

ALERT

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‘Job Killer’ Bills Miss Deadline, Fail to Move



A number of California Chamber of Commerce-opposed “job killer” bills are likely dead for the year, having missed the legislative

deadline to pass the house in which they were introduced.

The following “job killer” bills failed to pass the house in which they were introduced:

Barriers to Economic Recovery

● **AB 1543 (Alejo; D-Salinas) Unconstitutional Limit on International Trade** — Increases the cost of state contracts and reinstates

a requirement already struck down by California courts by prohibiting state and local governments from contracting with many businesses that use component parts and materials from other countries in construction projects and to manufacture goods. *In Assembly Business, Professions and Consumer Protection Committee. Failed April 27 deadline to move to fiscal committee.*

● **AB 1602 (Eng; D-Monterey Park)/ SB 1470 (Leno; D-San Francisco) Impedes Economic Recovery** — Delays the recovery of California’s housing market by allowing all borrowers, including strategic defaulters and investors, to abuse the loan modification process to forestall legitimate foreclosures.

See ‘Job Killer’: Page 3

Job Creator Bills Continue to Move



California Chamber of Commerce-supported job creator bills in a number of

areas moved from the legislative house in which they were introduced before the June 1 deadline.

Still alive for consideration are job creators dealing with environmental regulation, education, economic development, regulatory reform and tourism.

Environmental Regulation

● **AB 890 (Olsen; R-Modesto) Reduces Regulatory Burdens** —

Improves safety and roadway conditions that expedite goods and people movement by exempting roadway projects from the California Environmental Quality Act process. *In Senate Environmental Quality Committee.*

● **AB 1095 (B. Berryhill; R-Ceres) Reduces Regulatory Burdens** — Ensures transparency and avoids costly litigation for business by creating a hearing board to resolve disagreements between businesses and the California Air Resources Board. *In Senate Environmental Quality Committee.*

● **AB 1755 (Perea; D-Fresno) Reduces Energy Costs** — Fairly allocates and reduces energy costs for business by authorizing a fixed

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JobsPAC-Backed Candidates Win Spots on November Ballot

JobsPAC Four candidates supported by the California Chamber of Commerce-affiliated JobsPAC were among the top two vote getters on June 5 and will move on to the General Election in November.

In recapping election results, *The Sacramento Bee* and the *Los Angeles Times* labeled the CalChamber a big winner. In a June 6 article, the *Times* said CalChamber “proved successful at trying to influence Democratic and Republican races alike.”

Among the winning candidates JobsPAC supported were Orange County Democratic Clerk/Recorder Tom Daly, who won 41% of the vote in Assembly District 69. He will face Jose Moreno (R), an Orange County eligibility technician who won 22.5% of the vote, in November.

In addition, JobsPAC-supported Merced Democrat Adam Gray, manager of a public affairs firm, came in second in District 21 with 32% of the vote. He will face business owner Jack Mobley (R), who took 45% of the vote.

In Assembly District 13, JobsPAC-supported Susan Eggman (D), a member of the Stockton City Council, won nearly 40% of the vote and will face Jeffrey Jafri (R), an engineer/farmer/businessman who won 21.5% of the vote, in the General Election.

JobsPAC support also helped Republican Peter Tateishi, chief of staff

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Cal/OSHA Corner

Employers Must Provide Vaccinations in High-Risk Environments



Mel Davis
Cal/OSHA Adviser

As a small manufacturing company, am I required to provide tuberculosis vaccinations for employees if an employee has been exposed to another employee diagnosed positive for tuberculosis?

On May 21, 2009, the Occupational Safety and Health Standards Board adopted Section 5199, Aerosol

Transmissible Diseases, which controls aerosol transmissible disease hazards.

High-Risk Environments

Employees in health care and other high-risk environments face new and emerging infectious disease threats, such as Severe Acute Respiratory Syndrome (SARS), potentially pandemic influenza strains, and long-standing or re-emerging threats, such as tuberculosis (TB) and pertussis (whooping cough). Section 5199 requires employers in specific areas of the health care environment to implement common infection control measures in order to protect employees from those threats and to enable the employees to continue to provide health care and other critical services without unreasonably jeopardizing their health.

Scope

The new regulation is based on established guidelines and practices. This standard identifies the affected industries, establishes infection control measures that are necessary to protect employees and to provide the division with the authority to enforce these measures in accordance with its legislative mandate.

The regulation is divided into 10 sections: (a) scope and application, (b) definitions, (c) referring employees, (d) aerosol transmissible disease

exposure control plan, (e) engineering and work practice controls and personal protective equipment, (f) laboratories, (g) respiratory protection, (h) medical services, (i) training and (j) recordkeeping.

The scope and application section lists nine classes of health care facilities, services or operations:

- Hospitals;
- Skilled nursing facilities;
- Clinics, medical offices and other outpatient medical facilities;
- Facilities where high hazard procedures, as defined in subsection (b) are performed;
- Home health care;
- Long-term health care facilities and hospices;
- Medical outreach services;
- Paramedic and emergency medical services including these services when provided by firefighters and other emergency responders; and
- Medical transport.

It further defines affected employees as those in facilities, services or operations that are designated to receive persons arriving from the scene of an uncontrolled release of hazardous substances involving biological agents defined within the hazard communication regulations.

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CalChamber-Sponsored Seminars/Trade Shows

More information at
www.calchamber.com/events.

Labor Law

Paid or Unpaid—Leaves of Absence for California Employees Webinar.
CalChamber. June 21. (800) 331-8877.

Hiring and Onboarding Basics Webinar.
CalChamber. July 19. (800) 331-8877.

Conducting Effective Performance Appraisals Webinar. CalChamber.
August 16. (800) 331-8877.

Employee Discipline Webinar.
CalChamber. September
20. (800) 331-8877.

FMLA/CFRA Webinar. CalChamber.
October 18. (800) 331-8877

Business Resources

YBITS 2 Bidder's Conference/Outreach

& Networking. Caltrans. June 14,
San Francisco. (510) 286-0974.

International Trade

Webinar: Financing Your Exports and Getting Paid. U.S. Department of Commerce. June 13. (202) 482-4422.
Webinar: Doing Business in Russia. U.S. Commercial Services. June 14. (410) 962-4539.

U.S.-Africa Infrastructure Conference.
Corporate Council on Africa.

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CalChamber Calendar

Public Affairs Council Workshop:
June 18, Sacramento



‘Job Killer’ Bills Miss Deadline, Fail to Move



From Page 1
AB 1602 in Assembly Banking and Finance Committee.
SB 1470 in Senate Banking and Financial Institutions Committee.

Both bills failed April 27 deadline to move to fiscal committee. Topic is now subject of discussions by a legislative conference committee.

● **AB 1897 (Campos; D-San Jose) Impedes Development** — Originally increased the cost of development and created project delays by requiring that general plans incorporate concepts related to healthy food access and urban agriculture. *With May 17 amendments, no longer a “job killer.” The CalChamber still opposes.*

● **AB 1963 (Huber; D-El Dorado Hills) Targeted Tax on Services** — Originally imposed a new sales-and-use-tax base on numerous services, disadvantaging California businesses that will not benefit by the proposed reduction in other tax rates. *Amended April 25 to require a study of proposed changes.*

● **AB 2425 (Mitchell; D-Los Angeles)/ SB 1471 (DeSaulnier; D-Concord) Impedes Economic Recovery** — Delays the economic recovery of California’s housing market by allowing borrowers, including strategic defaulters and investors, to interrupt the foreclosure process to forestall legitimate foreclosures. *AB 2425 in Assembly Banking and Finance. SB 1471 in Senate Banking and Financial Institutions. Both bills failed April 27 deadline to move to fiscal committee. Topic is now subject of discussions by a legislative conference committee.*

● **AB 2517 (Eng; D-Monterey Park) Inappropriate Wage Liens** — Creates a dangerous and unfair precedent in the wage and hour arena by allowing employees in the car washing industry to file liens on an employer’s real property or any property where work was performed, based on an alleged but unproven wage claim. *Refused passage in Assembly, May 31.*

● **AB 2540 (Gatto; D-Los Angeles) Targeted Tax on Services** — Originally imposed a new sales-and-use-tax base on numerous services, disadvantaging small businesses that may not necessarily benefit from the proposed tax exemption for the first \$10,000 in business income. *Amended April 25 to deal with different subject, so no longer a “job killer.”*

● **SB 950 (Alquist; D-Santa Clara) Unreasonable and Duplicative Tax Penalties for Employers** — Forces taxpayers to overpay their taxes in order to avoid severe penalties. *In Senate Governance and Finance Committee. Failed April 27 deadline to move to fiscal committee.*

Costly Workplace Mandates

● **AB 1439 (Alejo; D-Salinas) Automatic Minimum Wage Increase** — Increases the cost of doing business on California employers by annually indexing the minimum wage rate upwards according to the percentage of inflation even during an economic downturn. *Held on the Assembly Appropriations Committee Suspense File, May 25.*

● **AB 1808 (Williams; D-Santa Barbara) Improper Characterization of Private Employees to Allow Potential Card Check Unionization** — Significantly expands the definition of “public employee” to include employees of any private employer where a public

agency “shares” in the employment decisions of those private employees, thereby subjecting private employers to petitions of recognition from public employee unions. *In Assembly Public Employees, Retirement and Social Security Committee. Failed April 27 deadline to move to fiscal committee.*

● **AB 2217 (Pan; D-Sacramento) Targeted Burden on Companies with Call Centers** — Discourages businesses from even locating a call center in California by requiring the business to adhere to overreaching mandates. *Failed passage in Assembly Labor and Employment Committee, April 19.*

Expensive, Unnecessary Regulatory Burdens

● **AB 2424 (Portantino; D-La Cañada Flintridge) New State Goals for Forestry** — Increases costs of timber production by changing the state’s forestry goals to give equal consideration to each public need when reviewing forestry operations, including Timber Harvest Plans. *May 7 hearing in Assembly Natural Resources Committee canceled at author’s request.*

Fuel Price Increases

● **AB 2404 (Fuentes; D-Los Angeles) Illegal Tax Increase** — Increases energy costs, including fuel prices, on consumers and businesses by allocating funds from an illegal tax to various programs that are not necessary to cost-effectively implement the market-based trading mechanism under AB 32. *Held on the Assembly Appropriations Suspense File, May 25.*

For updates on the remaining “job killer” bills, visit www.CAJobKillers.com.
Staff Contact: Marc Burtat



CAJobKillers.com

Updates, news links, videos, contributions link

Employers Must Provide Vaccinations in High-Risk Environments

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All facilities that come under the umbrella of Section 5199 are required to provide a TB vaccination at no cost to the employee should the affected employee be exposed to a client/patient/ward diagnosed as having active TB. Appendix C of Section 5199, however, is an exception to this requirement.

Right to Decline

Appendix C, which is mandatory, addresses the employee's right to decline a recommended vaccination and the required documentation by the employer and the employee's options should the employee at a later date opt to accept the vaccination.

Public Service Facilities

Police services can be affected when transporting or detaining persons reasonably anticipated to be cases or suspected cases of aerosol transmissible diseases, and police services provided in conjunction with health care or public health operations.

Any operation within the public service umbrella, such as communicable disease contact tracing or screening programs where it is reasonably anticipated that there are aerosol transmissible diseases shall also be treated within these regulations.

The following facilities, services or operations that are identified as being at increased risk for transmission or aerosol transmissible diseases infection will comply with the regulation: correctional facilities and other facilities that house inmates or detainees, homeless shelters and drug treatment programs.

Other Employers

If an employer not addressed by Section 5199 learns that an employee has active TB and could have come into contact with other employees of the company, the Injury and Illness Prevention Program requirements for hazard exposure apply.

Section 5199 references a six-foot distance for use of specific safeguards.

Therefore, the action required of the employer would depend on how close in proximity the infected individual will be from others. The employer should request from the infected person a medical report from the individual's physician to determine if the person is contagious. This will permit a reasonable and informed course of action.

The employer could notify potentially affected individuals if necessary and recommend that they be tested, depending upon information received from the medical provider of the infected person. Additional action would be predicated upon the company's medical advisers.

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.

CalChamber-Sponsored Seminars/Trade Shows

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- June 18–20, Washington, D.C.
(202) 835-1115.
- Breaking Down Barriers to Exporting.
United Parcel Service. June 21, Sunol.
(510) 686-2634.
- 9th Annual Global California Conference.
Monterey Bay International Trade
Association (MBITA). June 22,
San Jose. (831) 335-4780.
- California Meets Panama – Trade
Conference. MBITA. June 22,
San Jose. (831) 335-4780.
- Webinar: Temporary Exports. U.S.
Department of Commerce. June 27.
(202) 482-4422.
- California Pavilion at Chile-Expo
Hospital 2012. Los Angeles
Area Chamber of Commerce and
CalChamber. June 27–29, Santiago,
Chile. (213) 580-7570.
- Food Taipei 2012. Taiwan Trade Center,
San Francisco. June 27–30, Taiwan.
(408) 988-5018.
- 2012 India Trade Conference. Port of Los
Angeles, U.S. Commercial Service,
Quanta Consulting. June 28, Cerritos.
(949) 480-9466.
- California Pavilion at Farnborough
2012. U.S. Department of Commerce.
July 9–15, Farnborough, England.
(949) 660-7105.
- Intersolar-North America. Northern
California Regional Center for
International Trade Development
(CITD). July 10–12, San Francisco.
(916) 563-3222.
- Webinar: Satisfying International Product
Certification. U.S. Department of
Commerce. July 11. (202) 482-4422.
- Webinar: Website Optimization. U.S.
Department of Commerce. July 25.
(202) 482-3787.
- Webinar: New INCO Terms. U.S.
Department of Commerce. August 8.
(202) 482-4422.
- Export Regulations Seminar. Bureau
of Industry and Security, Southern
California Regional District Export
Council, and U.S. Commercial
Service in Southern California.
August 8–9, Los Angeles.
- Hong Kong Food Expo. Hong Kong
Trade Development Council.
August 16–20, Hong Kong, China.
(310) 973-3175.
- CA Cleantech Company Trade Mission
to China. El Camino College CITD.
August 20–September 2, China.
(310) 973-3161.
- Access China. World Trade Center San
Diego. September 5–13, Xiamen,
Nanjing, Changzhou, and Shanghai,
China. (619) 615-0868 ext. 118.
- Green Construction Trade Mission
to Brazil. Bay Area CITD.
September 9–15, São Paulo and Rio
de Janeiro, Brazil.
- Expoalimentaria 2012. Exporters
Association, Ministry of Agriculture,
Ministry of External Relations,
and Prom Peru. September 19–21,
Lima, Peru.
- Trade Mission to the UK. U.S.
Commercial Service. October 15–17,
London.

Governor's Agency Reorganization Plan Gets Unanimous OK from Citizen Group

The Governor's far-reaching proposal to reorganize state agencies has received unanimous approval from the Little Hoover Commission, California's nonpartisan citizens' oversight group.

State law requires the Governor to submit a proposed reorganization to the commission for "study and recommendation" before consideration by the Legislature.

A reorganization takes effect within 60 days of a Governor submitting it to the Legislature, unless one house of the Legislature votes to reject it.

'Important First Step'

The Little Hoover Commission called Governor Brown's reorganization plan "an important and essential first step toward a larger restructuring of California state government to make it more effective, efficient and transparent by improving coordination and communication between departments."

The commission noted that several years of short-term budget fixes have

failed to address the state's fundamental need to change the way it operates. Commissioners found that the plan creates the clarity necessary to begin this process by, among other things:

- Reducing the total number of state agencies to 10 from 12 by eliminating two agencies.
- Reorganizing disparate departments into three new agencies that can better focus on specific missions. It brings together similar departments into a new Transportation Agency; Business and Consumer Services Agency; and Government Operations Agency.
- Completing the task, recommended by the commission in 2010, of consolidating state economic development functions into a Governor's Office of Economic Development.
- Consolidating departments within the Department of Consumer Affairs and creating a new Department of Business Oversight by combining the Department of Corporations and the Department of Financial Institutions.

Legislative Review

Legislative members of the commission did not vote in the May 22 action, but the Senate Finance Committee reviewed the plan on May 23 and a special Assembly committee assessed the plan over three hearings set for June 6, June 7 and June 13.

Observers predict that the reorganization will actually get done and, when in place, can be measured for success and the administration held accountable for results.

According to a press release from the Governor's office, the reorganization plan will go into effect unless it is rejected by a majority vote of either house before July 3.

Contact: Loren Kaye

Note: Kaye is president of the California Foundation for Commerce and Education and a member of the Little Hoover Commission.

Job Creator Bills Continue to Move in Legislature



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per-customer charge among all rate payers. *Hearing in Senate*

Energy, Utilities and Communications Committee, June 11.

● **SB 1139 (Rubio; D-East Bakersfield) Creates Regulatory Certainty** — Advances the state's environmental policies and promotes job creation by reducing the regulatory burdens for the permitting process of carbon capturing and storage projects. *Assembly Desk.*

Education

● **SB 1402 (Lieu; D-Torrance) Better Workforce Development** — Helps improve alignment of the state's workforce needs and education resources

by reauthorizing the Economic and Workforce Development program within the California Community College system. *Assembly Desk.*

Economic Development

● **SB 1161 (Padilla; D-Pacoima) Internet-Based Services** — Provides certainty and creates a level playing field for California business by assuring that Voice over Internet Protocol- and Internet Protocol-enabled services will not be regulated at the state level but rather at the federal level. *Assembly Desk.*

Regulatory Reform

● **AB 1612 (Lara; D-Los Angeles) Administrative Practices** — Promotes government accountability and a transparent process by requiring proposed new residential building standards to include the cost of compliance, potential benefits of the proposed standard and

the underlying model used to achieve those estimates. *Hearing in Senate Transportation and Housing Committee, June 12.*

● **SB 1099 (Wright; D-Inglewood) Creates Regulatory Certainty** — Provides certainty for business by creating a predictable and easy-to-track implementation schedule for new regulations. *In Assembly Business, Professions and Consumer Protection Committee.*

Tourism

● **AB 2245 (Smyth; R-Santa Clarita) Reduces Regulatory Burdens** — Maximizes state funding and promotes tourism by exempting bikeways in the Los Angeles area from the California Environmental Quality Act process. *In Senate Environmental Quality Committee.*

Staff Contact: Marc Burgat

Voters Pass Term Limits Reform; Reject Flawed Tobacco Tax



California voters this week overwhelmingly passed the term limits reform measure while rejecting the flawed tobacco tax proposal.

Proposition 28, supported by the California Chamber of Commerce, reduces the total time a person may serve in the state Legislature from 14 years to 12 years. The measure allows a person to serve a total of 12 years in the Assembly or the Senate, or a combination of both.

With 100% of precincts reporting, Proposition 28 passed, 61% to 39%.

Proposition 29, opposed by the CalChamber, would have imposed an additional \$1 per pack tax on cigarettes and an equivalent tax increase on other tobacco products to fund research for cancer and tobacco-related diseases.

The measure failed 49% to 51% percent with 100% of precincts reporting.

Proposition 28

The CalChamber Board of Directors voted in March 2011 to support an initiative constitutional amendment that altered the term limits created when voters approved Proposition 140 in 1990.

Unlike a 2008 attempt to reform term limits (Proposition 93), Proposition 28 applies its revised limits only to legislators first elected after the proposition passes. Legislators elected before the passage of Proposition 28 will continue to be subject to existing term limits.

The CalChamber opposed Proposition 93 in 2008 because it did not include a companion reform measure on redistricting, a goal subsequently accomplished with the passage of Proposition 11 in 2008.

The CalChamber supported Proposition 28 as a much-needed improvement to the current term limits law while keeping the original initiative intact.

Proposition 29

The CalChamber Board voted in March 2011 to oppose an initiative statute described as imposing an additional tax

on cigarettes for cancer research.

Editorials opposing Proposition 29 appeared in several newspapers, including the *Los Angeles Times* on April 27 and *The Orange County Register* and *The Press-Enterprise* (Riverside) on May 1.

It was estimated to raise nearly \$1 billion in new taxes, but nothing in the proposition required the funding to be spent in California or even the U.S.

Although cancer research is important, the CalChamber Board thought it was inappropriate to create a new program when the state is slashing existing essential programs, such as education and courts.

In addition, the Legislative Analyst's Office concluded that the revenue stream to fund these new programs would be declining and the Board was concerned that it would once again put existing programs at risk to keep the new programs.

First Use of Election Reforms

The June 5 election was the first to implement voter-adopted and CalChamber-supported reforms in Proposition 11, placing the drawing of competitive political boundaries in the hands of the Citizens Redistricting Commission, and Proposition 14, the Top Two Candidates Open Primary Act, which requires that all candidates for a voter-nominated office be listed on the same ballot.

The importance of more competitive elections, redistricting and term limits

was discussed in an election day opinion piece by CalChamber President and CEO Allan Zaremberg in *The Sacramento Bee*.

"California's business climate isn't a lost cause. The solution will be found in politics, and the tools are right at hand," Zaremberg wrote.

"More competition in elections, just like in business, leads to a better product."

The new open primary system means voters can vote for any candidate, regardless of the party preference indicated on the voter's registration form. Only the two candidates receiving the most votes—regardless of party preference—move on to the general election regardless of vote totals. If a candidate receives a majority of the vote (50% + 1), a general election still must be held. Even if there are only two candidates in the open primary, a general election is still required.

California's new open primary system does not apply to candidates running for U.S. President, county central committee, or local offices.

"We should all promote the positives of more competitive elections," Zaremberg wrote in the *Bee*. "If Californians want to be successful in having policies that address our priorities, we need to first be successful on the politics."

The latest election results are available at the website of the Secretary of State at www.ss.ca.gov.

JobsPAC-Backed Candidates Win Ballot Spots

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to Congressman Daniel Lungren, garner more votes in his Sacramento area Assembly District 8 race than Barbara Ortega (R), co-owner of a consulting firm, setting up a competitive election with Democrat Ken Cooley, two-time mayor of Rancho Cordova, in the fall.

The June 5 election was the first election under the Top Two Candidates Open Primary Act, which requires that all candidates for a voter-nominated office be listed on the same ballot.

The CalChamber supported the Top Two Candidates Open Primary Act and

Proposition 11, placing the drawing of political boundaries in the hands of the Citizens Redistricting Commission, to create new opportunities for competitive elections.

At least half the seats in the 80-member Assembly are going to change hands this year due to existing term limits and competitive redistricting.

As a result of voter approval of Proposition 28 at least half the candidates elected to the Assembly this year could be incumbents for the next 12 years.

Staff Contact: Marty Wilson

Economic Recovery Spreading Slowly; State Unemployment Rate Remains Concern

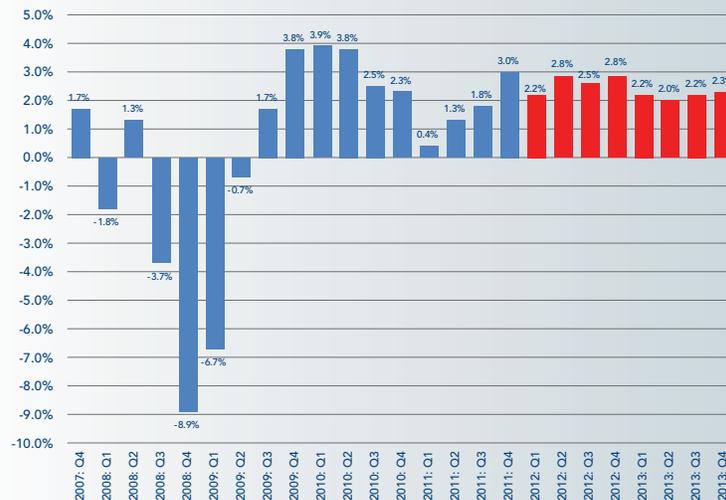
When the California Chamber of Commerce Economic Advisory Council met on the phone in early May, the headline economic news had just processed disappointing job and gross domestic product (GDP) growth in the first quarter of 2012 (although earlier numbers were, as has become quite customary, revised upward).

Meanwhile, European issues had gone through their usual ebb and flow of anxiety with financial markets obsessing on Spain, and sometimes Italy. This spread perception risks, which many on the council deemed unnecessary, speculative, or simply annoying.

Furthermore, French election results gave Nicolas Sarkozy the Donald Trump treatment and replaced him with the unflashy socialist François Hollande. This, the anti-austerity election results in Greece and the previous resignation of the Dutch prime minister put the so-called austerity policies in Europe so championed by the Germans and the British on notice as potentially unsustainable.

The assessment of the CalChamber's economic advisers echoed the disappointment about the recently slower economic data. However, the discussion also suggested that short and intermediate GDP growth prospects will continue to be in the 2% to 2.5% range, which is essentially in line with the recent assessment of the Fed's economic forecast and the blue chip outlook. While the private business sector will experience moderate output and job growth, government spending will continue to be a drag on overall economic growth.

Real GDP Growth in the U.S.



Sources: U.S. Bureau of Economic Analysis, KruegerEconomics

This report will focus on the current situation and convey forecasts about some key statistics, such as the expected economic and job growth in 2012. Then, it will discourse about crucial California subsectors, agriculture, tourism, housing, water, and electricity issues.

The main notions about the current situation coming out of the discussions of the council's distinguished economists are the following.

Foreign Sector

California exports continued to be good in 2011, but its growth prospects will be lower than in 2012 since its trading partners are likely to grow at a lower rate this year. Nevertheless, while global GDP growth will slow a bit, it will still be in the 3.5% range in 2012, which means that California export growth will continue this year.

- As noted in previous reports, Europe will continue to muddle through its debt crisis. The French people just dismissed severe austerity policies and so did the Greeks. The result of the French election

is likely to dampen enthusiasm for more austerity policies and may result in a subtle shift to a more pro-growth stance throughout Euroland. In any event, it now appears likely that the perceived recessionary environment in Europe will be short lived and shallow.

- Euroland's (15 countries) growth was 0.5%, led by weak growth in Germany and France, and quite good growth in Eastern Europe, but held back by recessions in Italy, Spain, Greece and Portugal.

- Furthermore, the European Central Bank has engaged in

quantitative easing and its balance sheet is now close to the \$4 trillion range. With the launching of the three-year longer-term refinancing operations (LTROs) in December 2011, the euro bank's balance sheet has jumped from about 5% of GDP before the crisis to about 10% in 2009–10 and now close to 18%. This is just a tad lower than the levels reached by the balance sheets of the Bank of England and the Fed during the height of the financial crisis (respectively 23% and 20%).

- Asia will continue to grow, albeit at slower rates. China's growth will go from 9.5% to 8.7% due to slowing exports. India's growth will also slow to 7.5%. South American countries will continue to exhibit good growth rates, with Brazil expected to grow 2.7% in 2012, Mexico 2.5%, Argentina 7.2%, and Chile 3.4%.

- As a result of this global economic outlook, California export growth will slow down in 2012, but exports will continue to grow at decent rates.

- However, all of this quantitative easing throughout the globe in response to

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Recovery Spreading Slowly; State Unemployment Rate Remains Concern

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the financial crisis has been raising the risk of future inflation.

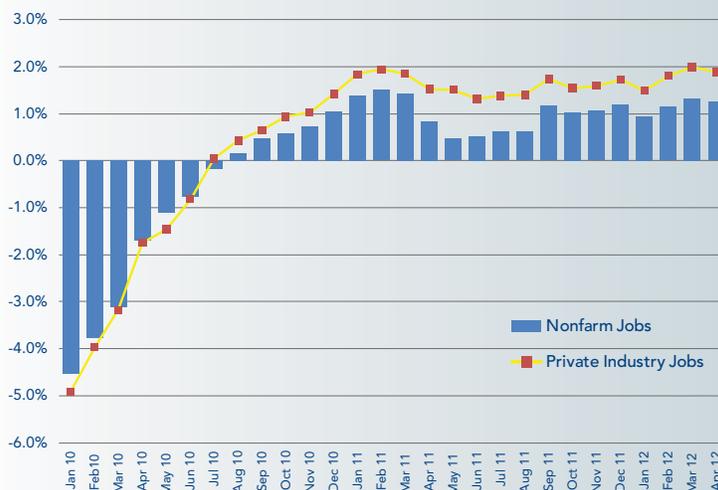
U.S. Situation

As predicted before, the U.S. economy did not dip back into another downturn. To be true, job and GDP growth in the first quarter of 2012 disappointed many analysts, but by spring of this year the U.S. economy had gained—undeniably—moderate growth momentum. Manufacturing is growing, construction is contributing to GDP growth, and consumers are spending again. Even the fiscal drag, which still poses a problem in the short term, may be easing off.

- GDP growth accelerated to 3% in the fourth quarter of 2011 from 1.8% in the third quarter of 2011. By the first quarter of 2012, GDP growth dropped back to 2.2%, but we wouldn't be surprised if that rate would be revised upward to 2.5%. The first quarter growth in U.S. real output was driven by personal consumption, exports, inventory investment, and residential fixed investment. These contributions to growth were partially offset by negative contributions from government, nonresidential fixed investments, and increased import numbers (oil prices).

- Recent trends in U.S. job data seem to question the idea that U.S. businesses are beginning to hire again. Just 115,000 payrolls were added in April, which follows a revised gain of 150,000 in March from an earlier reported number of 120,000. Again, an upward revision would not be surprising. Of all reasons, the good weather in January and February was blamed on the disappointing job numbers in March and April. There is merit that extra jobs were stolen from the spring. In May this year, that weather effect on the statistics will have run its course and we should see at least a return to the average growth of about 160,000 added jobs so far

Nonfarm and Private Sector Job Growth in California



Sources: Employment Development Department, KruegerEconomics

this year. Simultaneously, the unemployment rate fell from 8.2% in March to 8.1% in April, but mostly because more workers became discouraged in their job search.

- Fiscal drag still represents a constraint to U.S. economic growth. The remaining stimulus from the 2009 recovery act has faded. However, the fiscal drag seems to be easing somewhat. In the first quarter of 2012, declines on government spending shaved off 0.6 percentage points from GDP growth; in the fourth quarter of 2011 it shaved off 0.84 percentage points.

- In light of the signs of continued sustainable growth in the private sector and a slowing of the expected fiscal drag, the economic advisers predict that GDP growth will be around 2% to 2.5% this year, while the nation's unemployment rate could drop below 8% by the presidential elections next November. Should it materialize, this forecast will help neither President Barack Obama nor Mitt Romney.

California Economy Slow But Continues to Recover

Initially, January and February California job growth statistics looked like the state's job situation had stopped gaining traction. However, March job statistics, and revised numbers for January

and February signaled that the state may have gotten its "mojo" back.

The improved job picture was broad-based in terms of industries and regions. Nine major industry sectors added jobs on a year-over-year basis in March 2012. They were: mining and logging; trade, transportation and utilities; construction; information; financial activities, professional and business services; education and health; leisure and hospitality.

The California economic recovery continued to broaden also on a regional basis. Twenty-two regions added jobs on an annual basis, while six regions still lost

payrolls. It is noteworthy and a very good sign that the jobs recovery is not confined any more to urban coastal and high tech centers, but spreading out to the California hinterlands.

Looking forward, the CalChamber's economic advisers continue to be concerned about California's high unemployment rate, which was still a very high 11% in March 2012, but down from 11.9% in March 2011. They agreed on a forecast in the mid to high teens by November 2011.

The state's overall job growth will continue to plug along at 1.5%, aided by relatively good income and taxable sales growth, both of which have picked up lately.

Also, new home construction seems to be turning the corner and will contribute modestly to the state's economic activity in 2012, albeit not with the same vigor as in previous economic recoveries.

Housing Still in Limbo-Land But Shows Sign of Improvement

California housing is still sluggish. New housing production was up on an annual running basis (adding up the last 12 months) in the first quarter of 2012 by 13.2%, driven by a sharp rise in multi-

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family construction, which grew 39% during the same time period using the same measure.

Multi-family construction growth will continue to lead the state's housing market this year as more and more public builders have rediscovered the urban infill market.

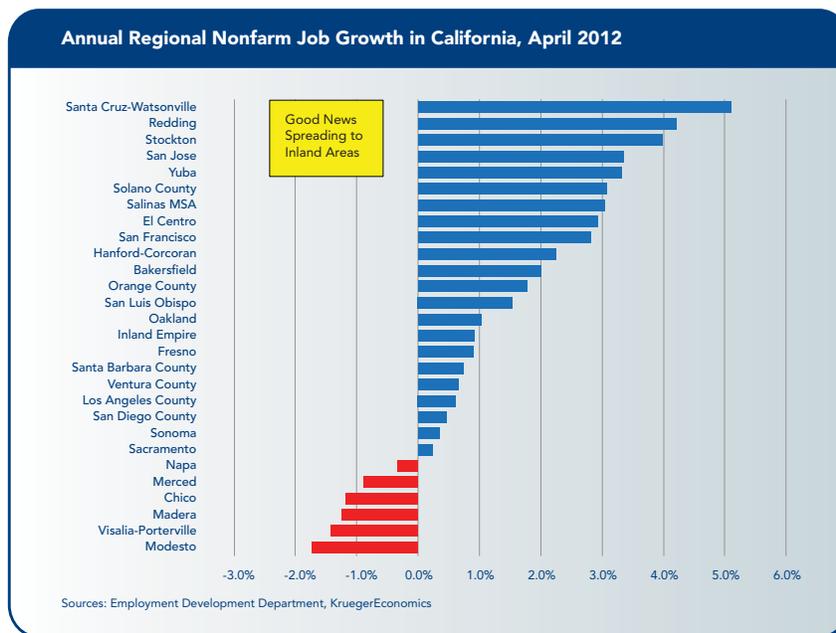
The state's home resale market is still bouncing along the bottom with essentially no regional differentiation. A major positive is historically high ownership housing affordability plus surprisingly low inventory to sales ratios in the state's Multiple Listings Systems, which might suggest that the worst of the California housing crisis is over. In some urban areas, we already see mild home price appreciation.

Looking forward, the faster trajectory in economic fundamentals plus the higher quality of jobs in coastal areas should begin to trigger modest home price appreciation (3%–4%) in the urban areas of Southern California and the San Francisco Bay Area this year. This will be supported by the fact that the housing system in those areas has a lot more positive homeowner equity than is usually recognized. Also, the vacancy rate of the housing stock is very low in those regions.

Furthermore, the pipeline for new foreclosures continues to shrink. According to various delinquency sources, 90-plus days delinquency rates have dropped recently in market areas that used to be ground zero of housing distress, such as the Inland Empire and Stockton.

Agriculture Improving

The value of California agricultural production in 2011 increased by 10%+ because of higher yields and/or stronger prices. Export demand helped strengthen



market prices. Overall growth in export demand for California agricultural and food products may slow slightly in 2012, because of moderating global economic growth. Despite the recent strengthening of the U.S. dollar, U.S. agricultural food products will remain relatively competitive this year for most importers.

Livestock

Poultry producers have been especially burdened by high feed costs and have reduced their production. Beef prices may decline some early this year, but may return to record levels during the latter months, as the pipeline of feed cattle is cleared. Grazing conditions this year have suffered, because of the lack of precipitation. Fortunately, rain in March and April helped pastures recover a bit.

Fruits, Nuts and Vegetables

Producers of vegetables, nuts, grapes and other fruits generally enjoyed good production conditions and good prices in 2011. Prospects for 2012 will depend upon local and remote weather conditions in competing markets. As usual, the latter will help determine market prices. There have been sufficient chilling hours for dormant tree and vines, though temperatures have been costly for citrus growers this past winter, especially for mandarin varieties.

There has been some severe hail damage in the heart of the San Joaquin Valley this spring, resulting in significant losses for orchards and vineyards. On the other hand, weather has been too good for vegetable production, yielding large crops and reducing market prices so far this year.

Wine/Wine Grapes

California wine grape growers will benefit from much higher prices this year, as wine sales improve and the U.S. continues to make imports less competitive. The weather impact on wine crops on the Coast last year has

sharply reduced inventories. Plantings of new vineyards in California continue to increase.

Field Crops

Field crop producers were challenged by delays in plantings and harvest in 2011, yet high prices for grains, hay and cotton benefited most producers last year. Such prices have declined, but the prospects for 2012 remain above historical averages.

Weather

Current reservoir storage is higher than historical averages in most regions, other than the Colorado River reservoirs, though the latter is much improved over 2010. Many agricultural surface water users expect to get significantly less deliveries this year compared to 2011, despite the improved precipitation conditions in March and April.

Some growers in the San Joaquin Valley may get only 40% of surface water deliveries. These short deliveries, combined with alternative supplies, will result in higher cost of irrigating crops this year.

Labor

Agricultural labor availability continues to be ample, though there were some difficulties during the late harvest in 2011, as poor weather threatened the

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harvest and other U.S. regions competed for the same workers.

California fruit and vegetable producers are apprehensive about the availability of labor in the near term, because of the possible changes in federal regulations requiring more stringent verification of workers' documentation.

California Tourism

California tourism continued to exhibit the positive trends recorded in the previous report as the tourism business overall was up 5% in 2011. Domestic airport travel is up 4%–5%, and international travel increased by several percentage points in 2011. Hotel occupancies are increasing, although hotel rates are still struggling.

The strongest areas of tourism are San Francisco, which is booming, and the theme parks such as Disney, Legoland and Six Flags. The restaurant business is stabilizing but profitability is still hurt by health care issues. The RV park business is fair.

Water/Electricity Conditions Fine

No capacity shortages expected.

Electricity

Electric utilities are moving toward time-of-use rates for all, and Critical Peak Pricing (CPP) or Peak Day Pricing (PDP) for many. This latter has a super peak price at times of system stress. The utilities will issue warnings on the day before that the next day is a critical day, and customers will be billed very high rates for use during the next afternoon.

The California Public Utilities Commission (PUC) is requiring that customers are defaulted to the more complicated rate where there are options. That is, customers will be put on the CPP rate automatically, but on request may be shifted to time of use.

Utilities are trying to slow down the schedule (currently planned for the end of this year) and make the easier rate the default, but so far with limited success.

The Air Resources Board's (ARB) cap-and-trade program will begin implementation. Starting January 2013, electric generators will need to buy permits to emit carbon or equivalents. This is currently expected to add around a half-cent per

kilowatt hour (kWh), but the actual cost level is unclear. Free permits will be distributed in June, largely to electric distribution utilities. These mostly will be sold at quarterly auctions. Municipal utilities do not need to sell theirs, but can use them directly to offset their own emissions.

Investor-owned utilities need to sell and buy; they cannot use the permits they are given directly. The first "practice auction" will be in August. The first "real auction" will be in November.

The revenues from the sale of the free permits are supposed to offset some of the costs, but how this will work still has to be determined. Commissioner Michael R. Peavey has suggested that the PUC will give money to residential customers, but that money that could go to non-residential customers will be used for other options, for example, conservation or renewable generation.

There is some concern about how the auction market will work. ARB plans to monitor the market, and has a small reserve of permits that can be released to help limit market swings. However, it is a new market and it is not clear how the mechanisms will work.

Rates are generally continuing their upward march.

Water

Currently dam storage is above average everywhere except the Colorado, where it is still below average but improving. California deliveries from the Colorado are expected to be maintained.

Planned water deliveries for the State Water Project (SWP) are still below average, but not by a lot. The Department of Water Resources has announced that it will deliver 60% of the requested amounts, which it describes as "not unusually low."

Wet conditions last year allowed the SWP to deliver 80% of the requested amount. Reliability studies have estimated average year deliveries to be 63%. In other recent years the delivered amounts were 50% in 2010, 40% in 2009, 35% in 2008, and 60% in 2007. The last 100% allocation was in 2006.

For the Central Valley Project, the delivery varies by region. San Joaquin Valley agriculture receives the least, and this year has been allocated 55% of contract

amounts, which is below the 20-year average final allocation of 62%.

Summation

The outlook is that global economic growth will still run at 3.5%. While the California export business will slow down as a result, it will continue to grow at a good rate.

Furthermore, the construction industry will finally become a contributor to economic growth in the Golden State. California housing prices are likely to trough in the first quarter of 2012 and then rise very gently. Tourism and agriculture will also give the state an economic boost in 2012.

Water and electricity concerns have abated, but the recent dry weather is causing concerns again, particularly in agriculture.

Declining government spending on the state and local levels will be a drag on overall output, but this will be offset by strengthening and sustainable business activity in the private sector.

What is encouraging is that the economic recovery is spreading to the California hinterlands. It is possible that all major California regions will end up in the positive growth column by the end of 2012.

Staff Contact: Dave Kilby



The California Chamber of Commerce Economic Advisory Council, made up of leading economists from the private and public sectors, presents a report each quarter to the CalChamber Board of Directors. The council is chaired by Gerd-Ulf (GU) Krueger, principal economist for KruegerEconomics.

Publication of this report is a project of the California Foundation for Commerce and Education.

CalChamber Identifies New ‘Job Killer’ Undermining Dispute Resolution



The California Chamber of Commerce has identified a new “job killer” bill that creates uncertainty for businesses regarding

the enforceability of arbitration agreements.

SB 491 (Evans; D-Santa Rosa) also dramatically increases litigation costs by encouraging more class actions and pushing more cases into the courts.

SB 491 is another attempt to undermine arbitration and is substantially broader than last year’s AB 1062 (Dickinson; D-Sacramento), which would have weakened the enforcement of arbitration agreements by limiting appeals. AB 1062 was voted down by the Senate.

SB 491 invalidates any provision in a form contract proposing to waive the right of one of the parties to pursue a class action, class arbitration, or a private attorney general action, and would apply broadly to most employment contracts and consumer sales contracts, and also to many business-to-business contracts. Although the language of SB 491 appears to create a general contract rule, in reality class waivers are used only in arbitration agreements, meaning the bill actually creates a rule targeting arbitration.

Arbitration permits parties to efficiently and economically resolve a dispute through a neutral person. Fairly drawn arbitration agreements benefit businesses, employees, and consumers—and reduce pressure on an already-burdened court system.

Quicker, Less Expensive, Fair

Arbitration and mediation provisions work well in many areas of law. The cost and time savings of arbitration offer considerable benefits to both parties. In lieu of going to trial, using arbitration to settle a dispute is a widely accepted, faster, and less-costly alternative to the court system.

A 2003 survey by the American Bar Association (ABA) found that 78% of trial lawyers felt arbitration was

timelier than regular litigation. A recent Cornell study also found arbitration was significantly less time consuming than litigation.

A 2005 Harris Poll found arbitration litigants—both plaintiffs and defendants—were very satisfied with arbitration. Likewise, a survey conducted by the *Dispute Resolution Times* found that 83% of employees favored using arbitration.

Circumvents Court, Congress

SB 491 is a blatant attempt to circumvent the U.S. Supreme Court and Congress in order to benefit class action attorneys.

SB 491 is an effort to do what is not possible or warranted — overruling the U.S. Supreme Court and Congress. Recently, the U.S. Supreme Court held in *AT&T Mobility LLC v. Concepcion*, 131 S.Ct. 1740 (2011) that the Federal Arbitration Act (FAA) pre-empts California state law, which had deemed class arbitration waivers in standard consumer contracts per se unconscionable.

The court struck down California’s rule on the ground that such a rule “interferes with arbitration” to an extent not tolerated by the FAA. This bill runs afoul of the court’s ruling because, while seeming to apply neutrally to all standardized contracts, it establishes a state-law rule that invalidates a clause that can arise only in an arbitration setting.

Additionally, although it may be argued that this bill would allow classwide arbitration, the U.S. Supreme Court has also held that a party may not be compelled to submit to class arbitration unless the parties agreed to do so (*Stolt-Nielsen S.A. v. Animal Feeds International Corp.*, 130 S.Ct. 1758 (2010)).

In short, SB 491 creates a litigation morass. On one hand it would have the effect of compelling classwide arbitration, while on the other hand, it would have a court striking arbitration altogether. In any case, the result is increased complicated, expensive litigation.

Overburdened Courts

California’s court system is struggling to serve the needs of Californians. This will be the fourth year of deep budget reductions to the judicial branch.

In the recently released May budget proposal, a total of \$544 million is targeted to be slashed from the state court budget. This comes on top of large, cumulative cuts over the last three years.

Courts have already been reporting they may have to close civil courtrooms and expect increased time delays to resolve civil lawsuits.

Arbitration is a valuable alternative method to resolve disputes and should be encouraged. Instead, SB 491 would send more cases into a system that can ill-afford them.

California-Only, Anti-Business Treatment

California’s economic recovery depends on its ability to create an environment where job creation can flourish. Unfortunately, California’s unemployment rate continues to be one of the worst.

In *Chief Executive’s* eighth annual survey of CEOs’ opinion of Best and Worst States in which to do business, California was ranked last for the eighth consecutive year.

Moreover, in a 2011 Harris Poll, California’s litigation environment continued to be ranked as one of the worst in the country, which affects companies’ decisions to grow or locate business.

SB 491 undermines the ability to rely on and enforce arbitration agreements in the state. During a time when court resources are overburdened already, California should promote arbitration rather than undermine it.

Action Needed

SB 491 will most likely be assigned to the Assembly Judiciary Committee. Contact members of Assembly Judiciary and your Assembly representative and urge them to **oppose SB 491**.
Staff Contact: Mira Guertin

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Updated for New Meal and Rest Break Rules

CalChamber's *2012 California Labor Law Digest* provides guidance and best practices on complying with the California Supreme Court's recent *Brinker* decision. The Court's ruling requires employers to examine meal and rest break policies and strengthen timekeeping practices.



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