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Headline Summary

- Businesses Face UI Increase
- Redraft of Green Chemistry Rule
- Consumer Product Testing Delayed
- Governor Wants Redevelopment Money
- New Storm Water Rule
- New Sales Tax Rates

Businesses Face UI Increase

The State has borrowed \$9.8 billion from the federal government to pay out a record \$23 billion in unemployment benefits in 2010. Now the Obama administration's budget would give states the option to increase taxes on employers to fund their UI shortfall.

Obama's plan increases the minimum tax wage base from \$7,000 to \$15,000. The federal minimum tax wage base has remained at \$7,000 since 1983.

The federal tax rate for unemployment insurance would be cut in half, so the federal government would not see an increase in revenue from the adjustment. The plan gives states the choice of increasing taxes, cutting benefits, or a combination of both.

WatchDog

Guarding the Business of Print

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Redraft of Green Chemistry Rule

Bowing to pressure from various environmental groups, California's Department of Toxic Substances Control (DTSC) will rewrite the green chemistry regulations that were supposed to go into effect Jan. 1, 2011. DTSC has intentionally missed that deadline and will soon begin another round of drafting.

In the current draft (November 2010) of the California Safer Consumer Product Alternatives Regulations, DTSC significantly narrowed the scope of the proposed regulations due to budget constraints. Had that most recent draft become the final regulations, most of our industry's products would not have been included in the first five years of the program.

Consumer Product Testing Delayed

On August 14, 2008, President Bush signed into law the Consumer Product Safety Improvement Act of 2008. The legislation is, in large part, a response to high-profile recalls of both imported and domestically-produced children's toys and products. Specifically, the Act establishes lead and phthalate (e.g. plasticizers that could be found in inks, coatings and adhesives) content limits and requires testing and certifying of products to ensure they do not exceed these limits.

The testing requirements would have gone in effect on February 10, 2011. In late January, the Commission extended the stay on testing and certification to December 31, 2011.

See the CPSC's official notice stating the stay of enforcement on testing and certification at <http://www.cpsc.gov/library/foia/foia11/brief/stayleadch.pdf>.

Governor Wants Redevelopment Money

Gov. Jerry Brown's budget proposes elimination of redevelopment agencies with debt owed on any existing projects paid off.

When a redevelopment plan is put into place, the property tax revenues for that area received by cities, counties and schools are frozen. As the value of the property climbs through the redevelopment agency's efforts, the increase in property tax – the increment – goes to the agency.

According to a report issued December 31, 2010 by the state Controller, California's 425 redevelopment agencies created 14,723 jobs during the fiscal year running from July 1, 2008 to June 30, 2009. From the state's perspective, that's \$217,347 for each job.

Under the Governor's budget, local property tax revenue that previously went to the agencies would be given to schools, cities, counties and special districts, thus freeing up other revenues to help balance the budget.

Meal And Rest Period Fines

Failing to provide an employee with a meal period and a rest period in the same day amounts to two violations, according to the 2nd California District Court of Appeal.

The question before the Court was whether this statute authorizes one premium payment per work day regardless of the number or type of break periods that were not provided, or two premium payments per work day – one for failure to provide a meal period and another for failure to provide a rest period.

In a February 16, 2011 decision, the Court found that the employer owes the employee for two violations because the requirement to pay a “premium wage” is contained in two separate sections of the Industrial Wage Orders.

The requirement to pay an additional hour of wages for a violation is found in Labor Code Section 226.7, which discusses the remedies for a meal period violation and a rest period violation together, rather than in separate sections.

The actual language of the law itself, however, states that if a meal or rest period is not provided, the employer owes the employee one hour of pay “for each work day that the meal or rest period is not provided.”

The court reviewed the legislative history of Labor Code Section 226.7 and concluded that the Legislature intended to match the Wage Order provisions, which clearly provide for two separate remedies — one for a violation of the required meal period and one for a violation of the rest period.

Read court findings here:
<http://www.courtinfo.ca.gov/opinions/documents/B227190.PDF>.

If you have specific questions on meal or rest period issues, you should contact Doug Moore at (323) 728-9500.

New Storm Water Rule

The State Water Resources Control Board (SWRCB) unveiled draft regulations for Industrial Storm Water Permits. The draft regulations can be viewed at: www.waterboards.ca.gov/water_issues/programs/stormwater/indstpermits.shtml

It was readily evident that the changes from the previous permitting system are substantial. There is a requirement for more sampling, testing and training, and the new regulations will have no “light industry” exemption. Even if there is no possibility of storm water exposure, there is the necessity of filing annual certification of such and the payment of a fee.

Every site must be monitored and, in most instances, each will need to purchase, at a minimum, a rain gauge, conductivity meter and pH meter. There will be an electronic and public reporting system mandated. When asked about the projected cost to industry, it was stated that they did not have the money to do a cost impact analysis on the economy. Some business groups estimate a cost of \$600 million, not counting the increased likelihood of lawsuits.

New Sales Tax Rates

Voters in 13 cities in California have approved new district taxes (sales and use taxes) that become effective April 1, 2011. The new rates apply only within each city's incorporated limits. The tax rates outside the incorporated city limits will remain the same.

The table below summarizes the new sales and use tax rates.

District Tax Area	County	Old Rate	New Rate
City of San Leandro	Alameda	9.75%	10.00%
City of Union City	Alameda	9.75%	10.25%
City of Concord	Contra Costa	9.25%	9.75%
City of El Cerrito	Contra Costa	9.75%	10.25%
City of Placerville	El Dorado	8.50%	8.75%
City of Eureka	Humboldt	8.50%	9.00%
City of Santa Monica	Los Angeles	9.75%	10.25%
City of South El Monte	Los Angeles	9.75%	10.25%
City of Novato	Marin	9.00%	9.50%
City of Marina	Monterey	8.25%	9.25%
City of Tracy	San Joaquin	8.75%	9.25%
City of Scotts Valley	Santa Cruz	9.25%	9.00%
County of Sonoma	Sonoma	9.00%	9.00%*
City of Santa Rosa	Sonoma	9.25%	9.50%
City of Wheatland	Yuba	8.25%	8.75%

*This rate is higher in the following cities which have additional district tax: Sebastopol (9.25%), Cotatit (9.50%), Rohnert Park (9.50%), and Santa Rosa (9.25%).

Some cities have a database to help identify addresses located within special taxing jurisdictions. The BOE's website contains links to city address databases (www.boe.ca.gov/sutax/cityaddresses.htm).