

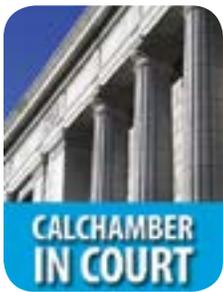
ALERT

VOLUME 42, NUMBER 11 • APRIL 15, 2016



Alameda Court Ruling Favors Business Community

Keeps Current Prop. 65 Lead Standard Intact



In a favorable ruling for the California Chamber of Commerce and the broader business community, an Alameda Superior Court judge has denied an environmental group's

effort to rescind the longstanding Proposition 65 standard for lead. Specifically, the group argued that the warning threshold for lead should be declared illegal and inoperative despite having

been published as a final rule by the agency nearly 25 years ago.

The lawsuit, filed against the Office of Environmental Health Hazard Assessment (OEHHA) by Mateel Environmental Justice Foundation, asked the court to order OEHHA to rescind the current safe harbor level for lead.

The California Chamber of Commerce and the California Farm Bureau Federation intervened in the case as a defendant alongside OEHHA. The court rejected Mateel's challenge, holding that OEHHA's predecessor agency, which adopted the lead safe harbor level 25

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Two Job Creator Bills Pass; One Fails in Senate Committee



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

disability access and education won unanimous bipartisan approval from the Assembly Appropriations Committee this week.

In addition, a Senate policy committee unanimously approved one job creator bill while rejecting a second job creator.

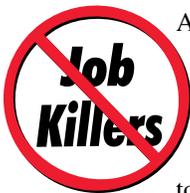
Moving on to consideration by the entire Assembly on April 13 was **SB 269 (Roth; D-Riverside)**, which seeks to limit frivolous litigation and claims regarding construction-related accessibility violations by providing businesses that have proactively sought to become compliant with the Americans with Disabilities Act with an opportunity to resolve any identified violations.

A similar bill by Senator Richard Roth, SB 251, also designated as a job creator, passed the Legislature last year, but was vetoed by the Governor due to fiscal concerns about the tax credit the bill included. SB 269 does not contain a tax credit.

Passing the Senate Business, Professions and Economic Development Committee was **SB 936 (Hertzberg; D-Van Nuys)**, which encourages creation of small businesses by expanding their access to loans.

Failing to move was **SB 1228 (Runner; R-Antelope Valley)**, which
See Two Job Creator Bills: Page 4

Scheduling Mandate Job Killer Moves



A California Chamber of Commerce-opposed job killer bill subjecting employers to financial penalties and litigation for changes to an employee's

schedule with less than seven days notice passed a Senate policy committee this week.

SB 878 (Leyva; D-Chino) passed the Senate Labor and Industrial Relations Committee on a 4-1 vote on April 13.

The bill mandates an employer in the retail, restaurant, or grocery industry—regardless of size—to provide employees with a 21-day work schedule that must be given to an employee at least seven days before the first scheduled shift, which thereby requires a 28-day notice of their work schedule.

“The bill will require employers to

provide predictability to employees, but it will exchange it for flexibility in the workplace. Employers will no longer be able to accommodate last-minute requests by employees for schedule changes due to personal needs,” said CalChamber Policy Advocate Jennifer Barrera. “The threat of litigation and costly penalties is just too high to make a mistake.”

See video at calchamber.com/videos.

Broader than SF Ordinance

The San Francisco ordinance that went into effect in July 2015 requires specified “formula retail establishment” employers to provide 14 days’ notice of a schedule.

SB 878 is significantly broader, applicable to any restaurant, grocery store or retail establishment, regardless of the number of employees, and basically requires a 28-day notice of an employee’s schedule.

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Labor Law Corner

Guns at Work: California Law Differs from Many States



Ellen S. Savage
HR Adviser

My employee has a concealed carry permit and wants to bring his gun to work. He says if I don't allow it in the building, then he will just leave his gun in the trunk of his car in our parking lot when he is at work. Do I have to allow this?

A concealed carry permit does not automatically allow an individual to bring a gun into the workplace of a private

employer in California. Therefore you may choose to have a policy banning weapons in your workplace, even for those with a concealed carry permit.

Many states have so-called "guns-at-work" laws that require employers to allow employees to leave guns in their locked vehicles in the employer's parking lot. Those state laws typically require the gun to be locked in the trunk or glove compartment of the vehicle, or otherwise be placed out of plain sight.

California, however, does not have such a law, so employers in California may ban guns even in employees' vehicles parked in the employer's lot.

Privacy Issues

If an employer chooses to have a policy banning weapons in the workplace, it is important to also have a policy with regard to searches of employer property. Such a policy might allow for searches of desks and other furniture, lockers and employer vehicles.

Unfortunately, California's constitutional right to privacy may limit an employer's ability to search an employee's personal property in the workplace—such as purses, backpacks and briefcases—without employee consent. The same privacy restrictions apply to an employee's personal vehicle, even when on employer property.

Reasonable Suspicion

However, an employer's reasonable suspicion of a gun in an employee's bag or vehicle might be enough to outweigh the employee's right to privacy.

Employers who wish to conduct such searches of employees' personal property should consult 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.

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CalChamber-Sponsored Seminars/Trade Shows

More at www.calchamber.com/events.

Labor Law

High Price of Misclassifying Exempt Employees Webinar. CalChamber.

April 21, Webinar. (800) 331-8877.

HR Boot Camp. CalChamber. May 10, Sacramento; June 7, Santa Clara; September 7, San Diego; September 22, Sacramento. (800) 331-8877.

Leaves of Absence. CalChamber. June 23, Huntington Beach; August 16, Sacramento. (800) 331-8877.

International Trade

Asia/Pacific Business Outlook Conference. U.S. Commercial Service. April 18–19, Los Angeles. (213) 200-7172.

California-Mexico Trade and Investment Summit. Governor's Office of Business and Economic Development (GO-Biz). April 19, Los Angeles. (916) 322-0645.

Exporting Best Practices. California Centers for International Trade Development. April 19, Clovis. (559) 324-6401.

Importing into the U.S. California Centers for International Trade Development. April 19, Clovis. (559) 324-6401.

11th Annual Export Control Forum. U.S. Bureau of Industry and Security. April 20–21, Burlingame. (949) 660-0144.

South Africa Energy Storage Business Briefing. Business Council for International Understanding. April 21, Long Beach. (212) 997-3584.

Hannover Messe 2016. SelectUSA. April 25–29, Hannover, Germany.

Milken Institute Global Conference. Milken Institute. May 1, Beverly Hills.

See CalChamber-Sponsored: Page 3

CalChamber Calendar

Capitol Summit/Host Breakfast:

May 17–18, Sacramento

International Forum:

May 17, Sacramento

Environmental Regulation Committee:

May 17, Sacramento

Water Committee:

May 17, Sacramento

Fundraising Committee:

May 17, Sacramento

Board of Directors:

May 18, Sacramento



Scheduling Mandate Job Killer Moves

From Page 1

Since the San Francisco ordinance took effect, many employers have refused to change a schedule once posted, which has harmed employees' requests for changes due to personal needs. In addition, employees who want and have requested additional hours of work are not provided those hours, given the threat of financial penalties against employers for the schedule change.

Eliminates Flexibility in Workplace

SB 878 requires employers to provide "modification pay" for changes made to an employee's schedule with less than seven days notice.

Although SB 878 provides several exemptions as to when "modification pay" applies, employers will nevertheless be wary to make any changes to an employee's schedule to avoid the potential for modification pay or litigation.

As CalChamber explained in its analysis, with all these potential consequences at risk, an employer covered by SB 878 will never change an employee schedule, even if it appears the change falls within one of the listed exceptions or the employee actually volunteers and requests the change/additional hours of work. The risk to the employer for a mistake is simply too great.

Applies to Large/Small Employers

A small employer with limited resources will not be able to manage the 21-day "work schedule" that must be given to employees at least seven days in advance of their first shift, or the nuances with regard to when "modification pay" applies.

Moreover, it is unclear from the definition which employees SB 878 covers when an employer has hybrid operations.

For example, will a manufacturer or an employer in the technology industry that has an on-site cafeteria for its employees be required to comply with this scheduling requirement for the entire workforce? Will the hotel that has a gift shop, restaurant or bar located on its premises be forced to comply with SB 878 for all employees?

Given SB 878's broad definition of an employer, as well as the statutory scheme of penalties, litigation and enforcement, employers that are not primarily engaged in selling merchandise or food will be forced into the provisions of this mandate.

One-Size-Fits-All Mandate

The mandate under SB 878 fails to take into consideration the varying business models for employers who sell food or merchandise. Although some may have predictability and therefore, the ability to provide such extensive notice, others cannot.

Second, this mandate will force employees to predict their own schedule more than 30 days in advance in order to provide their availability to an employer so the employer can create a 28-day notice schedule.

As employers have experienced in San Francisco with the local ordinance mandating a 14-day notice schedule, many employees cannot commit to shifts so far in advance, and end up frustrated with the schedule they receive that the employer cannot or will not change due to the threat of financial penalties.

Creates Costly Litigation Avenues

The Labor Code Private Attorneys General Act (PAGA) creates a representative action for any aggrieved employee for any Labor Code violation, including

statutory penalties and employee-only attorney's fees. As the Governor's budget estimates, the Labor and Workforce Development Agency receives more than 6,000 PAGA notices a year.

SB 878 would add to this growing problem, as any violation of SB 878 would subject an employer to PAGA litigation. Even if the employer pays the employee "modification pay" for changes to the employee's schedule, the employer still could be subject to significant penalties and attorney's fees for PAGA litigation.

In addition, an employee also could threaten to file an unfair competition claim under Business and Professions Code Section 17200, as well as a common law wrongful termination claim.

Under SB 878, an employer also faces investigations and enforcement actions by the Labor Commissioner and the Attorney General for failure to properly provide "modification pay," thereby exposing the employer to numerous threats of litigation and exposure for simply changing a schedule due to the employee's request.

Key Vote

Senate Labor and Industrial Relations passed SB 878 on April 13:

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

No: J. Stone (R-Temecula).

Action Needed

SB 878 will be considered next by the Senate Appropriations Committee. The CalChamber is urging members to contact their senators to ask them to **oppose SB 878**. An easy-to-edit sample letter is available at www.calchambervotes.com.

Staff Contact: Jennifer Barrera

CalChamber-Sponsored Seminars/Trade Shows

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World Trade Kickoff Breakfast. Los Angeles Area Chamber of Commerce. May 3, Los Angeles. (213) 580-7569.
Protect Your Business from Disaster. GO-Biz. May 4, Webinar. (916) 322-0694.
Sacramento IRS Small Business Week Webinar. Internal Revenue Service. May 6, Webinar.
Beyond the Numbers: Air and Sea Cargo Trends. The Port of Los Angeles. May 11, Los Angeles. (310) 732-7765.

Connect Your Small Business to the Global Marketplace. GO-Biz. May 12, Webinar. (916) 322-0694.
Sacramento Regional Global Trade Summit. Northern California-Sacramento Regional Center for International Trade Development. May 18, Sacramento. (916) 563-3219.
World Trade Center International Business Luncheon. Northern California World Trade Center. May 18, Sacramento. (916) 321-9146.

Overview of California's Small Business Loan Guarantee Program. GO-Biz. May 19, Webinar. (916) 322-0694.
Select LA Investment Summit. World Trade Center Los Angeles. June 16, Los Angeles. (213) 622-4300.
SelectUSA Investment Summit 2016. SelectUSA. June 19-21, Washington, D.C. (202) 482-6800.
G-20Y Summit. G-20Y Association. September 21-25, St. Moritz, Switzerland.

Two Job Creator Bills Pass; One Fails in Senate Policy Committee

From Page 1

would have provided small businesses with the opportunity to comply with regulations without facing devastating administrative enforcement actions and penalties, by requiring state agencies to assist small business with newly adopted regulations, create policies to reduce or eliminate penalties against small businesses who have tried to comply in good faith, and allow courts the necessary discretion to grant small employers equitable relief from overwhelming administrative orders.

SB 1228 was the 13th job creator identified by the CalChamber this year.

SB 269: Balanced Approach

SB 269 is a balanced approach between preserving the civil rights of those who are disabled to ensure their access to all public accommodations, while limiting the number of frivolous lawsuits threatened or filed against businesses that do not improve accessibility.

The bill seeks to incentivize businesses to proactively take steps to become accessible by providing them with 120 days from receipt of a Certified Access Specialist (CASp) report to

resolve any violations identified without being subject to statutory penalties or litigation costs. This proposal will assist businesses who are trying to ensure they are compliant from being subject to frivolous claims or litigation.

SB 269 also provides a limited time for businesses to resolve violations of minor, technical construction-related standards that do not actually impede access to the public accommodation.

SB 936: Loan Access

SB 936 expands the availability of loans through the Infrastructure and Economic Development Bank's (IBank) California Small Business Loan Guarantee Program.

The program helps businesses create and retain jobs and promotes statewide economic development by supporting loans issued to small businesses that otherwise would not qualify. Small businesses establish a favorable credit history with a lender under this program and then are able to obtain future loans on their own. The program has been in place since 1968 with almost no defaults.

SB 936 increases the IBank's ability to leverage state and federal funding, thus

incentivizing private lending and economic investments. The loan guarantee program uses state and federal funding to create a loan loss reserve, which reduces the risk of lending to small businesses.

SB 1228: Small Business Relief

SB 1228 sought to assist small businesses in complying with complex regulations in California without facing devastating financial penalties and enforcement actions.

California's complex regulatory scheme is challenging for all employers, but especially small businesses. In recognizing this challenge, California has provided the Governor's Office of Business and Economic Development as an information resource for small employers.

SB 1228 would have further assisted small businesses in navigating the regulations in California so that they could comply and grow their business, without facing costly enforcement actions for inadvertent mistakes.

SB 1228 would have required state agencies that adopt regulations to help small businesses with understanding and complying with those regulations; adopt

See Two Job Creator Bills: Page 6

Targeted Tax Becomes No. 19 on Job Killer List



The California Chamber of Commerce this week added a targeted tax to its job killer list, bringing the total number of bills on the list to 19.

The latest bill, **AB 2782 (Bloom; D-Santa Monica)**, threatens jobs in the beverage, retail and restaurant industries by arbitrarily and unfairly targeting certain beverages for a new tax in order to fund health programs.

Jobs at Risk

To the extent AB 2782 has its intended effect of reducing consumption, employers engaged in the production, distribution, retail, and restaurant industry will have to mitigate that loss through reduction of costs in other areas, including labor.

The bill seeks to charge a \$0.02 excise tax on each fluid ounce of a bottled sweetened beverage and a \$0.02

excise tax on each fluid ounce produced from a concentrate from which a sweetened beverage is derived.

Although the bill describes the amounts collected as a "health impact fee," the revenues are a tax that would be used to fund the Healthy California Fund. That fund provides various departments with the authority to invest in prevention programs and activities to address diabetes, obesity, heart disease, and dental disease.

Significant Consequences

As CalChamber's opposition letter explains: "imposing a targeted tax on one industry to address a statewide problem that is created due to numerous different issues unrelated to sweetened beverages, will have significant consequences."

The letter points out that the targeted tax will certainly be passed on to consumers through higher prices.

Another concern is the creation of additional state programs that may ultimately rely on General Fund revenue in

order to survive. If, as intended, AB 2782 deters consumers from buying sweetened beverages, the excise tax will be a decreasing revenue source and there could be more pressure to use the General Fund to replace the funding for the programs the bill creates.

The business community consistently maintains that if a tax is necessary, it should be only temporary and broad-based so that the impact is minimized as the tax burden is shared by all instead of an individual business or industry.

Action Needed

AB 2782 awaits action in the Assembly Health Committee. The CalChamber is urging members to contact their Assembly representatives and members of Assembly Health to ask them to **oppose AB 2782**.

An easy-to-edit sample letter is available at www.calchambervotes.com.

Staff Contact: Jennifer Barrera

21 CalChamber Members on *Fortune* List of ‘100 Best Companies to Work For’



Twenty-one California Chamber of Commerce member companies have been named by *Fortune* magazine as among the “100 Best Companies to Work For.”

Each year, the magazine partners with Great Place to Work to conduct the most extensive employee survey in corporate America.

Two-thirds of a company’s survey score is based on the results of the Trust Index Employee Survey, which is sent to a random sample of employees from each company. The other third of the survey score is based on responses to the Culture Audit, which includes detailed questions about pay and benefit programs.

Best Companies to Work For

Following are the CalChamber member companies that made it onto *Fortune*’s list:

- **Google**, ranked No. 1: This year, Google ranked at No. 1—a spot the company has held seven times in the 10 years it has made it to *Fortune*’s list. Its phenomenal employee perks include: providing three prepared organic meals a day, on-site oil changes and free personal-fitness classes.
- **Kimley-Horn and Associates**, ranked No. 7: Kimley-Horn and Associates devotes a large portion of its earnings to retirement contributions for its staff.

Employees benefit through bonuses and retirement contributions, which include a two-to-one 401(k) match up to 4% of salary and a profit-sharing contribution. In 2014, these amounted to an average of more than \$20,000 per employee.

- **NuStar Energy**, ranked No. 19: NuStar employees are appreciated for their efforts and achievements with gifts, parties and recognition events, and are given perks like 100% health care coverage, a rich 401(k) and defined benefit pension plan, company-wide bonuses, and 60 hours of paid time off to volunteer. Chairman Bill Greehey calls NuStar’s no-layoff policy a “sacred trust,” and says that as long as employees do a good job, they will have a good job.

- **Kimpton Hotels & Restaurants**, ranked No. 20: Kimpton Hotels and Restaurants is a chain of boutique hotels and restaurants that offers a buffet of benefits that includes six weeks of parental leave, hearing and vision care, backup child care and elder care, and women’s preventive health. Senior managers are eligible for month-long sabbaticals after seven years—but only if they promise to unplug from their work emails and phone calls.

- **Cooley**, ranked No. 28: This Silicon Valley-based law firm advises top tech companies—like Facebook, Yelp! and Google. To decompress, the firm holds Nintendo Wii dance-offs, outdoor movie nights, and family Halloween spooktaculars.

- **USAA**, ranked No. 36: This financial institution rewards employees with points for engaging in healthy behaviors, allowing them to reduce their medical premiums by \$130–\$400 (depending on their coverage level). Employees have opportunities to work flexible hours or work remotely from home as needed to achieve work-life balance. Employees also have access to temporary care when they have an ill child or a parent who needs care.

- **Perkins Coie**, ranked No. 37: Perkins Coie is one of the country’s highest-grossing law firms. The firm encourages employees to take time off to recharge, offering two-month paid sabbatical leave for all employees. The firm organizes networking lunches and mentoring for

women, minority, and LGBT lawyers, which has boosted its number of attorneys from those groups by 47.6% in five years.

- **Alston & Bird**, ranked No. 41: This 120-year-old Atlanta-based law firm offers an array of perks for new mothers: up to 18 weeks of paid leave for attorneys, 12 weeks for staff and up to \$10,000 for adoption or surrogate-related expenses (along with up to 90 days off). Alston & Bird also has on-site child care (with discounted tuition for lower-paid employees) and parent support groups.

- **KPMG**, ranked No. 43: From in-person and virtual training events, electronic learning resources specific to client issues / business topics, and training that helps its people develop from a personal as well as professional perspective, KPMG’s investment in continuous learning enables it to constantly provide people with new opportunities to deepen their technical proficiency, broaden their skill set and experiences, and achieve the career to which they aspire.

- **Hyatt Hotels**, ranked No. 47: This global hotel chain has spent an average of \$50,000 updating employee cafeterias to make them feel more like restaurants. Every hotel now has a lounge where colleagues have access to computers, TVs and video games. From the CEO on down, everyone at Hyatt is on a first-name basis, and hotels regularly host “Night Owl Breakfasts” when managers serve meals to night-shift workers, share information and gather feedback.

- **PricewaterhouseCoopers**, ranked No. 53: To help new moms and dads cope with their transition, PricewaterhouseCoopers has just started offering them 30 days of paid parental leave. Interns who have secured full-time offers from PwC are welcomed to the company at a launch event at Disney World theme parks, where the new employees compete in fun challenges like a puzzle game called Pirate Pursuit.

- **Arthrex**, ranked No. 62: Everyone at Arthrex enjoys a daily free catered lunch and on-site medical care as well as a year-end profit sharing bonus. Employees and their families are invited to family events throughout the year, including beach parties, fall festivals, summer

See CalChamber Members: Page 6

CalChamber Members on *Fortune* '100 Best Companies to Work For' List

From Page 5

bowling nights, and Arthrex-only events at local attractions.

• **IKEA Holding U.S.**, ranked No. 63: IKEA has an egalitarian culture that provides all part-time workers who work more than 20 hours per week with full benefits, including gender reassignment, infertility treatments, and long-term disability. If an hourly co-worker has a disagreement with a corrective action or termination, the issue can be reviewed by a panel of peers.

• **TEKsystems**, ranked No. 74: Executives at this IT staffing and services company go the extra mile to keep folks in the loop. During the annual executive road show, the leadership team visits every one of their more than 100 local offices over the course of a month. One employee remarked: "We are a \$4 billion organization. But employees from support staff to recruiters to account managers have exposure to high-level executives, regional vice presidents and even the president of the company."

• **Whole Foods Market**, ranked No. 75: Whole Foods Market strives for an egalitarian culture and caps its executive salaries at no more than 19 times that of the average worker. The company's unique gain-sharing plan rewards teams for coming under budget. The team's monthly surplus is distributed among team members—based on number of hours worked—and has averaged about 6% of workers' total wages.

• **Cisco Systems**, ranked No. 82: Cisco has achieved strong recognition in Silicon Valley as a leader in work-life programs. More than 3,000 employees now do their jobs from home. Cisco has a state-of-the-art child care center with 600 kids.

• **Marriott International**, ranked No. 83: Much of employees' admiration of Marriott comes down to relationships: Among those surveyed, 93% say they work among friendly colleagues and 94% say their workplace is welcoming of newcomers. Marriott associates enjoy discounted associate room rates, and associates who exceed 25 years of service are eligible for free weekend stays at participating Marriott hotels for the rest of their lives.

• **Accenture**, ranked No. 84: This global professional services company has committed to hire 5,000 U.S. veterans and military spouses by 2020. The company is waiving its standard college-degree requirement for some positions and has set up special training courses for military candidates. Once in the door, Accenture employees can receive educational scholarships and all employees have access to a global learning portal with more than 50,000 classes.

• **CarMax**, ranked 85: This retailer of used vehicles provides associates and immediate family members discounts on CarMax vehicles, accessories, extended service plans and vehicle service. The company rewards stores with strong performance with a steak cookout con-

ducted by its senior executive team, which includes CEO Tom Folliard and other leaders. The executive team visits the store, fires up the grill, and serves all the store's associates to thank them for their hard work and dedication in providing exceptional customer service.

• **Deloitte**, ranked No. 90: Deloitte's big draw is education: 4 million learning hours were delivered to employees last year with special development programs in place to advance those traditionally considered "minorities." All employees are supported in pursuing higher education: \$10K in tuition reimbursement and \$25K to help doctoral candidates cover expenses to write their dissertations. Select MBA candidates who return to Deloitte after business school can qualify for a reimbursement on their graduate school tuition.

• **Nordstrom**, ranked No. 92: This fashion specialty retailer provides an Employee Stock Purchase plan where eligible employees have an opportunity to purchase Nordstrom stock at a 10% discount off the closing market price. Employees receive store discounts, matching 401(k) contributions, and can enroll in the Beginning Right Maternity Program, where he or she can earn a \$400 Nordstrom gift card to help stock up on baby basics.

Complete List

For the complete list of the 100 Best Companies to Work For, visit fortune.com/bestcompanies.

Two Job Creator Bills Pass; One Fails in Senate Policy Committee

From Page 4

policies that consider equity and fairness in assessing penalties against small businesses when there has been a violation; and allow small businesses the opportunity to engage the courts during or after an enforcement action to grant the small employer equitable relief from an unduly burdensome administrative decision.

Key Votes

• The April 13 Assembly Appropriations vote on **SB 269** was 20-0:

Ayes: Gonzalez (D-San Diego), Bigelow (R-O'Neals), Bloom (D-Santa Monica), Bonilla (D-Concord), Bonta (D-Oakland), Calderon (D-Whittier), Chang (R-Diamond Bar), Daly

(D-Anaheim), Eggman (D-Stockton), Gallagher (R-Yuba City), E. Garcia (D-Coachella), R. Hernández (D-West Covina), Holden (D-Pasadena), Jones (R-Santee), Obernolte (R-Big Bear Lake), Quirk (D-Hayward), Santiago (D-Los Angeles), Wagner (R-Irvine), Weber (D-San Diego), Wood (D-Healdsburg).

• **SB 936** passed the Senate Business, Professions and Economic Development Committee on April 11, 9-0.

Ayes: Bates (R-Laguna Niguel), Berryhill (R-Twain Harte), Block (D-San Diego), Galgiani (D-Stockton), E. Hernandez (D-West Covina), Hill (D-San Mateo), Jackson (D-Santa Barbara), Mendoza (D-Artesia),

Wieckowski (D-Fremont).

SB 936 will be considered by the Senate Appropriations Committee on April 18.

• **SB 1228** fell short of votes needed to pass Senate Business, Professions and Economic Development on April 11, 3-1.

Ayes: Berryhill (R-Twain Harte), Galgiani (D-Stockton), Mendoza (D-Artesia).

Noes: Hill (D-San Mateo).

No Vote Recorded: Bates (R-Laguna Niguel), Block (D-San Diego), E. Hernandez (D-West Covina), Jackson (D-Santa Barbara), Wieckowski (D-Fremont).

SB 1228 was granted reconsideration. Staff Contacts: **Jennifer Barrera** and **Valerie Nera**

Housing Job Killer Bill to Be Heard in Senate Committee



A California Chamber of Commerce-**opposed** job killer bill that will erode housing availability will be heard in a Senate committee on April 20.

SB 1150 (Leno; D-San Francisco) increases liability risk and the cost of residential loans by allowing a party not on the mortgage loan to interfere with appropriate foreclosures and creates a private right of action for violations of overly complex and burdensome requirements.

The bill's provisions will likely delay the foreclosure process by additional months, if not years, if a property is involved in probate following a borrower's death and include a new minimum 90-day mandated statutory timeframe to provide proof of the borrower's death and proof of successor in interest status.

Of great concern is that the bill establishes new, lopsided, private rights of action with draconian penalties, injunctive relief and attorney's fees only for the prevailing successor in interest.

Pending Federal Regulations

SB 1150 is premature given pending federal regulations that attempt to address the same underlying issue advanced by SB 1150.

Some amendments, sought by the Consumer Financial Protection Bureau (CFPB), relate to successors in interest and propose to: 1) apply all the mortgage servicing rules to successors in interest once a servicer confirms the successor in interest's identity and ownership interest in the property; 2) adopt rules for how a mortgage servicer confirms a successor in interest's status; and 3) ensure that to the extent the mortgage servicing rules apply

to successors in interest, that the rules apply to all successors in interest who acquire an ownership interest in a transfer protected from acceleration and foreclosure based on a due-on-sale clause.

These regulations, according to the CFPB, will be published around the middle of this year. The CalChamber firmly believes that these regulations must be finalized before advancing state legislation. If there are deficiencies in the published regulations, the CalChamber welcomes a legislative opportunity to discuss further refinements, if necessary.

Action Needed

SB 1150 will be heard in the Senate Banking and Financial Institutions Committee on April 20. An easy-to-edit sample letter is available online at www.calchambervotes.com.

Staff Contact: Valerie Nera

Alameda Court Ruling Keeps Current Prop. 65 Lead Standard Intact

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years ago, should be afforded great deference for issues so scientific in nature.

Current Levels

The current safe harbor for lead—established by OEHHA in 1989—is the most stringent in the world at 0.5 micrograms per day, particularly due to Proposition 65's conservative 1,000-fold uncertainty factor requirement for reproductive toxicants. The safe harbor is based primarily on a federal standard and was considered carefully when adopted by OEHHA (the lead agency for implementing Proposition 65).

Mateel's lawsuit—more than two decades later—asked a court to overturn the lead agency's considered decision, thus placing California even more out of step with standards set by the federal government and other jurisdictions around the world. Mateel's argument relied on controversial and inconclusive science.

Economic/Legal Impacts

Given Proposition 65's unique shifting of the burden of proof to the defendant, the relief Mateel sought could have opened the doors to more unnecessary litigation, more burden on the overtaxed court system, more shifting of wealth to the coffers of the "citizen enforcers" and their counsel, and more incentives for businesses to provide unwarranted warnings, creating more consumer confusion as Proposition 65 warnings proliferate and indiscriminately cover products with trace concentrations of lead in the same manner as products containing concentrations that may actually present a meaningful health hazard.

From a policy standpoint, these results would have gone directly contrary to the Governor's calls to reduce Proposition 65 litigation and OEHHA's calls to reduce the amount of warnings in California's stream of commerce. Indeed, had Mateel's request for relief been granted, there would have been profound adverse economic, legal and policy implications,

including the Proposition 65 litigation overload and excessive warnings that the Governor and OEHHA have said repeatedly they would like to avoid.

Center for Environmental Health Regulatory Petition

While the court's ruling is a victory for the business community, it may be only temporary. To wit, while the Mateel case was pending, the Center for Environmental Health filed an administrative petition to OEHHA demanding that OEHHA eliminate its 0.5 micrograms per day lead safe harbor level.

In response, in late 2015, OEHHA released a pre-regulatory proposal to slash the lead safe harbor by 60% (that is, from 0.5 micrograms/day to 0.2 micrograms/day). OEHHA's proposal marks an extremely significant reduction in the safe harbor that will present substantial challenges for businesses to meet.

The CalChamber is currently leading a broad based coalition opposing OEHHA's proposed reduction.

Staff Contact: Anthony Samson

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