

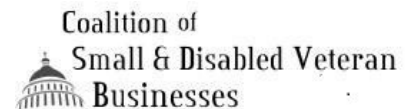
AB 84/SB 95 (TING/SKINNER) BUDGET: PAID SUPPLEMENTAL COVID-19 SICK LEAVE- OPPOSE



U.S. Chamber of Commerce



GREATER RIVERSIDE CHAMBERS OF COMMERCE



SAN FERNANDO VALLEY CHAPTER



Agricultural Council of California



International Council of Shopping Centers



Associated General Contractors (AGC)



FLOOR ALERT

March 15, 2021

TO: Members, California State Legislature

FROM: Ashley Hoffman, Policy Advocate, California Chamber of Commerce *AH*
Acclamation Insurance Management Services
African American Farmers of California
Agricultural Council of California
Aliso Viejo Chamber of Commerce
Allied Managed Care
American Pistachio Growers
Antelope Valley Chambers of Commerce
Associated General Contractors
Brea Chamber of Commerce
Building Owners and Managers Association
California Agricultural Aircraft Association
California Apple Commission
California Association of Health Facilities
California Association of Licensed Security Agencies, Guards and Associates
California Association of Sheet Metal and Air Conditioning Contractors National Association
California Association of Winegrape Growers
California Bankers Association
California Beer and Beverage Distributors
California Blueberry Association
California Blueberry Commission
California Builders Alliance
California Business Properties Association
California Business Roundtable
California Cable & Telecommunications Association
California Chapters of the National Electrical Contractors Association
California Citrus Mutual
California Cotton Ginners and Growers Association
California Credit Union League
California Farm Bureau
California Finance Service Association
California Food Producers
California Fresh Fruit Association
California Fuels and Convenience Alliance
California Manufacturers & Technology Association
California New Car Dealers Association
California Pork Producers Association
California Restaurant Association
California Retailers Association
California Special Districts Association
California Strawberry Commission
California Sweetpotato Council
California Trucking Association
Carlsbad Chamber of Commerce

Coalition of Small and Disabled Veteran Business
Commercial Real Estate Development Association – NAIOP
Construction Employers' Association
Corona Chamber of Commerce
Dana Point 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
Far West Equipment Dealers Association
Flasher Barricade Association
Folsom Chamber of Commerce
Fontana Chamber of Commerce
Fremont Chamber of Commerce
Garden Grove Chamber of Commerce
Greater Bakersfield Chamber of Commerce
Greater High Desert Chamber of Commerce
Greater Irvine Chamber of Commerce
Greater Riverside Chambers of Commerce
Greater San Fernando Valley Chamber of Commerce
Greater Stockton Chamber of Commerce
Grower-Shipper Association of Central California
Hollywood Chamber of Commerce
Housing Contractors of California
International Council of Shopping Centers
Laguna Niguel Chamber of Commerce
League of California Cities
Lodi Chamber of Commerce
Long Beach Area Chamber of Commerce
Los Angeles Chapter of the National Tooling and Machining Association
Murrieta/Wildomar Chamber of Commerce
National Association of Theatre of CA/NV
National Federation of Independent Business
Nisei Farmers League
North Orange County Chamber
North San Diego Business Chamber
Oceanside Chamber of Commerce
Official Police Garages of Los Angeles
Olive Growers Council of California
Orange County Business Council
Oxnard Chamber of Commerce
Pesticide Applicators Professional Association
Plant California Alliance
Pleasanton Chamber of Commerce
Rancho Cordova Chamber of Commerce
Redondo Beach Chamber of Commerce & Visitors Bureau
Roseville Area Chamber of Commerce
Sacramento Regional Builders Exchange
San Clemente Chamber of Commerce
San Fernando Valley Chapter of the National Tooling and Machining Association
San Francisco Bay Area Chapter of the National Tooling and Machining Association
San Gabriel Valley Economic Partnership
Santa Maria Valley Chamber of Commerce
Santa Rosa Metro Chamber
Simi Valley Chamber of Commerce
South Bay Association of Chambers of Commerce
South Orange County Economic Coalition
Southwest California Legislative Council

The ERISA Industry Committee
Torrance Area Chamber of Commerce
Tri County Chamber Alliance
Tulare Chamber of Commerce
U.S. Chamber of Commerce
United Chamber Advocacy Network
United Contractors
Western Agricultural Processors Association
Western Electrical Contractors Association
Western Growers Association
Western Manufactured Housing Communities Association
Wine Institute
Yorba Linda Chamber of Commerce
Yuba Sutter Chamber of Commerce

Sent via email

**SUBJECT: AB 84/SB 95 (TING/SKINNER) BUDGET: PAID SUPPLEMENTAL COVID-19 SICK LEAVE
OPPOSE – AS AMENDED MARCH 12, 2021**

Members of the Legislature:

The California Chamber of Commerce and the organizations listed above respectfully **OPPOSE AB 84 (Ting)/ SB 95 (Skinner)**, which mandates up to 80 hours of COVID-19 paid sick leave retroactive to January 1, 2021, for all employees who work for a public or private employer with more than 25 employees.

We are grateful for the March 21, 2021 amendments to these bills that addressed several of the business community's concerns, especially the exemption for California's smallest businesses with 25 or fewer employees. While we appreciate those amendments, we are still concerned about the burden this new leave mandate will have on employers. One year after California's stay-at-home order, many businesses are still struggling to keep their doors open and keep workers employed. We are especially concerned about the provisions making the obligation to provide paid leave retroactive to January 1 and penalties an employer could face as a result of those provisions.

AB 84/SB 95 make an employer's obligation to provide COVID-19 paid sick leave retroactive to January 1, 2021. Any employee who requests a retroactive payment must be paid upon request by the employee. At a time when employers are carefully planning how they will spend every penny to prepare for the future and ensure they can cover payroll, an employer could be inundated with requests for retroactive payments. Within one pay period the employer will be required to verify that the employee was in fact out for a qualifying reason and then pay the employee. Many employers are struggling to make standard payroll right now, let alone new, retroactive payments that they did not plan for. Any federal tax credits that a business may be eligible for will not make up for the immediate capital the employer must spend in payroll costs and may not cover the total cost. Further, the retroactive application of the law is a massive administrative burden. It is not clear how an employer would reconcile this law with a situation where an employee was out in January and used PTO, sick leave, or vacation and now says they are owed retroactive leave under Labor Code Section 248.2. And unless a business meticulously tracked the reasons for which an employee was out over the past few months, which they are not required to do under California law, it will be difficult for an employer to question any request for retroactive payment.

Finally, we are concerned about liability employers could face based on this retroactive mandate. An employee who believes they are now owed wages from January or February could argue that this mandate now also triggers penalties under the Labor Code. It will likely take costly litigation to resolve that issue, which would be unnecessary if **AB 84/SB 95** would have explicitly provided that the obligation to pay leave beginning January 1, 2021 could not be used as the basis for claiming additional penalties. Additionally, because **AB 84/SB 95** adds a new section to the California Labor Code, any error in implementing the retroactive portion of the bill or disagreement as to how much is owed under that provision is sure to lead to claims under the Private Attorneys General Act. California already leads the nation in COVID-19-related employment lawsuits. Employers cannot take any more financial hardship.

For these reasons and more, we must **OPPOSE AB 84/SB 95**.

cc: Stuart Thompson, Office of the Governor
Irene Ho, Office of Assembly Member Ting
Jessica Bartholow, Office of Senator Skinner
Lauren Prichard, Assembly Republican Caucus
Cory Botts, Senate Republican Caucus
Scott Seekatz, Senate Republican Caucus
Rebecca Hamilton, Senate Republican Caucus