

SWCLC

Southwest California
Legislative Council
*A Coalition of
The Temecula Valley, Menifee, Murrieta, Lake Elsinore and Wildomar Chambers of Commerce*

MEETING AGENDA
Monday, March 17, 2014

Realtor House, 26529 Jefferson Avenue, Murrieta CA

Presiding: Alex Braicovich, Chair

2014 Strategic Initiatives

Budget & Tax Reform / Job Creation and Retention / Healthcare / Infrastructure & The Environment

Call to Order, Roll Call & Introductions:

Chair Report

Agenda Items

1. Approval of January 2014 Meeting Minutes Action
2. Legislative Report #3 Action
 1. [AB 1522, as introduced, Gonzalez. Employment: paid sick days](#)
 2. [AB 2688, as introduced, Brown. Employment: violations: good faith defense.](#)
 3. [AB 1634, as introduced, Skinner. Occupational safety and health: violations.](#)
 4. [AB 2495, as introduced, Melendez. Taxation: minimum franchise tax: exemptions.](#)
 5. [SB 747, as amended, DeSaulnier. Public health impact assessments.](#)
 6. [SB 834, as introduced, Huff. California Environmental Quality Act: exemption: retooling of manufacturing facilities.](#)
3. The Toll Roads are going cashle\$\$ Jeff Bott, Transportation Corridor Agencies Information
4. Emergency Drought Relief Legislation Information
5. Legislator, Staff and Stakeholder Updates Information

Federal: Senators Feinstein & Boxer. Representatives Calvert & Hunter
State: Governor Brown, Senators Anderson & Roth, Assemblymembers Melendez, Waldron & Jones
Local: County, Cities, Utilities, EDC, Healthcare, League of Cities
6. Chamber & Council Member Announcements Information
7. Today's lunch sponsored by: [1st District Supervisor Kevin Jeffries](#) Thank you

Adjourn – Next meeting April 21, 2014.

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**Southwest California Legislative Council
Menifee Valley Chamber of Commerce
Murrieta Chamber of Commerce
Temecula Valley Chamber of Commerce
Lake Elsinore Chamber of Commerce
Wildomar Chamber of Commerce
Meeting Minutes
February 24, 2014**

2014 Chair: Alex Braicovich

Legislative Consultant: Gene Wunderlich

Directors Attendance: Steve Amante, Amante & Associates
Tony Amatulli, Amatulli Auto Parts
Pietro Canestrelli, Reid & Hellyer APC
Glen Daigle, Oakgrove Equities
Jeff George, Superior Quality Construction
Jason Hope, JD Promotions
Tony LoPiccolo, Carrington Mortgage Services
Don Murray, Commerce Bank of Temecula Valley
Joan Sparkman, Mt. San Jacinto College

Directors Absent: Dennis Frank, D.R. Frank & Associates: Shaura Olsen, Walmart; Gary Thornhill, Tierra Verde; Judy Guglielmana, Town & Country Realty, EVWMD; Greg Morrison, EVMWD

Council Guests:

Andrew Abeles, Coldwell Banker Residential Brokerage	John Miller, So Cal Gas
Emily Barry, SunPro Solar	Brad Neet, Southwest Healthcare
Jeff Bott, TCA-The Toll Roads	Jami McNees, Temecula Insurance Services
Liya Brykova, S.J. Anderson	Morris Myers, EDC of Southwest CA
Howard Dellsite, SRCAR	Myles Ross, Sunbelt Business Sales
Kenneth Dickson, Attorney/MVUSD Board Member	Adam A. Ruiz, 1 st Action Real Estate
Jeremy Goldman, So Cal Edison	Yvonne Ruiz, Wine Country Notary
Linda Hofstatter, SRCAR	Erin Sasse, League of California Cities
Deni Horne, Asm Melissa Melindez	Kimberly Uhler, TVCC Clear Blue Promotions
Raven Lewis, Asm Melissa Melindez	Denyse Wilson, Real Estate Place
Connie Lynch, SRCAR	
David Madsen, Southcoast AQMD	

Staff Present: Laura Turnbow, Alice Sullivan – Temecula Valley Chamber of Commerce
Patrick Ellis– Murrieta Chamber of Commerce
Kim Cousins-Lake Elsinore Valley Chamber of Commerce
Dorothy Wolons-Menifee Valley Chamber of Commerce
Wendy Mitchell, Betty Manrique-Wildomar Chamber of Commerce

Meeting called to order at: 12:09 by Chairman Alex Braicovich

1. Approval of Minutes Action
Directors reviewed the minutes from the January 27, 2014 meeting. **The motion was made to approve the minutes as written. The motion was seconded and carried by a unanimous vote.**

2. Legislative Report #1 Action

SB 935 (Leno) - Minimum wage: annual adjustment. **Following discussion the motion was made to OPPOSE SB 935. The motion was seconded and carried by a unanimous vote.**

AB 1513 (Fox) – Residential property; possession by force. **Following discussion the motion was made to SUPPORT AB 1513. The motion was seconded and carried by a unanimous vote.**

ACA 8 (Blumenfield) – Local government financing; voter approval. **Following discussion the motion was made to OPPOSE ACA 8. The motion was seconded and carried by a unanimous vote.**

Veterans Housing and Homeless Prevention Act of 2014 (Prop41) - **Following discussion the motion was made to SUPPORT Prop 41. The motion was seconded and carried by a unanimous vote.**

3. Regional Legislator, Staff and Stakeholder Updates Information

Assemblywoman Melissa Melendez

Report by Deni Horne

AB579 – Passed Assembly moved to Senate. This bill states that prisoners being released early from jail go into immediate supervision. Assemblywoman Melendez has moved for a full investigation into Covered California's release without consent of private information of participants to various insurance entities. AED bill is moving forward, she is meeting with teachers to talk about scope of practice. Upcoming events – Monthly coffee at Woodcrest Public Library on February 28th, 10 am – 11 am. Next month's coffee will be at a location in Wildomar for Saturday, March 22 from 11 am- 12 pm. Mobile office hours - Starbucks in Horsethief Canyon on February 27th from 1 pm – 5 pm.

Assemblyman Marie Waldron

Report by Tom Stinson

High Speed Rail – this would divert funds to go to highways, 9.1 billion in Riverside County and 10.8 billion in San Diego County. Water Bond – there are 4 or 5 different bonds in Sacramento. Assemblywoman Waldron has not signed on to them, they propose 140 million in cuts out of projects that would have benefited San Diego County. She is not supporting yet, meeting with local farm bureau leaders to see if they support any of the bonds. Her bill package includes AB 1436 (Care facilities) AB 1447 (Signal Synchronization) AB 1533 (Background checks for in-home support services) San Diego District Attorney's office is backing AB 1649 (Increasing security and penalties for hacking into government computers).

Senator Anderson

Report by Liya Brykova

Excited about SB 1152 – Exempts veterans from property taxes. The Senator will be representing SW Riverside until elections in November.

Air Quality Management District

Report by Dave Madsen

Providing Carl Moyer funding for vehicles.

League of Cities

Report by Erin Sasse

Water Bond – League wants to look and select which areas they support and then put together a recommendation. Resolution HR 29 – local governments cannot outsource public services and assets. The goal of this is to have future legislation so everyone who signs will in turn be contacted for support. This would hurt local governments. OPPOSED. Supported by a group called The Partnership for Working Families, the Taxpayer Empowerment Agenda. Very expensive and bad for our economy. SB 1262 – League is co-sponsoring with the Police Chief Association. The League is being proactive and supporting local control and a health based approach. Watching SB 1156 – carbon tax credits. Watching

SB 1129. Division meeting – March 10th, at the Riverside Convention Center, Kermit Alexander – keynote speaker. Mini play by the Riverside Performing Arts. Tours start at 4 pm, Reception at 5:30 and Dinner at 6 pm.

Southern California Edison

Report by Jeremy Goldman

Edison Community Grant Cycle opens March 1st for Non-Profit Organizations.

EDC

Report by Morris Myers

Met with the Governor's director of economic development, the growth and surplus that we are experiencing is short lived, interested in implementing the Rainy Day Fund. They have chosen Riverside County for a Pilot project that trains and helps 18 to 24 year olds get jobs. They are giving \$20,000 towards this project.

City of Murrieta

Report by Brian

March 13th – State of the City (VIP reception before) Reception at Bear Creek Golf Club at 5 pm, cost \$20. State of the City address by Mayor at Murrieta Valley High School at 6:30 (no cost).

Temecula Valley Hospital

Report by Darlene Wetton

Thanks to Gene for giving Duncan Hunter a tour. There are trained technicians at all local hospitals to help with questions regarding Covered California.

EVMWD

Report by Brenda

Water Bond – 7 different water bonds being watched.

Murrieta Valley Unified School District

Report by Ken

Local control plan survey on website.

4. Chamber & Council member Announcements

Information

Temecula Chamber of Commerce

Report by Ann Sullivan

Monthly Mixer on March 19th at the Broken Yolk in Temecula. The next Professional Development Series will be held on February 28th and the subjects will be Pinterest and Twitter.

Wildomar Chamber of Commerce

Report by Betty Manrique

Sail the Seas fundraiser- \$10 per person, winner announced at Wake Up Wildomar Breakfast on April 2, 2014. Annual Installation of Officers and Awards Dinner – March 8th at the Elks Lodge in Wildomar, from 5 pm – 9 pm.

Wake Up Wildomar Breakfast – March 5th at the Landing Zone in Lake Elsinore, from 7:30 am – 9 am with speaker Lance Christiansen from the Board of Equalization.

Murrieta Chamber of Commerce

Report by Patrick Ellis

February 26th is the Forty under 40 Awards Dinner, tickets still available. March 6th, mixer at SunPro Solar and Rock Fitness.

Lake Elsinore Valley Chamber of Commerce

Report by Kim Cousins

March 20th – Luncheon, Conversation with City Managers at the Diamond Club. Legislation Program at 12 pm on April 17th – Congressman Calvert and May 15th – EVMWD.

Menifee Chamber of Commerce

Report by Dorothy Wolons

February 25 at 7:30am, coffee with speaker Lance Christiansen. March 14 – 8th annual Green Ball Tournament. June 19th – State of the City.

Council Member Gene Wunderlich

February 27th – Assembly member Brian Jones (wine country) holding a meet and greet at Wilson Creek at 6 pm. ADA scam going on in the area.

Dorothy Wolons (Menifee Chamber of Commerce)

Scam to do with fire alarm inspections.

5. Lunch Sponsor _____ SunPro Solar _____ Alex
Braicovich thanked SunPro Solar for sponsoring lunch.

Motion to Adjourn at 1:12 p.m.

AB 1522 (Gonzalez) Employment: paid sick days

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Bill Summary:

Existing law authorizes employers to provide their employees paid sick leave.

This bill would provide that **an employee, as defined, who works in California for 7 or more days in a calendar year is entitled to paid sick days**, as defined, to be accrued at a rate of no less than one hour for every 30 hours worked. An employee would be entitled to use accrued sick days beginning on the 90th calendar day of employment. The bill would require employers to provide paid sick days, upon the request of the employee, for diagnosis, care, or treatment of health conditions of the **employee or an employee's family** member, or for leave related to domestic violence or sexual assault. An employer would be prohibited from discriminating or retaliating against an employee who requests paid sick days. The bill would require employers to satisfy specified posting and notice and recordkeeping requirements. The bill would also make conforming changes.

This bill would require the Labor Commissioner to administer and enforce these requirements, including the promulgation of regulations, investigation, mitigation, and relief of violations of these requirements. This bill would authorize the Labor Commissioner to impose specified administrative fines for violations and would authorize an aggrieved person, the commissioner, the Attorney General, or an entity a **member of which is aggrieved to bring an action to recover specified civil penalties against an offender, as well as attorney's fees, costs, and interest.**

The bill would specify that it **does not apply to employees covered by a collective bargaining agreement that provides for paid sick days, nor does it lessen any other obligations of the employer to employees.** This bill would **further specify that it does not apply to employees in the construction industry covered by a collective bargaining agreement** if the agreement expressly waives the requirements of this article in clear and unambiguous terms. However, the bill would specify that it applies to certain public authorities, established to deliver in-home supportive services, except where a collective bargaining agreement provides for an incremental wage increase sufficient to satisfy the bill's requirements for accrual of sick days.

Arguments in Favor:

Nearly every worker in the State of California will at some time during the year need some time off from work to take care of his or her own health or the health of family members. **Many workers in California do not have any paid sick days, or have an inadequate number of paid sick days**, to care for their own health or the health of family members. Low-income workers are significantly less likely to have paid sick time than other workers.

Providing workers time off to attend to their own health care and the health care of family members will ensure a healthier and more productive workforce in California. Paid sick days will have an enormously positive impact on the public health of Californians by allowing sick workers paid time off to care for themselves when ill, thus lessening their recovery time and reducing the likelihood of spreading illness to other members of the workforce.

Paid sick days will allow parents to provide personal care for their **sick children**. Parental care ensures children's speedy recovery, prevents more serious illnesses, and improves children's overall mental and physical health. Providing paid sick days is affordable for employers and good for business. Employers who provide paid sick days enjoy greater employee retention and reduce the likelihood of employees coming to work sick. Studies have shown that costs of decreased productivity caused by sick workers exceed the costs of employee absenteeism.

Many adults have significant **elder care** responsibilities requiring them to take time off from work or to work reduced hours. Employees frequently lose their jobs or are disciplined for taking sick days to care for sick family members or to recover from their own illnesses. Workers whose jobs involve significant contact with the public, such as service workers and restaurant workers, are very unlikely to have paid sick days. Often, these workers have no choice but to come to work when they are ill, thereby spreading illness to coworkers and customers.

Domestic violence and sexual assault affect many persons without regard to age, race, national origin, sexual orientation, or socioeconomic status. Domestic violence is a crime that has a devastating effect on families, communities, and the workplace. It impacts productivity, effectiveness, absenteeism, and employee turnover in the workplace. The National Crime Survey estimates that 175,000 days of work each year are missed due to domestic violence. Survivors of domestic violence and sexual assault may be vulnerable at work when trying to end an abusive relationship because the workplace may be the only place where the perpetrator knows to contact

the victim. Studies show that up to one-half of domestic violence victims experience job loss. Forty percent reported on-the-job harassment. Nearly 50 percent of sexual assault survivors lose their jobs or are forced to quit in the aftermath of the assaults. Affording survivors of domestic violence and sexual assault paid sick days is vital to their independence and recovery.

Arguments in Opposition:

While many employers voluntarily offer sick leave for full-time employees, expanding this to all employees including temporary, seasonal, and part-time employees will create a huge burden on employers.

The Employment Policies Institute recently published a limited study on the affects of Connecticut's Paid Sick Leave law that went into place in 2012 and only applies to larger employers and non-exempt service workers. Although the survey was admittedly limited in the number of businesses evaluated, the results indicate the new law has had a negative impact on growth and jobs. Of the 156 businesses that responded to the survey, 31 of the businesses had reduced other employee benefits to balance the cost of the paid sick leave; 12 had reduced employee hours; 6 had reduced employee wages; 19 companies had raised their prices; 6 companies had laid off employees; and 16 companies stated that they would limit their expansion in the state. Thirty-eight of the businesses surveyed also indicated that they would hire fewer employees as a direct result of the new law, while others stated they planned to offer fewer raises.

Similar results were reported in the February 2011 Institute for Women's Policy Research on the effect of the paid sick leave program in San Francisco. Specifically, out of the employees surveyed, 15.2% of the employees surveyed were laid off or had their hours reduced after the program was implemented; 14.1% of the employees surveyed received fewer bonuses or had their benefits reduced; and 21.7% of the employees had increased work demands. Out of the industries surveyed, businesses with 24 employees or less were the most negatively impacted by the paid sick leave program. Moreover, the report provides that "low-wage workers were more likely than higher-wage workers to report that their employers took action to reduce costs in implementing" the paid sick leave in San Francisco.

In July 2014, employers in California will already be facing a significant cost increase due to the \$1.00 increase in minimum wage that will take effect. This \$1.00 increase is in addition to the other cumulative costs employers are already facing including increased taxes under Proposition 30, increased worker's compensation rates, loss of federal unemployment insurance credit, increased energy costs, and increased costs associated with the implementation of the Affordable Healthcare Act. California employers cannot absorb all of these costs and be forced to provide paid sick leave as well, without cutting other costs such as labor. Accordingly, AB 1522 will impact jobs as well as future growth.

Status:

Referred to Coms. on Labor & Employment and Judiciary

Legislative Report Item 2	Action Item
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[AB 2688 \(Brown\) Employment: violations: good faith defense.](#)

Recommended action: SUPPORT

Presentation: Gene Wunderlich

Bill Summary:

The Division of Labor Standards Enforcement of the Department of Industrial Relations is generally charged with enforcing employment statutes and regulations, either in administrative actions or through litigation. Under existing law an employer may face administrative sanctions, civil fines and penalties, and criminal penalties for violations of employment statutes or regulations.

This bill, until January 1, 2021, would permit a person to raise as an affirmative defense that, at the time of an alleged violation of statute or regulation in a judicial or administrative proceeding, the person was acting in good faith, had sought, relied upon, and conformed with an applicable written order, ruling, approval, interpretation, or enforcement policy from the division and had provided true and correct information to the division in seeking the written order, ruling, approval, interpretation, or enforcement policy. The bill would require any person that asserts the affirmative defense to post a bond as prescribed.

Currently, employers are encouraged to refer to the DLSE's written materials for "guidance" on these topics when there is no published, on-point case available. However, employers are provided with no certainty that they will be shielded from liability if they comply in good faith with the DLSE's written opinions or interpretations.

AB 2688 eliminates this problem and provides businesses in California with the security to know that, if they seek out and receive written advice from the DLSE regarding how to comply with the law, they can actually rely upon that information. Specifically, **AB 2688** prevents an employer from being financially penalized through the assessment of statutory civil and criminal penalties, fines, and interest if the employer relies in good faith on written advice from the DLSE, and a court ultimately determines the DLSE's advice was wrong.

Arguments in Favor:

California has burdensome labor and employment laws that are unique to the rest of the country. Small businesses that lack the financial resources to hire a human resources department or outside counsel to advise them on how to comply with these labor and employment laws only have the DLSE for guidance. **AB 2688** helps such small businesses by encouraging them to seek out and rely upon the advice they receive from the DLSE regarding how to comply with the law.

Although **AB 2688** prevents the assessment of any penalties, fines, or interest against an employer who can prove their actions were based upon written guidance received from the DLSE, it still requires the employer to **pay all wages owed to an employee**. In fact, **AB 2688** requires an employer who has asserted its good faith reliance on the DLSE as a defense to post a bond for the disputed amount of wages, thereby ensuring the employee is made whole.

AB 2688 requires the employer to prove that: (1) it prospectively sought out the written advice from the DLSE; (2) it provided accurate and factual information to the DLSE; (3) that it conformed its conduct to comply with the advice of the DLSE; and (4) that no facts or circumstances changed between the time the advice was received to the time of the alleged act or omission. A **bad actor** that is operating in the underground economy is not going to voluntarily seek out advice from the regulatory agency from whom it is trying to hide. Moreover, a bad actor will not be able to satisfy any of these safeguards in **AB 2688**. This bill ensures only the good actor who proactively seeks out advice and conforms to it, will be able to avoid penalties, fines, and interest.

Notably, since 1947 the federal government has provided employers who rely in good faith upon the advice, opinion letters, and guidance of the Department of Labor regarding the Fair Labor Standards Act with a complete defense against liability. See 29 U.S.C. sections 258-259. This law, referenced as the Portal-to-Portal Act has been in existence for over 60 years, and there have not been any reported abuses of "bad actors" manipulating the system or process in order to gain an unfair advantage.

Status:

Active Bill - Pending Referral

Legislative Report Item 3	Action Item
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[AB 1634 \(Skinner\) Occupational safety and health: violations.](#)

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Bill Summary:

Existing law establishes the Division of Occupational Safety and Health in the Department of Industrial Relations to enforce employment safety laws. Existing law authorizes the division to conduct hearings, inspections, and investigations regarding alleged violations of employment safety laws and to issue a citation for a violation of those laws, including violations that regulations adopted by the division classify as serious, repeat, or willful violations. Existing law establishes the Occupational Safety and Health Appeals Board in the department, and prescribes procedures for the appeals board to hear and decide appeals of a citation. Regulations adopted by the appeals board generally stay the abatement period of a citation until the conclusion of the appeal.

This bill would prohibit the stay of an abatement period during the pendency of an appeal of a citation for a violation that is classified as a serious violation, repeat serious violation, or willful serious violation. The bill would,

however, authorize the division to stay these abatement periods, upon request, if the division determines that a stay will not adversely affect the health and safety of employees. It is virtually identical to a bill opposed by the SWCLC last year (AB 1165 Skinner) that passed but was subsequently vetoed by the Governor.

Arguments in Opposition:

AB 1634 (Skinner) proposes a costly double-appeal process that presumes guilt for employers, undermines due process with regards to citations for workplace safety violations and is unnecessary in light of recently adopted regulations for an expedited appeals process for these situations. **AB 1634** requires employers to abate safety hazards for which they have been cited prior to resolution of the appeal. In other words, while the employer exercises its right to contest the existence of a violative condition, California Division of Occupational Safety and Health (Cal/OSHA) could order the employer to fix the alleged violative condition before the Occupational Safety and Health Appeals Board (Appeals Board) has determined whether that alleged violative condition even exists.

The requirements for abatement are already grounds for appealing a citation issued by Cal/OSHA. Moreover, Cal/OSHA has authority to issue an Order Prohibiting Use where it concludes a condition, process or piece of machinery poses an imminent hazard to employee safety. Requiring employers to specifically contest an abatement where it would otherwise be stayed creates two separate appeals where currently there is one. The creation of a new ground for appeal concerning abatement is not needed and will place an unnecessary burden on Cal/OSHA, the Appeals Board, employers, and other parties. There is no evidence that the process is not working or that this legislation is necessary to usurp this regulation.

Furthermore, the expedited process not only hastens cases where abatement is truly at issue, but it also tends to encourage employers to abate hazards to avoid the shorter appeals process. In other words, when faced with the alternatives of either abatement or an expedited appeal, some employers choose abatement in order to avoid the shorter appeal process.

This new process has been in place since July of 2013. The experience over these past few months has been successful in not only identifying cases where abatement is an issue and expediting those, but also in causing most of the abatement issues to resolve themselves with abatement occurring. From July 2013 through January 2014 - 174 cases were reviewed for the expedited process. Of those, when reviewed - 51 cases were either abated or referred to the Bureau of Investigation and therefore fall outside the jurisdiction of the Appeals Board until any criminal charges are resolved. By the end of the 120 period, all but 37 cases has been resolved, and are set for hearing. According to the Board's statistics, about 7.5% of all appeals will enter the Expedited Proceedings track, with far fewer continuing with the expedited process due to not abating.

The bill also creates a potential conflict of interest because the citing authority is also the authority to rule on whether to uphold or reverse their own order to abate. We question the jurisdictional appropriateness of Cal/OSHA ruling on requests to stay abatement orders it has issued. The Appeals Board has the statutory authority to adjudicate citations issued by Cal/OSHA and appealed by an employer, following the wisdom of separation of powers and in accordance with due process. We assert that vesting the power to determine a stay of abatement should not be within the authority of Cal/OSHA when an appeal is pending with the Appeals Board.

Undermines Due Process. In many instances the merits of ordering a stay of abatement rest on whether a violation even occurred. Without a hearing on the appeal of the citation's validity, an employer could be essentially ordered without due process to abate a hazard where no violative condition exists as borne out on the full appeal of the citation.

Similar Bill Vetoed Last Year. Last year the Governor vetoed AB 1165 (Skinner), a bill **OPPOSED by the SWCLC** - a bill that proposed the same process as AB 1634. The veto message states:

I am returning Assembly Bill 1165 without my signature. I share the author's concern that workplace safety risks need to be abated quickly and not delayed during the appeals process. Unfortunately, this measure would require the creation of a separate hearing process at the Division of Occupational Safety and Health duplicating an expedited Cal/OSHA Appeals Board process which was recently adopted. I am directing Cal/OSHA to consult with the author to make sure the Appeals Board process is working as intended and, if necessary, to recommend any additional administrative or regulatory actions that may be needed.

Status:

Referred to Committee on Labor & Employment

[AB 2495 \(Melendez\) Taxation: minimum franchise tax: exemptions.](#)

Recommended action: SUPPORT

Presentation: Gene Wunderlich

Bill Summary:

Existing law generally imposes a minimum franchise tax of \$800, or the measured franchise tax of 8.84 percent of apportioned net income if that amount is in excess of \$800 (except during their first year of operation), on every corporation incorporated in this state, qualified to transact intrastate business in this state, or doing business in this state, and an annual tax in an amount equal to the minimum franchise tax on every limited partnership, limited liability partnership, and limited liability company registered, qualified to transact business, or doing business in this state, as specified. Existing law exempts a corporation from payment of minimum franchise tax in its first taxable year.

This bill would exempt from the minimum franchise tax every corporation incorporated in this state on or after January 1, 2015, for the first 5 consecutive taxable years during which the corporation does business within this state. This bill would also exempt from the annual tax every foreign or domestic limited partnership, limited liability partnership, and limited liability company that files its organizing document, or if a foreign entity its registration document, with the Secretary of State on or after January 1, 2015, as specified, for the first 5 consecutive taxable years during which that entity does business within the state.

Notwithstanding subdivision (a), a corporation that is a small business solely owned by a deployed member of the United States Armed Forces shall not be subject to the minimum franchise tax for any taxable year the owner is deployed and the corporation operates at a loss or ceases operation.

Fiscal Impact:

The Franchise Tax Board (FTB) estimates that this measure (SB 641) would result in an annual revenue loss of \$8 million in 2014-15, \$34 million in 2015-16, and \$55 million in 2016-17 (General Fund). Costs to FTB to implement the bill are unknown, but likely in excess of \$50,000 (General Fund).

Related Legislation:

SB 641 (Anderson) SUPPORTED by the SWCLC in 2013. The bill died in Committee.

AB 166 (Cook, 2011/2012) would have eliminated the minimum franchise tax. Failed in Committee

AB 368 (Morrell, 2011/2012) would have reduced the minimum franchise tax to \$400 for qualified small businesses. Failed passage out of the Assembly

Status:

Active bill - Pending Referral

SB 747 (DeSaulnier) Public health impact assessments.**Recommended action: OPPOSE****Presentation: Gene Wunderlich****Bill Summary:**

Existing law requires the State Department of Public Health to regulate various consumer products, including food and drugs, for the protection of the people of the state.

This bill, known as the **Public Health Epidemic Prevention Act of 2014**, would authorize the department *request in writing* that the manufacturer or a group of manufacturers of a **contributing product**, as defined*, submit a written response to the **department's determination that the product is a contributing product**. The bill would require the written response to contain specified information, including *an analysis* of adverse public health impacts and a mitigation plan for those impacts. The **bill would authorize the department to charge the manufacturer of the contributing product an amount not exceeding \$20,000 for the reasonable costs of reviewing the analysis and mitigation document.**

* (a) **"Contributing product"** means **a manufactured product intended for consumer consumption** in this state for which the department has credible evidence that use of the product significantly contributes to a public health epidemic and that meets both of the following criteria:

(1) The public health epidemic to which the product contributes is one recognized by the federal Centers for Disease Control and Prevention, the United States Department of Health and Human Services, the Surgeon General, or the United States Food and Drug Administration.

(2) The adverse impact on public health from use of the product in this state *has* a fiscal impact of fifty million dollars (\$50,000,000) or more annually on the state public health system, including, but not limited to, public hospitals and overall Medi-Cal expenditures.

The bill would authorize the Department to **assess a fee to recover the costs to review information submitted by manufacturers**. Other costs that are likely to be incurred by the Department in the implementation of the bill, such as the development of regulations and the identification of qualifying products, would not be covered by fee revenues and **would be a General Fund obligation**.

At this time **it is not clear how many recognized public health epidemics there are**, as staff has been unable to find a consolidated list established by the federal agencies identified in the bill. Furthermore, there could be a **great number of contributing products to each public health epidemic**. For example, the causes of **obesity**, a widely recognized public health problem, are multiple and in some cases controversial. The cost estimates above represent a conservative estimate by committee staff of the amount of staff time the Department would need to review the scientific literature and other published reports to identify contributing products and their manufacturers.

From CalChamber:

While we appreciate the author's desire to limit preventable chronic illness and deaths, and to lower state healthcare costs, the regulatory scheme outlined in **SB 747** ignores the inherent complexity of that undertaking. We believe **this program is unworkable, burdensome, duplicative of other state and federal regulatory programs, and will increase litigation against manufacturers** identified by the Department of Public Health (DPH). Further, there is no end-goal in the legislation that warrants this threat to California manufacturers.

SB 747 could also **increase costs for the state Prison Industry Authority** (PIA), which produces a host of consumer products including furniture, food, bedding, cleaning products, clothing and shoes. If, for example, cookies or fruit juice were identified as contributing products by DPH, the state would be a manufacturer subject to the requirements of the bill.

SB 747 places before DPH **is incredibly complicated, if not impossible**, and it inappropriately encourages DPH to place the bulk of the responsibility for public health epidemics on a select number of manufacturers who make consumer products that are associated with public health epidemics, but are not necessarily a cause.

Status:

Senate Appropriations as amended.

[SB 834 \(Huff\) California Environmental Quality Act: exemption: retooling of manufacturing facilities.](#)**Recommended action: SUPPORT****Presentation: Gene Wunderlich****Bill Summary:**

The California Environmental Quality Act requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. The act also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

This bill would exempt from the requirements of the act a project or an activity related to the retooling or alteration for manufacturing purposes of an existing manufacturing facility within its existing footprint. Because a lead agency would be required to make a determination on the applicability of this exemption, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

- This bill would provide that no reimbursement is required by this act for a specified reason.
- This bill would declare that it is to take effect immediately as an urgency statute.

SB 834 incentivizes the modernization of existing manufacturing facilities to maintain and create much needed manufacturing jobs. Contrary to conventional wisdom, manufacturing jobs are very much prevalent in the State of California. According to the National Association of Manufacturers, manufacturers account for over 11 percent of the total output in the state, employing almost 9 percent of the workforce. In addition, manufacturing compensation is nearly 70 percent higher than other nonfarm employers in the state.

Unfortunately, many of California's manufacturing facilities are outdated and must accordingly be retooled or altered. **SB 834** will encourage these types of projects to move swiftly through the local land use process, thereby incentivizing businesses to relocate to California and ensuring that California's existing manufacturing jobs will remain in this state.

Status:

Sen Environmental Quality

As most of you are aware, the governor recently passed an emergency drought relief bill. Here is a summary of how much will be spent and where:

Summary of Emergency Drought Relief Legislation Fiscal Provisions

Total: \$650.6 million

Infrastructure investments to improve water supply

- \$472 million (Proposition 84) to Department of Water Resources (DWR) for Integrated Regional Water Management Program grants. \$200 million of these funds expedited for drought preparedness/response projects.
- \$77 million (Proposition 1E) to DWR for Central Valley flood protection projects that provide additional public benefits, including water supply and water quality improvements.

Emergency Drinking Water, Water Supply and Water Quality

- \$4 million (CAA) to the State Water Resources Control Board (Board) to provide interim emergency drinking water supplies for disadvantaged communities.
- \$7 million (Small Community Grant Fund) to the Board for grants to small and severely disadvantaged communities to comply with water quality regulations, protect surface and groundwater quality, and reduce threats to public health and safety.
- \$2.5 million (General Fund) to the Board for drought-related water rights and conservation actions.
- \$15 million (General Fund) to the Department of Public Health (DPH) for alternative water supplies and public water system improvements.

Housing, Employment and Emergency Services for Drought-stricken Communities

- \$10 million (special funds) to the Department of Housing and Community Development for housing or utility subsidies for people who become un- or underemployed due to drought conditions
- \$2 million (General Fund) to the Employment Training Panel for job training related to drought related job losses
- \$1.8 million (General Fund) to the Office of Emergency Services for disaster recovery assistance to communities

Water and Energy Efficiency for Urban and Agricultural Communities

- \$20 million (AB 32 auction revenues) to DWR to improve water use efficiency, save energy and reduce greenhouse gas emissions from state/local water conveyance and management systems.
- \$10 million (AB 32 auction revenues) to DWR for grants to local agencies and NGOs for water/energy efficiency upgrades in residential, commercial, and institutional sectors.
- \$10 million (AB 32 auction revenues) to California Department of Food and Agriculture (CDFA) for incentives to reduce water and energy use, augment supply, and increase water and energy efficiency in the agricultural sector.

Sustainable Groundwater Management

- \$1.2 million (WDPF) to the Board for the Groundwater Ambient Monitoring and Assessment Program.
- \$800,000 (General Fund) to the Board to protect and ensure the sustainability of groundwater resources in critical basins.
- \$1 million (General Fund) to DWR to improve groundwater monitoring and reporting efforts, including, but not limited to, a new well-completion report submission system.

Water Education, Fish and Wildlife, Fire Fuel Reduction and other actions

- \$1 million (General Fund) to DWR for the Save Our Water campaign: drought-related education and outreach.
- \$2.3 million (General Fund) to Department of Fish and Wildlife for urgent fish, stream and conservation activities.
- \$13 million (General Fund) to California Conservation Corps and Local Conservation Corps for water use efficiency and fire fuel reduction programs

Enhanced State Water Resources Control Board Drought Response Authority

The drought legislation includes proposed amendments to the Water Code designed to enhance the State Water Resources Control Board's (State Water Board) ability to respond to drought. A key aspect of drought response is ensuring the existing

water rights laws are followed. To facilitate compliance, the legislation includes streamlined authority to enforce water rights laws and heightened penalty amounts for illegally diverting water during drought conditions. In addition, the drought response requires the ability to effectively establish and enforce emergency drought regulations. The legislation builds on existing authority for the State Water Board to adopt emergency drought regulations to promote conservation and prevent waste and unreasonable use of water during times of drought.

- **Consistent Drought Definition for New Drought-Related Authorities/Penalties.** Under existing law, the State Water Board has authority to develop emergency drought regulations in a critically dry year following two dry years. Because of how narrowly the existing statute was crafted, this authority is not available to the State Water Board during this year, even though reservoir and drought conditions are the worst on record. The new authorities provided by the legislation would be more flexible and allow the State Water Board to invoke them in a critically dry year that follows two below normal, dry, or critically dry years, or if the Governor declares a drought emergency. The same drought definition is used in the streamlined water right enforcement and enhanced water right drought penalties contained elsewhere in the legislation.
- **Enhanced Drought Response Authority.** The legislation expands current emergency drought rulemaking authority for the State Water Board. Currently, the State Water Board can adopt emergency regulations to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion or to promote conservation or water recycling. The legislation includes explicit authority for the State Water Board to issue emergency regulations requiring curtailment of water diversions when water is unavailable to satisfy a diverter's priority of water right and requiring reporting to the State Water Board. Any curtailment regulations would follow established California water right laws concerning priority. Those laws generally mean that senior water rights must be satisfied before junior water rights can divert anything. The legislation also allows the State Water Board to enforce its emergency drought regulations through cease and desist orders or civil penalties, and also authorizes local enforcement of the regulations as an infraction, subject to a fine of up to \$500 per day of violation.
- **Streamlined Authority to Enforce Water Right Violations in Times of Drought.** The legislation includes streamlined authority, comparable to California's water quality laws, to assess civil penalties during times of drought. Currently, many violations of water rights laws require that the State Water Board first issue a cease and desist order following an administrative hearing, and then if a person violates the cease and desist order, the State Water Board has to (1) conduct a separate administrative hearing to assess an administrative civil liability or (2) refer the matter to the Attorney General for prosecution in court. During times of drought, the legislation would authorize the State Water Board to directly enforce violations of water rights permits, licenses, certificates, registrations, regulations, and orders by pursuing civil penalties of up to \$500 per violation.
- **Higher Penalties in Times of Drought.** The legislation establishes higher penalties for certain water rights violations in times of drought. Penalties for illegally diverting water during a drought would rise from the current amount of up to \$500 per day. During a drought, the amounts would be up to \$1,000 per day and up to \$2,500 per acre-foot of water illegally diverted or used in excess of the diverter's water rights. Separately, if the State Water Board has issued a cease and desist order to a person and the person violates the cease and desist order, the person may be subject to penalties of up to \$1,000 per day. During a drought, the authorized penalty amount for violation a cease and desist order would rise up to \$10,000 per day.

Toll Roads Going Cashless

Information

Open Account, Get \$30 in Free Tolls on The Toll Roads

It pays to be first when customers sign up for new ExpressAccount™ or FasTrak™ now until March 31

Drivers on the 73, 133, 241 and 261 Toll Roads in Orange County can get \$30 in free tolls if they open a new ExpressAccount™ or FasTrak® account on or before March 31. ExpressAccount and FasTrak are the fast and convenient ways to pay tolls electronically while traveling at highway speeds.

The Transportation Corridor Agencies (TCA), which operates the 51-mile Toll Road network, introduced three new ExpressAccount types last month to give cash-paying customers more choices for how to pay tolls without stopping at toll plazas.

TCA will be removing all cash toll collection from The Toll Roads in May 2014. Customers can now pay using an ExpressAccount or FasTrak, the transponder-based electronic toll collection system. To receive the \$30 in free tolls, customers can use promo code FLYER30 when they establish a new account via thetollroads.com or The Toll Roads app, which is available in the Apple App and Google Play Stores.