

# ALERT

VOLUME 41, NUMBER 7 • MARCH 13, 2015



## Double-Pay Holiday Bill Set for Committee Hearing



### OPPOSE

Labor and Employment Committee on March 18.

The CalChamber opposes [AB 67 \(Gonzalez; D-Sherman Heights\)](#) because it increases costs, creates a competitive disadvantage, and potentially

A California Chamber of Commerce-**opposed** bill requiring double pay for work on certain days is scheduled to be considered by the Assembly

violates employers' constitutional rights by forcing employers to recognize certain days as "family holidays" and compensate all employees with double pay for work performed on those days.

AB 67 significantly increases costs and interferes with employers' religious beliefs by forcing all employers to recognize Christmas and Thanksgiving as family holidays by paying employees double compensation for hours worked on those days, which will place brick-and-mortar stores at a competitive disadvantage to online retailers.

*See Double-Pay: Page 4*

## Don't Make One Employer Liable for Another's Misclassification



The California Chamber of Commerce has joined a "friend of the court" brief arguing for the application of the plain meaning of the California law regarding "willful misclassification"

of independent contractors.

Also signing the brief in the case of *Noe v. Superior Court* were the U.S. Chamber of Commerce and the Civil Justice Association of California.

### Theory to Reject

The brief urges the California Court of Appeal to reject the theory that a company can engage in "willful misclassification" under California Labor Code Section 226.8 simply because it contracts with another company that is alleged to have improperly classified employees as independent contractors.

The brief explains that the plaintiffs' theory ignores the plain meaning of the statutory text and would unreasonably impose severe liability, including civil penalties, on companies that had no control over the allegedly improper decision.

"Willful misclassification" requires a voluntary act on the part of the person or employer in conjunction with the intent

*See Don't Make One Employer Liable: Page 8*

## Board Hears from Food/Ag Secretary, Senator



Members of the CalChamber Board of Directors hear presentations from Karen Ross, secretary of the California Department of Food and Agriculture, and Senator Bob Hertzberg (D-Van Nuys) at the March dinner and meeting. Ross says the diversity of California's multibillion-dollar agricultural industry has been of some help in coping with the fourth consecutive drought year. Hertzberg explains why he introduced SB 8 to serve as the basis for a discussion on changing the mix of taxes in the state budget in order to generate more revenue.

### Inside

[Economic Advisory Council Report: Pages 5-7](#)

## Labor Law Corner

# Time Off to Care for Healthy Child Not Covered Under Family Leave Act



**David Leporiere**  
HR Adviser

*My company has more than 50 employees, and one of the employees, who is Family Medical Leave Act (FMLA)/California Family Rights Act (CFRA) eligible, is asking for time off to look after his 4-year-old child because the employee's wife is unable to look after the child*

*due to her serious health condition. Would this qualify as a leave of absence under FMLA/CFRA?*

Simply put, no. The general rules related to qualifying reasons for leave under these acts are listed in the Code of Federal Regulations (CFR).

### Leave Qualifications

Title 29, Section 825.112 states the following:

*Circumstances qualifying for leave. Employers covered by FMLA are required to grant leave to eligible employees:*

- (1) For birth of a son or daughter, and to care for the newborn child;*
- (2) For placement with the employee of a son or daughter for adoption or foster care;*
- (3) To care for the employee's spouse, son, daughter, or parent with a serious health condition;*
- (4) Because of a serious health condition that makes the employee unable to perform the functions of the employee's job....*

### Time Off Not Covered

In your scenario, your employee is asking to stay home to care for a child who does not have a serious health condition (defined at 29 CFR Section 825.113 as "an illness, injury, impairment or physical or mental condition that involves inpatient care... or continuing treatment by a health care provider").

Although the employee's wife may have a serious health condition, your employee has stated that he is staying home only to watch over his child, and not to care for his wife. Consequently, he is not asking to take time off to care for the person with a serious health condition, and would therefore not be entitled to a leave of absence covered by FMLA/CFRA.

*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](http://www.hrcalifornia.com).*

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## CalChamber-Sponsored Seminars/Trade Shows

More information at [www.calchamber.com/events](http://www.calchamber.com/events).

### Labor Law

HR Boot Camp. CalChamber. April 23, San Diego; June 10, Santa Clara; August 18, Sacramento; September 2, Laguna Beach. (800) 331-8877.

### Business Resources

Federal/State Basic Payroll Tax Seminar. Employment Development Department. May 15, Carson. (562) 903-2168.

34th National UI Conference. National Foundation for Unemployment Compensation and Workers' Compensation. June 17-19, San Diego. (202) 223-8904.

### International Trade

Economic Summit. California Hispanic Chambers. March 20, Ontario. (916) 444-2221.

Agrofood Business Mission to Mexico. ProMexico. March 23-24, Morelia, Michoacan, Mexico. (415) 354-1715.  
SelectUSA Investment Summit. Select USA. March 23-24, National Harbor, Maryland. (202) 482-6800.

Asia/Pacific Business Outlook. U.S. Commercial Service. April 13-14, Los Angeles. (310) 235-7212.

CalAgX Export Training Program. Fresno Center for International Trade Development. April 14, Salinas; April 15, Clovis; April 16, Sacramento. (559) 324-6401.

California-Mexico Trade Initiative. San Diego Regional Chamber. April 19-22, Mexico City, Mexico. (619) 544-1316.

MEXPORT Trade Show 2015. Otay Mesa Chamber. April 23, San Diego. (619) 661-6111.

Ex-Im Bank's Annual Conference. Export-Import Bank of the United States. April 23-24, Washington, D.C. (703) 536-4992.

*See CalChamber-Sponsored: Page 3*

## CalChamber Calendar

*Legislative Briefing and Host Breakfast:  
May 27-28, Sacramento*



# Heat Illness Rules: More Changes Coming; CalChamber Seeks Clarification of Terms



The California Division of Occupational Safety and Health (Cal/OSHA) Standards Board has adopted changes to California's unique heat illness prevention regulations.

The Cal/OSHA Standards Board (OSHSB) sent the revised regulations to the Office of Administrative Law for final approval, asking for an accelerated effective date of May 1, 2015, rather than the July 1 operative date that would happen without the special request.

It is anticipated that the revised regulation will be approved so employers need to update their heat illness prevention program to be in effect for this summer.

The California Chamber of Commerce and the Heat Illness Prevention Coalition have asked Cal/OSHA to clarify some of the provisions in the revised regulations.

## Revisions

The changes include:

- Access to shade must be provided to

all employees on rest and recovery breaks, as well as on meal breaks, when temperatures reach 80 degrees, instead of the current standard of 85 degrees;

- Fresh, pure and suitably cool water must be provided to employees, instead of the current standard of potable water;
- Monitoring of employees taking a "preventative cool-down rest";
- Changes to emergency response requirements; and
- Changes to high heat procedures.

## Heat Illness Prevention Coalition

Members of the Heat Illness Prevention Coalition attended the OSHSB's February 19 meeting in Oakland and reiterated their concerns that the changes will hurt employers while not creating safer outdoor workplaces in California.

Numerous new revisions remain a concern to the coalition and lack clarity, creating compliance challenges for employers.

Cal/OSHA has indicated that guidance will be provided in time for employers to develop and implement new procedures in compliance with the new rules, and last week invited stakeholders to identify topics and issues with which we

have questions and request guidance for compliance.

## Coalition Asks Cal/OSHA for Clarification on New Rules

Provisions on which the CalChamber and coalition have asked Cal/OSHA for guidance include:

- What would deter access to or discourage use of shade?
- What is "suitably cool" water?
- Do bottled water and potable municipal water comply with the standards for what the employer must supply?
- How to calculate the required amount of shade.
- Clarifying specifics of the high-heat procedures, including the conditions under which a pre-shift meeting is required.
- The signs and symptoms of heat illness and appropriate first aid or emergency medical response.

## More Information

More information about the regulations is available at [www.dir.ca.gov/oshsb/oshsb.html](http://www.dir.ca.gov/oshsb/oshsb.html)

**Staff Contact: Marti Fisher**

## CalChamber-Sponsored Seminars/Trade Shows

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China-U.S. Business Summit. China-U.S. Business Summit Organizing Committee. April 26-28, Los Angeles. (626) 810-0820.

Making Hay: The Future of U.S. Competitiveness. Monterey Bay International Trade Association. April 30, San Jose. (831) 335-4780.

World Trade Week Kickoff Breakfast. Los Angeles Area Chamber. May 5, Beverly Hills. (213) 580-7569.

SelectUSA Road Show in Mexico. SelectUSA. May 12-14, Merida, Mexico City and Tijuana, Mexico. (202) 482-6800.

SelectUSA Greater China Road Show. SelectUSA. May 18-29, Hong Kong,

Shenzhen, Dongguan, Guangzhou, Shanghai, Shenyang and Dalian, China. (202) 482-6800.

18th Annual International Business Luncheon. World Trade Center Northern California. May 28, Sacramento. (916) 321-9146.

9th World Chambers Congress. International Chamber of Commerce. June 10-12, Torino, Italy.

Korea Overseas Investment Fair. Korea Trade-Investment Promotion Agency. June 24-25, Gyeonggi-do, South Korea. (408) 432-5021.

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## Double-Pay Holiday Bill Set for Committee Hearing

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### Violates Constitutional Right to Religious Freedom

AB 67 provides that employers shall compensate an employee at no less than twice the employee's regular rate of pay on a "family holiday," defined as "December 25 of each year" and "the fourth Thursday of November of each year," commonly referred to as Christmas and Thanksgiving. While the recognition of these holidays may seem benign to some persons, employers who have non-Christian-based beliefs or are immigrants to America might not see the recognition the same way.

Forcing a non-Christian employer to recognize Christmas as a unique workday by paying all employees double their regular rate of pay is likely a violation of that employer's constitutional free exercise of religion. As Justice Sandra Day O'Connor was quoted in the *Sands v. Morongo Unified School District* case, 53 Cal.3d 863, 879 (1991): "If government is to be neutral in matters of religion, rather than showing either favoritism or disapproval..., government cannot endorse the religious practices and beliefs of some citizens without sending a clear message to nonadherents that they are outsiders or less than full members of the political community."

Again quoting Justice O'Connor on the subject in the case of *Catholic Charities of Sacramento, Inc. v. Superior Ct.*, 32 Cal.4th 527, 547-548 (2004): "The government may not regulate beliefs as such by compelling or punishing their affirmation. Nor may it target conduct for regulation only because it is undertaken for religious reasons."

AB 67 is not neutral on its face, but rather, affirmatively recognizes Christmas as a "family holiday" on which employers must provide double compensation to all employees. This is a government endorsement of a Christian holiday, to the detriment of all other non-Christian religious denominations and beliefs.

Similarly, forcing an employer, especially those who are immigrants and do not embrace American culture, to recognize Thanksgiving as a special "family holiday" fails to embrace other cultures and beliefs. The Legislature should not mandate certain days as more significant based upon religious or cultural beliefs that are not maintained by all.

### Unavoidable Increase in Costs

Although some employers may close their place of business on a "family holiday" to accommodate their employees, others do not realistically have that option for their business models.

For example, hospitals, medical facilities and lodging accommodations need to stay open even on "family holidays" for public benefit. Despite this, AB 67 would increase these employers' costs of doing business by forcing them to provide all employees with double pay. This mandate places such employers in an unfair predicament as they do not have the option to avoid those costs by closing.

Moreover, such employers cannot simply pass on the costs through higher prices for consumers. For example, a Medicaid provider cannot bill the state a "family holiday" rate for treating a patient on Thanksgiving or Christmas, thereby placing that provider at a significant disadvantage.

### Competitive Disadvantage for Brick-and-Mortar Stores

AB 67 would also unilaterally increase the cost of doing business only for those employers who have a physical presence in California, thereby automatically placing them at a competitive disadvantage with online companies and out-of-state businesses that would not be subject to this cost.

Recently, the Legislature tried to even the playing field between online retailers and brick-and-mortar stores in the sales-tax arena. AB 67 would further distort this playing field by increasing the cost of doing business for local employers, as opposed to online retailers, who would not have to comply.

### Includes Exempt, Salaried Employees

AB 67 is not explicitly limited to hourly paid employees, and therefore

includes exempt, salaried employees.

Under AB 67, no matter how long the exempt employee actually worked on a "family holiday," the exempt employee would be entitled to double compensation for the entire day, thereby significantly increasing the cost of all employers. This mandate would create a windfall for exempt employees who may work only an hour on a "family holiday."

### Regular Rate of Pay/PAGA Enforcement

Determining the regular rate of pay of many employees requires a detailed calculation that goes beyond just an employee's hourly pay. As defined by the Division of Labor Standards Enforcement, the "regular rate of pay includes a number of different kinds of remuneration, for example hourly earnings, salary, piecework earnings, commissions, certain bonuses, and the value of meals and lodging." While this calculation is performed for overtime purposes, it is subject to good faith errors as to what types of "remuneration" should be included in the calculation.

Due to being included in Section 511.5 of the Labor Code, the provisions of AB 67 are subject to the Private Attorneys General Act (PAGA) (Labor Code Section 2699 et seq.). Therefore, errors in calculating the regular rate of pay or failures to comply with other provisions of this mandate would add another threat of litigation against California employers.

### Action Needed

AB 67 will be heard in Assembly Labor and Employment on March 18. Contact committee members and your Assembly representatives and urge them to **oppose AB 67**.

Follow @CalChamber on Twitter to see how the Assembly Labor and Employment Committee votes.

**Staff Contact: Jennifer Barrera**



# State Economy Strengthens in Face of Port, Drought, Domestic Outmigration Challenges

While most key economic reports have continued to show strength, commodity prices and the financial markets have clearly felt the sting from the cold winds blowing in from overseas. The financial headlines from the first part of this year have been dominated by plummeting oil prices, sharply lower long-term bond yields, and the return of volatility in the equity markets. The dollar also has continued to strengthen against most other currencies as investors, businesses and individuals around the world recognize the better risk-reward relationship in holding U.S. assets at this tumultuous time.

Shifts in the global economy and the recent plunge in oil prices have caused forecasts for first quarter real gross domestic product (GDP) growth to be scaled back. Real GDP is now expected to rise at just a 1.5% pace in the first quarter, as oil companies slash their capital spending budgets and slower economic growth around the world constrains U.S. exports. The forecast for the year as a whole, however, has been less impacted. The benefits from lower gasoline prices will eventually show up in the form of stronger consumer spending and improved corporate profits.

The slow start to GDP growth may present new challenges to the Fed. Much of what is slowing in the economy is occurring in capital-intensive industries, which means the hit to GDP is far greater than to employment, which has actually been quite strong in recent months. Productivity growth has also slowed considerably in recent months and will likely get off to a slow start in 2015.

Nevertheless, headline inflation figures have followed oil prices broadly lower. Core inflation has been less impacted, but has still moderated a touch. The Fed remains on course to raise interest rates around the middle of this year,

when circumstances surrounding global economic growth and oil prices will likely be much different than they are today.

## California Economy

California's economy continues to power forward, with many of the Golden State's largest and most important industries gaining momentum over the course

stronger economic gains and a scarcity of developable land.

Although we expect California's economy to continue to grow, the state is not without its challenges. Growth has moderated recently, and the tremendous surge in tech-related hiring and associated construction projects is unlikely to be sustained longer term. Retailers and financial services firms are still posting only modest gains.

In addition, labor disputes at West Coast ports could push importers to make more permanent adjustments to their supply chains away from Los Angeles and Long Beach. Lower oil prices are weighing on the energy producers in Kern County, and a lack of water remains a challenge for farmers and residents alike.

In addition, the state's high costs of living, combined with sluggish wage and salary growth for middle income households, has exacerbated the outmigration of residents. Few

of these problems are truly new, however, and California seems to continuously prove that none of them are insurmountable.

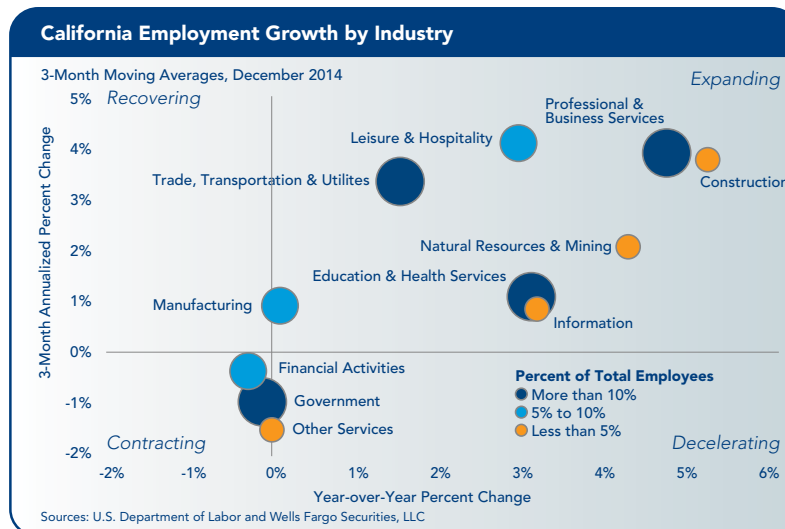
## Facing Headwinds Head On

### Ports

So far, the state seems to be weathering its challenges rather gracefully. The ongoing port dispute at the Port of Los Angeles and Port of Long Beach is creating some real hardship for businesses in Southern California. While some of loss figures bandied about may be over the top, the losses for individual businesses are quite meaningful.

Despite the ongoing dispute, which has left a flotilla of ships at sea waiting to unload, activity at Port of Los Angeles through the end of 2014 was actually 6% higher than the year before, and the Port

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of 2014. High-tech employers have shown no sign of slowing their hiring. Employment in professional, scientific and technical services, the industry with the largest number of tech-related workers, grew 4.3% in 2014. San Francisco, San Jose and San Diego are all benefiting from the strong growth in this major industry group.

Health services also are expanding rapidly and appear to have adjusted to the rollout of the Affordable Care Act with only minimal disruption. Construction has picked up to keep pace with the rapidly expanding economy and demand for apartments, warehouse and office space is rising solidly.

Home sales remains sluggish, but the trend seems to be somewhat more positive than we have seen nationwide. Home price appreciation continues to run ahead of the national average, reflecting both

## State Economy Strengthens in Face of Port, Drought, Other Challenges

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of Long Beach also showed strong growth. Despite any bottlenecks that have occurred, those ports are busier than last year, though activity would certainly have been stronger had there been no disruptions.

Estimating the impact from the work stoppage is difficult. Some traffic is being diverted to other ports and some firms had built precautionary stockpiles in anticipation of some sort of supply shock. Most firms, however, operate with extremely lean inventories and cuts in production at manufacturing facilities along the West Coast and elsewhere are expected.

In addition, businesses involved with perishables, including seafood and produce, will likely suffer some losses. Moreover, the longer the dispute festers, the more likely that Midwest and Northeast businesses will look to alternative ports, fueling growth at several South Atlantic ports.

### **Drought**

Drought is a major long-term challenge for California. Farmers have suffered as a result, but higher prices of key crops are partially offsetting low yields and farmers are moving toward more water-efficient crops. Almond and grape prices received in 2014 in California were both well above their year-ago levels. In addition, the scarcity of fresh water has spurred investment in much-needed infrastructure improvements, including the desalination plant in Carlsbad and numerous smaller water storage and water treatment projects around the state.

### **Emigration**

Another major challenge for the state is that more residents move out of California each year than move in. This domestic outmigration has long been a cause for concern and is frequently

blamed on the state's high housing costs. California does benefit from positive net migration, thanks to net international migration. San Francisco and Oakland, however, actually have positive domestic net migration, which is somewhat surprising given how expensive the Bay Area is. Domestic net migration is strongest in Oakland, which offers relatively affordable housing when compared to San

11.7%, considerably lower than the nation's 16.7%. Demand remains strong in the San Francisco market, as the tech sector continues to snap up large swathes of space, with notable large leases from Salesforce, Uber, Yelp and Pinterest.

In addition to high rents, another threat to the San Francisco office market is Prop M, which limits the amount of office space that can be built in the city.

There appear to be some ways to temporarily work around this cap, but the pace of building has been strong and the current limit of 875,000-square-foot per year is unlikely to allow for supply to keep up with demand and could push rents even higher.

With an office vacancy rate of 17.7%, San Jose has more supply than the markets along the Peninsula. Activity in Silicon Valley, however, is still quite high. About 3 million square feet of space is under construction in Santa Clara-Sunnyvale and another 1 million square feet in Cupertino.

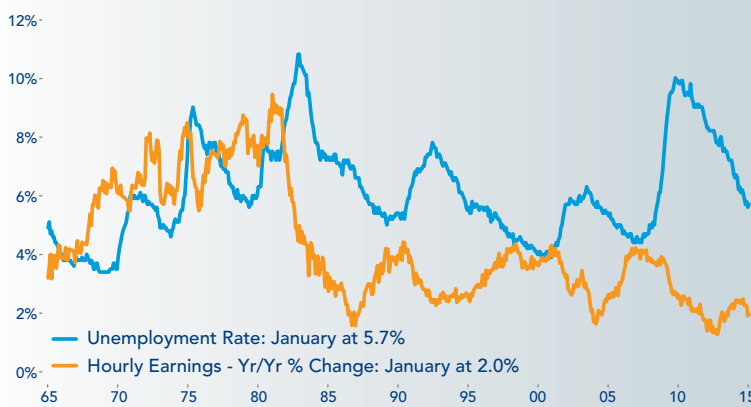
The new supply is doing little to alleviate demand. The vacancy rate has come down considerably from recent highs over the past couple of years. Although we remain constructive on the metro area, demand slipped some in the fourth quarter, which may point to some of the competition Silicon Valley is facing from San Francisco and elsewhere.

### **Southern California Softer**

Demand for office space in Southern California has been considerably softer. Los Angeles has only recently started to improve. Although there are some sizable projects under construction, including about 500,000 square feet in downtown and another 300,000 square feet in LAX/El Segundo and Long Beach. Los Angeles's broader economic recovery has been more modest than in other parts of the state.

### Unemployment and Wage Rates

Wages for Production and Nonsupervisory Workers, Seasonally Adjusted



Sources: U.S. Department of Labor and Wells Fargo Securities, LLC

Francisco. A booming labor market is helping to draw more people to the area.

Despite high housing costs, relatively few households spend more than 30% of their income on housing. In the San Francisco metro area, 39.9% of households spent 30% or more of their income on housing costs, while that share was 43.4% statewide and 47.5% in Los Angeles. Although these numbers are above the national average, they show there is more flexibility in the housing market than first appears.

### **Office Market**

#### **Holds Strong in Bay Area**

The office market in the state continues to flourish. Employment in the construction of nonresidential buildings is up a whopping 9.6% from a year ago.

The office market is tightest in San Francisco where the vacancy rate is just

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While more modest than the Bay Area, the creative sector has been vibrant throughout Southern California, particularly companies producing digital entertainment content. Some of that work is beginning to come downtown. The office vacancy rate in Los Angeles is slightly below the national average and rents are increasing, which could help spur some more construction. Moreover, there has been a great deal of activity in the hotel and apartment sector.

Similarly, San Diego's office market is holding its own, with very little space currently under construction. Leasing remains steady and rents and resale prices continue to rise, benefitting from a lack of new supply and low interest rates. Considerably more projects are in the planning phases, however, though the physical construction still appears to be a ways off.

## Home Sales Growth Struggles

Home sales improved only modestly in 2014, with the single-family market up just 0.6% over the year, and the condo and townhome market rising a paltry 0.2%. Home sales languished nationwide in 2014, so the weak growth rates actually look quite a bit better when comparing them to national numbers. San Francisco, San Diego and the Inland Empire all saw home sales rise this past year, while Los Angeles, Orange County and much of the Bay Area outside of San Francisco posted declines.

Inventories have risen slightly throughout the state, which should provide more options to buyers. The inven-

developed lots available for a single-family construction. The multifamily sector continues to strengthen, which comes somewhat in contrast to the slowdown seen nationwide.

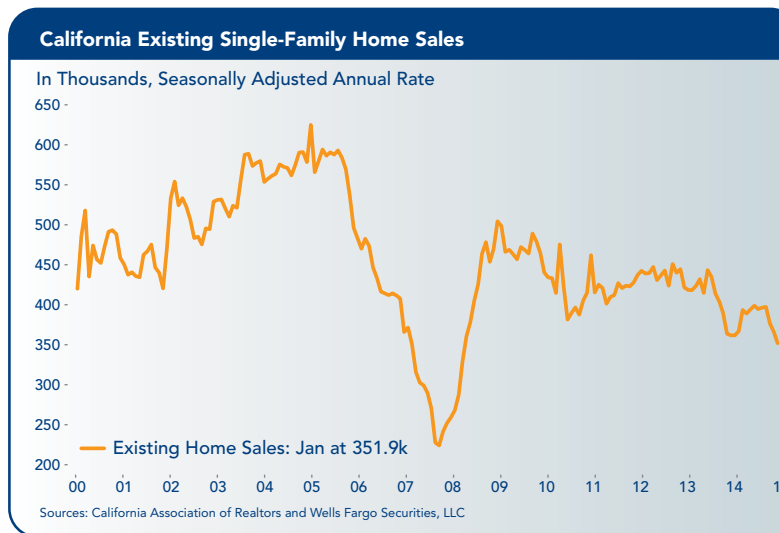
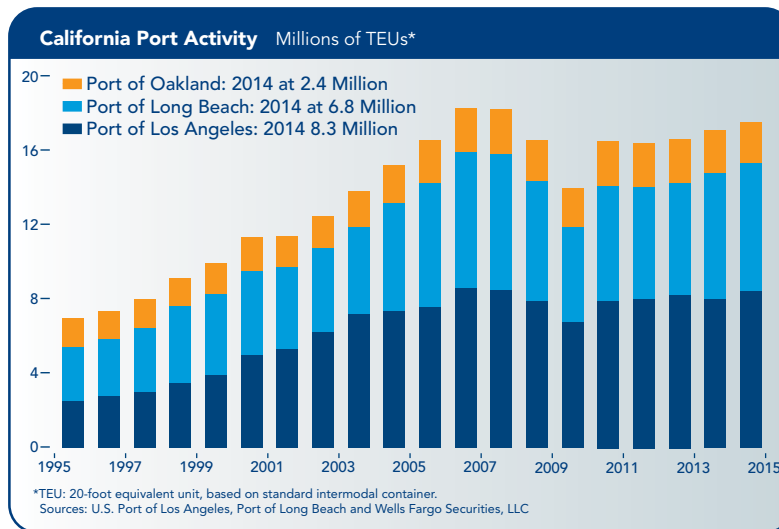
The apartment market is exceptionally strong in the Bay Area and San Diego. Vacancy rates in San Jose, San Diego, Los Angeles and San Francisco are all below the national average, which is encouraging more growth in those markets. Although home prices have moderated recently, they remain 7% higher than a year ago. Thanks to the faster-than-average appreciation, home prices are just 15.2% below their prerecession peak, not much further than the national average of 13.4%.

**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. This report was prepared by council chair Mark Vitner, managing director and senior economist at Wells Fargo Securities, LLC.*



tory of homes available for sale in the Bay Area remains exceptionally lean. The pace of single-family construction has leveled off at fairly low levels, but is showing signs of reviving in a handful of areas. The strongest markets have few

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





## Economist Recaps Impact of High Costs on California Middle Class



Kevin Klowden, managing director of the California Center at the Milken Institute, reviews with the CalChamber Board of Directors a variety of statistics on the cost of living in California. Costs in housing, utilities, transportation and health mean living in California cities like San Francisco, Los Angeles, San Diego and Sacramento is more costly than the U.S. average and Texas cities like Austin, Dallas, Houston and San Antonio, which rank below the national average.

## CalChamber President, Policy Advocate to Speak at UI Conference

Two California Chamber of Commerce staff members are part of the speaker line-up for a national conference on unemployment insurance (UI) issues in June.

CalChamber President and CEO Allan Zaremberg will welcome attendees and moderate a review of the economy and its impact on unemployment at the National UI Issues Conference on June 17–19 in San Diego.

CalChamber Policy Advocate Marti

Fisher will be a panelist at two sessions focusing on marijuana, drug testing and UI eligibility.

This year marks the 80th anniversary of the creation of the national UI program.

Other sessions at the conference will include: updates on the national UI program and legislation; most effective ways to identify fraud and avoid overpayments; combating identity theft; UI and the new Workforce Innovation and Opportunity Act; best practices in UI claims adjudica-

tion and appeals; best practices in assessing re-employment eligibility and re-employment services; and managing benefits charges to employer accounts.

### Early Bird Registration

The early bird registration deadline is May 15. For more information or to register, visit [www.uwcstrategy.org/event/annual-conference/](http://www.uwcstrategy.org/event/annual-conference/).

## Don't Make One Employer Liable for Another's Misclassification

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to knowingly treat an employee as an independent contractor. Even if a business is a joint employer, it can never be automatically liable for another business's willful misclassification under the Labor Code without that showing of specific intent.

Otherwise, companies that enter into legitimate arms-length transactions would automatically become jointly and civilly liable for other companies' employment decisions, even if those decisions were

made years before the relationship began and without the contracting company's knowledge.

### More Complexity, Confusion

The potential civil penalties are high depending on the number of violations and the number of individuals involved. The theory adds yet another layer of complexity and confusion to California's numerous, written and unwritten, diverse independent contractor rules.

The petitioners' position goes far

beyond the statutory text and the Legislature's intent, which was to reach only those employers and persons that knowingly and intentionally misclassify employees as independent contractors.

The brief urges the Court of Appeal to uphold the trial court decision that correctly construed "willful misclassification" as meaning the employer must act voluntarily and knowingly before being subject to liability.

**Staff Contact: Erika Frank**



# 13 CalChamber Member Companies Land on ‘Best Places to Work’ in Sacramento List

Thirteen California Chamber of Commerce member companies were chosen by the *Sacramento Business Journal* as some of the best places to work in the Sacramento region.

The “2014 Best Places to Work” list breaks down companies by size, using the categories: Micro Company (10-24 employees), Small Company (25-49 employees), Medium Company (51-150 employees) and Large Company (more than 150 employees). Each category has first, second and third place winners, and an honorees list.


## Small Company

CalChamber member **Sacramento Convention & Visitors Bureau** was selected by the *Business Journal* as a Small Company honoree. The nonprofit organization believes in helping employees achieve a work-life balance.

“Whether it’s working from home, or adjusting a work schedule, we have always been open to doing what we can to ensure our people find balance,” Sheri Graciano, human resources manager, told the *Business Journal*.

## Medium Company

In the Medium Company category, CalChamber member companies took all three top spots:

 **• No. 1 Western Health Advantage:** This regional Health Maintenance Organization (HMO) pays for 100% of employees’ health care premiums, and has an internal wellness program that promotes healthy eating and physical activity, which includes free gym memberships and discounts for spouses.

A health-conscious perk at the organization is the availability of sit-stand desks. More than half of the company’s employees received sit-stand desks in 2014.

In addition to birthday and milestone parties, the organization holds a dinner party for employees and spouses at the end of each year and a mid-year summer picnic.

Employees are encouraged to participate in committees where they can make their voices heard. Some committees include: the employment recognition committee, member experience workshop committee and health savings account committee.



**• No. 2 Polycomp Administrative Services Inc.:** Polycomp Administrative Services Inc., based in Roseville, with additional offices in San Diego and Woodland Hills, develops and manages retirement plans. It provides flexible work schedules to its employees and pays for staff training. The company even covers the \$1,000 cost for the American Society of Pension Professionals & Actuaries credentialing tests.

Perks include casual dress days, special events such as pool parties or sports outings, and a wellness program that reimburses up to \$40 for a gym membership or similar program.



**• No. 3 Boutin Jones Inc.:** Named one of the “Best Law Firms” of 2011–2013 by *U.S. News and World Report*, Boutin Jones Inc. believes in hiring people who are a good fit for the job, but also with others.

The Sacramento firm offers competitive pay, advancement opportunities and manageable workloads. In addition to birthday cakes, bowling and River Cats games, the firm throws a potluck lunch every day in December.

## Honorees

Seven CalChamber member companies also made it on the Medium Company Honorees list. They include: **Crowe Horwath**, one of the country’s largest public accounting and consulting firms; **Kitchell**, an employee-owned company that provides development services, and program, construction and facility management; the **City of Rancho Cordova**; **Runyon, Saltzman & Einhorn Inc.**, a full-service public relations, advertising and marketing agency; **Terra Nova Counseling**, a com-

munity mental-health outpatient program; **Wells Construction Incorporated**, a full-service commercial construction company; and **Wood Rodgers**, a civil engineering and planning firm.

## Large Company

The CalChamber member company to make it on the Large Company top three list was SolarCity, a San Mateo-based company that sells and maintains solar systems.



**• No. 1 SolarCity:** SolarCity has 45 operation centers serving 15 states, so one way it maintains a good work atmosphere is recognizing that each office has its own culture and incentives.

For example, the Granite Bay office did a Traeger barbecue grill giveaway. That giveaway, however, was tailored to the staff preferences at the Granite Bay office. “The guys in Vegas may want to do something else,” inside sales Vice President Paul Stephan told the *Business Journal*.

The company creates interactive events for all employees, such as a free ice cream day or baseball opening day celebrations. The events take place at all SolarCity locations, and employees can share notes on an internal social networking site.

In addition to holding sales contests and giveaways for sales, operations and customer support, the company also has a recruitment program that awards stock to employees who recruit someone to the sales force. The employee gets stock for every deal the new hire sells.

## Honoree

**Sleep Train Mattress Centers**, the West Coast’s largest mattress retailer and CalChamber member, made it to the Large Company Honorees list. The program highlighted by the *Business Journal* is the company’s Give Back Now Volunteer Program, where employees receive up to 16 paid hours per year to volunteer with nearly any nonprofit organization of the employee’s choice.

## Water Commission Chair Discusses Drought, Storage with CalChamber



Joseph Byrne, chair of the California Water Commission, gives an overview of the impact of the drought (now in its fourth year) and the commission's duty to define "public benefits" for water storage projects at the March 5 meeting of the CalChamber Water Resources Committee, co-chaired by Robert MacLean (left). The nine-member commission has the task of allocating \$2.7 billion for storage projects from the \$7.5 billion water bond voters approved last November.

## CalChamber Education Committee Weighs Priorities for Coming Year



Dr. Brice Harris, CalChamber Education Committee co-chair and chancellor of the California Community Colleges, leads a March 5 discussion on committee priorities for the legislative year. At left is Mira Guertin, CalChamber policy advocate for education.

# Normalized Relations with Cuba Could Open Trade Opportunities for U.S., State



The potential for changed relations with Cuba to open economic and trade opportunities for U.S. and

California companies was the subject of a lively talk at the recent breakfast forum of the California Chamber of Commerce Council for International Trade.

Dr. Richard E. Feinberg, professor of international political economy at the University of California, San Diego School of International Relations and Pacific Studies, shared his expertise on the history of U.S.-Cuba relations with members of the council at the March 6 forum scheduled in conjunction with the quarterly Cal-Chamber Board events in Santa Monica.

## Landmark Broadcast

Dr. Feinberg recounted his experience of being in Cuba for an academic conference on December 17, 2014, when Presidents Barack Obama and Raúl Castro announced during simultaneous broadcasts from Washington, D.C. and Havana that the two governments would take steps to begin to normalize relations.

In Cuba, the announcement was received with much enthusiasm and emotion. The precursor to this announcement was the Cubans agreeing to release 53 political prisoners, including U.S. foreign aid worker Alan Gross, in exchange for the U.S. releasing the three remaining imprisoned Cuban Five.

The regulatory changes in U.S. law that followed on January 16, 2015, are designed to facilitate greater commerce and person-to-person exchanges between the United States and Cuba.

President Obama's announcement that the United States will seek to ease the embargo on, and normalize relations with, Cuba marks the beginning of the end of more than 50 years of efforts by Washington to improve human rights or achieve political or economic reform on the island through economic sanctions

and diplomatic isolationism.

Further moves to end the embargo depend on Congress. Following the recent second round of talks between the U.S. and Cuban governments, it may be possible to re-establish diplomatic relations by the Summit of the Americas to be held in Panama in April.

Dr. Feinberg commented that currently in Cuba, most business is conducted via state-owned enterprises. Capital improvement projects in transportation and infrastructure are badly needed, but there are not mechanisms in place to invest as of yet, and a banking system needs to be developed.



Dr. Richard E. Feinberg

Only a small percentage of Cubans have ready access to the Internet, computers, cell phones and other modern technologies, which leaves much room for growth.

## U.S. President's New Approach

The White House indicates the following are the key components of the updated policy approach, which are steps aimed at supporting the ability of the Cuban people to gain greater control over their own lives and determine their country's future that is consistent with U.S. support for the Cuban people and in line with U.S. national security interests.

Major elements of the President's new approach include:

- Establishing diplomatic relations with Cuba;

- Adjusting regulations to more effectively empower the Cuban people;
- Facilitating an expansion of travel under general licenses for the 12 existing categories of travel to Cuba authorized by law;
- Facilitating remittances to Cuba by U.S. persons;
- Authorizing expanded commercial sales/exports from the United States of certain goods and services;
- Authorizing U.S. citizens to import additional goods from Cuba;
- Facilitating authorized transactions between the United States and Cuba;
- Initiating new efforts to increase Cubans' access to communications and their ability to communicate freely;
- Updating the application of Cuban sanctions in third countries;
- Pursuing discussions with the Cuban and Mexican governments to discuss the unresolved maritime boundary in the Gulf of Mexico;
- Initiating a review of Cuba's designation as a State Sponsor of Terrorism;
- Addressing Cuba's participation in the 2015 Summit of the Americas in Panama.

A critical focus of increased U.S. engagement includes continued strong support by the United States for improved human rights conditions and democratic reforms in Cuba.

## Dr. Feinberg

Dr. Feinberg's expertise is in U.S. foreign policy matters, notably with regard to Latin America and Asia, and business and economic matters.

He previously served as special assistant to President Bill Clinton and senior director of the National Security Council's Office of Inter-American Affairs.

The professor has held positions at the State Department and as an international economist in the U.S. Treasury Department. He holds a Ph.D. in international economics from Stanford University and a B.A. in European history from Brown University.

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# ALERT

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