executive director.

- Any other activities mutually decided by both sides.

Under this MOC, the Governor's Office of Business and Economic Development (GO-Biz) and the Japanese government New Energy and Industrial Technology Development Organization (NEDO) signed a Memorandum of Understanding to cooperate in promoting zero-emission electric vehicles. The parties agree that their relationship, collaboration and sharing interest will help achieve California's Renewable Portfolio Standard (50 % renewable energy by 2030.)

## Japanese Investment, Expansion in California

Japan is the biggest foreign investing country in California with 24.2% of overall foreign direct investment. Japa-

nese firms have 137,669 employees in California. According to the report prepared by JCCNC and JBA in conjunction with their annual visit to Sacramento, nearly 96% of those employees are hired locally.

The average salary for employees in Japanese firms is \$85,000, which adds up to \$11 billion in annual payroll.

After the financial crisis in 2008, the number of Japanese companies in Southern California decreased approximately 43%. In Northern California, however, the number has been slowly but continuously increasing since 2010, due to Silicon Valley's booming economy.

The proportion of the types of Japanese firms differs between Northern and Southern California. The highest percentage industry in Northern California is service companies, while manufacturing companies are more prevalent in Southern California.

## Notable Statistics

As of 2014, 18.6% of total U.S. export goods to Japan, mainly high-tech equipment and agricultural products, are from California.

Japan is California's third largest import partner and fourth largest export partner.

According to the JCCNC/JBA report:

- As of the end of 2014 there were 1,392 Japanese-affiliated companies operating in California. The top three industry categories were services, manufacturing and wholesale/retail.

*See Japan-California: Page 7*

# Senate Judiciary Committee Approves Anti-Arbitration Job Killer Legislation



A job killer bill that could significantly drive up litigation costs for all California employers, if enacted, passed the Senate Judiciary Committee this week.

**AB 465 (R. Hernández; D-West Covina)**

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.

The bill passed the Senate Labor and Industrial Relations Committee on June 10 on a party line vote, 4-1.

## AB 465: Increased Litigation

The California Chamber of Commerce is opposed to AB 465 and identified it as a job killer because:

- **California and U.S. Supreme Courts have already authorized mandatory employment arbitration agreements.** AB 465 directly conflicts with these 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 pre-empted. The time, cost and uncertainty created for all California employers while any legal challenge to AB 465 is pending in the judicial system would be detrimental to businesses and unnecessary.

- **Adequate protections already exist for mandatory, predispute employee arbitration agreements.** The California Supreme Court has already mandated contractual provisions that must be included in a mandatory, predispute arbitration employment agreement. Accordingly, adequate protections already exist in predispute, mandatory employment arbitration agreements.

- **Arbitration provides an effective and efficient means to resolve employment-related claims.** 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. A report published by the Heritage Foundation in July 2013, "The Unfair Attack on Arbitration: Harming Consumers by Eliminating a Proven Dispute Resolution System," concludes that arbitration is generally faster,

cheaper, and more effective than the litigation system. It is not affected by cutbacks in judicial budgets or the increases in court dockets that significantly delay justice.

- **AB 465 will send disputes into the overburdened and underfunded judicial system.** 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.

- **AB 465 will create a worse litigation environment and lack of job creation.** California's economic recovery depends on its ability to create an environment where job creation can flourish. AB 465 will neither help California's litigation environment nor promote businesses' ability to create jobs as it will drive up California employers' litigation costs.

## Key Vote

AB 465 passed the Senate Judiciary Committee, 5-2 on June 23.

**Ayes:** Jackson (D-Santa Barbara), Hertzberg (D-Van Nuys), Leno (D-San Francisco), Monning (D-Carmel), Wieckowski (D-Fremont).

**Noes:** Anderson (R-Alpine), Moorlach (R-Costa Mesa).

**Staff Contact:** Jennifer Barrera

## Japan-California Trade/Investment Ties in Spotlight at Annual Business Gathering

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- The number of Japanese firms in Northern California reached a high point for the last six years in 2014 and is expected to surpass 800 in 2015.

- As of 2014, more Japanese firms reside in Northern California (719) than Southern California (673).

## Business Challenges

According to the survey, the top two concerns about pursuing business in California are high labor costs (70.4%) and high tax rate (44.8%).

## Looking Forward

Japan's Prime Minister Shinzo Abe visited California this spring. During his visit, he introduced the Kakehashi (bridge) Project to connect Japan and Silicon Valley by sending young professionals and entrepreneurs to Silicon Valley to learn the process of innovations. With the MOC and Kakehashi Project, the associations "see a bright future for Japanese companies and professionals in California to expand their abilities."

The JCCNC was established as a nonprofit corporation in 1951 to promote

business, mutual understanding and good will between Japan and the United States.

JBA, founded in 1961, is a nonprofit organization consisting of nearly 450 Japanese corporations doing business across Southern California.

**Staff Contact:** Susanne T. Stirling

**JBA** 南カリフォルニア  
日系企業協会  
Japan Business Association of Southern California

 **Japanese Chamber of commerce**  
of northern California



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