





March 1, 2021

The Honorable Gavin Newsom
 Governor, State of California
 State Capitol, First Floor
 Sacramento, CA 95814

The Honorable Anthony Rendon
 Speaker, CA State Assembly
 State Capitol, Room 219
 Sacramento, CA 95814

The Honorable Toni Atkins
 President pro Tem, CA State Senate
 State Capitol, Room 205
 Sacramento, CA 95814

Honorable Members, California State Legislature
 State Capitol
 Sacramento, CA 95814

Sent via email

SUBJECT: LEGISLATION PROMOTING ECONOMIC RECOVERY

Dear Governor Newsom, Speaker Rendon, Senator Atkins, and Members:

On January 13, 2021, we sent a letter to you recommending specific actions to assist small businesses who continue to struggle as a result of the pandemic. California's small businesses are reeling from the economic fallout of COVID-19 shut-downs and need the financial bridge that grants, tax breaks, fee waivers, and elimination of additional costs/mandates offer so that they can stay afloat until our economy recovers. Larger employers, who are looking at other states to grow and expand their workforce, also need actions to encourage them to stay. California's economic recovery depends on the success of all employers to support flourishing communities and provide individuals access to jobs to support their families.

We are encouraged and appreciate the early actions you have taken to provide short-term financial relief for small businesses through SB 87 (Caballero/Min) and SB 94 (Skinner), but this is only a start. The bill introduction deadline for the Legislature was February 19, 2021. Below are several notable bills that would provide the relief, assistance, and incentives we referenced in our prior letter to help employers succeed in California.

Financial Relief/Elimination of Fees and Costs to Struggling Employers

While the statewide shut-down has been lifted, businesses in every area of the state face limits on whether, when, and how they can reopen. Recovery depends first on removing constraints on economic activity. But it will also require financial bridging until customers return and commerce is restored. Several proposals address this need with immediate financial relief to small employers:

SB 285 (McGuire) – provides financial support for a public campaign to support the California tourism industry once the California Department of Public Health determines it is safe to resume travel.

SB 430 (Borgeas) – provides agencies with discretion to waive penalties against a small business if the violation was not willful or intentional.

SB 389 (Dodd) –allows restaurants to continue to sell alcoholic beverages with to go meal orders in order to increase sales.

AB 80 (Burke) – creates partial tax federal conformity by allowing businesses who received federal grants/loans under the Paycheck Protection Program to deduct those grants/loans for business expenses.

AB 259 (Davies) – provides restaurants with a tax credit for a portion of the annual fee paid for an alcohol license.

AB 365 (O'Donnell) – excludes from the sales and use tax the purchase of any new or used drayage truck for businesses that are seeking to reduce emissions.

AB 420 (Quirk-Silva) – allows theme and amusement parks to reopen in California once infection rates have reached the moderate tier, when other businesses are allowed to open indoor and outdoor operations.

AB 664 (Bigelow) – suspends the \$800 annual minimum franchise tax for small businesses until the State of Emergency related to COVID-19 is lifted.

AB 906 (Carrillo) – exempts from the sales and use tax vehicle license fees and DMV registration fees for zero emission medium to heavy duty trucks and related infrastructure

AB 1242 (Bauer Kahan) – allows restaurants to sell alcoholic beverages with to go meal orders in order to increase sales.

AB 1313 (Bigelow) – provides employers who comply with safety guidance and protections from liability for claims that a consumer contracted COVID-19 while on the premises.

Assemblymember Low's Budget Request to Reinstate Limited Tax Credits and Net Operating Losses – last year, to address the anticipated budget shortfall, the budget limited businesses from claiming existing tax credits or net operating losses. California has a record \$22 billion in reserves. The suspension is no longer necessary and lifting it would help struggling businesses now.

Telecommuting:

Due to the pandemic, thousands of employees have shifted to a telecommuting model for work. In a Gallup Poll released in October 2020, it found that, in April 2020, over half the workforce was remote. And, while that number had dropped by approximately 10% as of September 2020, the poll found that two-thirds of the employees who have been working remotely during the pandemic would like to continue to do so.

However, with the ongoing closure of public schools, many employees – especially women – must work while also assisting school age children with distance learning. California's wage and hour laws currently make it cost prohibitive for employers to offer flexible work arrangements to assist employees with this balance or allow hourly employees the option to continue to telecommute once the pandemic is over. The following bills eliminate existing barriers to providing employers and employees with needed flexibility to work from home:

AB 230 (Voepel) – allows employees the flexibility to choose their own schedule and would eliminate the financial penalty against employers for providing that flexibility.

AB 513 (Bigelow) – allows an employee who is telecommuting to receive all required notices and posters electronically, acknowledge receipt of documents electronically, and deems final payment of wages for a telecommuting employee on the day the paycheck is mailed to the employee.

AB 1028 (Seyarto/Bigelow) – allows telecommuting employees the flexibility to choose their own and when they take meal and rest breaks, and eliminates the financial penalty against employers for providing that flexibility as well as PAGA penalties in certain circumstances.

SB 657 (Ochoa Bogh) – allows telecommuting employees to receive all required notices and posters electronically and to acknowledge receipt of documents electronically.

California Labor Code Private Attorney General Act (PAGA):

As we discussed in our earlier letter, PAGA has been misused by plaintiffs' attorneys for over 10 years to threaten employers with costly litigation, and has only served to enrich these attorneys, not protect employees. Even the Department of Industrial Relations and Labor and Workforce Development Agency (LWDA) recently noted "the failure of many private plaintiff attorneys to fully protect the interests of the aggrieved employees and the state" after reviewing over 1,000 PAGA settlements. (Department of Industrial Relations Budget Change Proposal 2019-2020)

California must reform PAGA now to eliminate frivolous litigation against employers who are struggling from the pandemic and those who may be tempted to relocate out-of-state. California is the only state that has a litigation scheme like PAGA. Below are two bills that address this issue:

AB 385 (Flora) – provides relief to employers from PAGA lawsuits for claims arising during the pandemic if the employer waives the right to arbitration.

AB 530 (Fong) – provides employers with a notice of the specific violations alleged under PAGA and an employer's right to cure those violations.

California Family Rights Act Leave (CFRA):

Last year the Governor signed SB 1383 (Jackson), which applied the 12-week protected, mandatory leave requirement under CFRA to employers with fewer than 50 employees. As a part of the budget, a program for mediation was created to resolve disputes under CFRA with employees and employers before litigation. Due to the shortened time frame in which the language was drafted for this program, there are technical clarifications that need to be made for the program to work as intended. While small employers are still burdened with the leave requirement under CFRA at a time they can least afford it, the following bill provides some relief to these employers who face the threat of litigation:

AB 1033 (Bauer Kahan/Gabriel) – establishes a more practical, streamlined procedure for implementing the small employer family leave mediation program established in 2020 by AB 1867 and fixes a drafting error in SB 1383.

CalOSHA COVID-19 Emergency Regulations:

At the end of November 2020, CalOSHA approved emergency regulations to address COVID-19 in the workplace - less than two weeks after the text became public. The regulations apply to employers of all sizes and impose costly and burdensome mandates – some of which are simply infeasible. The most onerous provisions require employers to (1) provide unlimited paid time off to any employee who was in close proximity to either another employee or a customer who has COVID-19, even if the employee never actually contracts COVID-19 or has been vaccinated, and (2) conduct weekly or biweekly testing of all employees at a worksite when there is an "outbreak." Paying for unlimited paid time off is a financial impossibility for many employers and the testing mandate not only glosses over the lack of available existing testing resources, but also remains in place even after the outbreak has been resolved. (See CalChamber CalOSHA Emergency Regulations, dated February 1, 2021). While the regulatory process may address some of these issues, the following legislation will help ensure that small business compliance with this regulation is not cost-prohibitive:

AB 62 (Gray) – provides employers with a tax credit for the costs associated with complying with the CalOSHA emergency regulations.

AB 248 (Choi) – provides employers with a tax credit for costs associated with cleaning and sanitation supplies purchased to prevent the transmission of COVID-19 in the workplace.

Grace Period for Compliance:

Throughout the pandemic, state and local health guidance has changed frequently, with little to no notice to regulated businesses. Employers must check multiple sites and multiple agencies to even find the guidance and then struggle to comply. While employers understand the challenges this pandemic has created, this changing guidance has imposed an undue burden on employers to timely comply. The following proposal seeks to address this issue and take into consideration the challenge employers are facing with the changing guidance:

SB 336 (Ochoa Bogh) – requires California Department of Public Health and local public health officials to post any updated guidance on their websites for at least 72 hours before the guidance is effective and enforceable.

Housing:

More affordable and market price housing is needed in California. The high cost of housing has become a determinative factor encouraging workers to seek employment in other states, and employers to look at other states to expand. The Legislature will need bold and aggressive proposals to make a significant impact. We look forward to seeing additional bills in this area.

We urge the Legislature to expeditiously approve these important proposals so California can begin its economic recovery and our workers and families can enjoy a prosperous and secure future

Sincerely,



Jennifer Barrera
Executive Vice President
California Chamber of Commerce

Alameda Chamber of Commerce
American Council of Life Insurers
Anaheim Chamber of Commerce
Antelope Valley Chambers of Commerce
Association of California Life & Health Insurance Companies
Brea Chamber of Commerce
Building Owners and Managers of California
California African American Chamber of Commerce
California Association of Winegrape Growers
California Attractions and Parks Association
California Business Properties Association
California Food Producers
California Restaurant Association
California Self Storage Association
California Trucking Association
Chico Chamber of Commerce
Chino Valley Chamber of Commerce
Claremont Chamber of Commerce
Coalition of Small and Disabled Veteran Businesses
Commercial Real Estate Development Association - NAIOP

Costa Mesa Chamber of Commerce
Dana Point Chamber of Commerce
Dinuba Chamber of Commerce
El Dorado County Chamber of Commerce
El Dorado Hills Chamber of Commerce
Elk Grove Chamber of Commerce
Family Business Association of California
Flasher Barricade Association
Folsom Chamber of Commerce
Gateway Chambers Alliance
Gilroy Chamber of Commerce
Greater Riverside Chambers of Commerce
Greater Stockton Chamber of Commerce
Hawthorne Chamber of Commerce
Hayward Chamber of Commerce
Housing Contractors of California
International Council of Shopping Centers
Laguna Niguel Chamber of Commerce
Long Beach Area Chamber of Commerce
Los Angeles Area Chamber of Commerce
Los Gatos Chamber of Commerce
Mammoth Lakes Chamber of Commerce
Murrieta/Wildomar Chamber of Commerce
National Federation of Independent Business
Newport Beach Chamber of Commerce
North Orange County Chamber
Oceanside Chamber of Commerce
Orange County Business Council
Oxnard Chamber of Commerce
Palo Alto Chamber of Commerce
Pleasanton Chamber of Commerce
Plumbing-Heating-Cooling Contractors Association of California
Poway Chamber of Commerce
Rancho Cordova Chamber of Commerce
Rancho Mirage Chamber of Commerce
Ridgecrest Chamber of Commerce
Roseville Area Chamber of Commerce
San Clemente Chamber of Commerce
San Leandro Chamber of Commerce
San Mateo Area Chamber of Commerce
Santa Barbara South Coast Chamber of Commerce
Santa Maria Valley Chamber of Commerce
South San Francisco Chamber of Commerce
Specialty Equipment Market Association
Temecula Valley Chamber of Commerce
Torrance Area Chamber of Commerce
Tri-County Chamber Alliance of San Luis Obispo, Santa Barbara and Ventura County
United Chamber Advocacy Network
West Hollywood Chamber of Commerce
West Valley-Warner Center Chamber of Commerce
Western Electrical Contractors Association
Whittier Area Chamber of Commerce
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