ALERT

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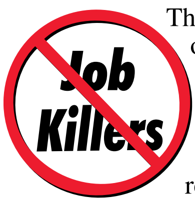
CalChamber®
CALIFORNIA CHAMBER OF COMMERCE

2 More Job Killers

More Shakedown Lawsuits; Housing Affordability Hit



The California Chamber of Commerce this week identified two more job killer bills—one opening new avenues for shakedown lawsuits related to environmental laws, and the other exacerbating the already-problematic housing affordability crisis in California.

• **SB 49 (de León; D-Los Angeles)** is an overbroad bill that includes a private right of action for environmental laws similar to the Private Attorneys General Act provisions that have led to shakedown lawsuits for alleged labor and employment law violations.

• **AB 199 (Chu; D-San Jose)**, will drastically raise the cost of housing, thereby making projects financially infeasible or exorbitantly expensive. This bill eliminates the long-standing residential exemption from prevailing wage rates, thereby making private, market-rate residential development a public work

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Former Los Angeles Mayor Makes Case for Governor's Run to CalChamber Board

Former Los Angeles Mayor Antonio Villaraigosa explains to the CalChamber Board of Directors at its recent meeting why he is running for Governor in 2018 and how his record as chief executive of the multicultural city, second largest in the nation, has prepared him to lead the state. He is the first of several announced gubernatorial candidates to address the CalChamber Board. Others have been invited to speak.

Criminal History Regulations: CalChamber Seeks Rejection

The California Chamber of Commerce is asking the state Office of Administrative Law (OAL) to reject proposed regulations that create confusion regarding when employers may consider criminal history in making employment decisions and which could lead to litigation.

The CalChamber does not believe the Fair Employment and Housing Council (FEHC) has authority under the law to adopt the proposed regulations.

No Authority

CalChamber does not believe that anything within the Fair Employment and Housing Act (FEHA) grants the FEHC authority to impose mandates on how employers use criminal history in employment decisions.

In addition, there is no statutory authority for the FEHC to interpret the Civil Code or the Labor Code regarding the relevancy of criminal convictions, based upon the time that has passed, as the council seeks to do in the proposed regulations.

New Legislation

Legislation introduced on February 16 further emphasizes the FEHC's lack of statutory authority, the CalChamber points out.

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Labor Law Corner

Best Practice to Have Written Waiver for Each Meal Break Skipped

David Leporiere
HR Adviser

I have a group of employees who always work a six-hour shift. They've told me that they don't want to take their meal break so they can leave work after six hours. I know that the employees can skip their meal break if they sign a waiver, but I was wondering if they can just sign the waiver one time to cover all their future missed meal breaks since having to deal with all of that paperwork can be cumbersome.

You are correct that your employees can waive their meal break so long as they work no more than six hours in their workday. California Labor Code Section 512 allows for such waivers so long as both the employer and the employee agree to the waiver. This waiver can be revoked by the employee at any time.

Nothing in the Labor Code requires that the waiver be in writing, but it is highly recommended that you use written waivers, as the written waiver has greater evidentiary weight than the verbal testimony of the employer should an employee bring a claim for missed meal breaks.

The California Chamber of Commerce offers a sample policy in the Forms section of the ***HRCalifornia*** website, entitled "**Meal Break Waiver—Employee Shift 6 Hours or Less**."

Furthermore, the greater the number of written waivers that the employer has, the stronger its evidence will be that the employee voluntarily waived each missed meal break.

If the employer were to produce a single waiver allegedly covering a large number of missed meal breaks, it would be easy for the employee to assert that the waiver pertained to a single day and not to months or years of missed meal breaks. Consequently, it is a best practice to have a written waiver for each meal period that your employees fail to take on days when the employee works six hours or less.

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***.

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CalChamber-Sponsored Seminars/Trade Shows

More at ***www.calchamber.com/events***.

Labor Law

Keeping Criminal Background Checks in Check. CalChamber. March 16, Live Webinar. (800) 331-8877.

HR Boot Camp. CalChamber. March 23, Pasadena; May 11, Sacramento; May 25, San Diego; June 6, Santa Clara; August 24, Thousand Oaks; September 6, Beverly Hills. (800) 331-8877.

Leaves of Absence. CalChamber. April 6, Sacramento; April 25, Oakland; June 22, Huntington Beach. (800) 331-8877.

Are Drug-Free Workplaces in California Up in Smoke? CalChamber. April 20, Live Webinar. (800) 331-8877.

Preventing Discrimination in the Workplace. CalChamber. May 18, Live Webinar. (800) 331-8877.

Nothing Ordinary About Local Ordinances in California. CalChamber. June 15, Live Webinar. (800) 331-8877.

Leaves of Absence: Making Sense of It All. CalChamber. August 18, Sacramento. (800) 331-8877.

Meal and Rest Break Rules. CalChamber. September 21, Webinar. (800) 331-8877.

Business Resources

Internal and External Global Food Safety Initiative (GFSI) Audits Workshop. Superior Food Safety. March 17, Napa. (707) 628-2805.

International Trade

Hungary 2017: Europe's Innovation and Investment Hub. Honorary Consulate General of Hungary. March 15, San Mateo.

California Policy Mission to Australia. Northern California-Sacramento Regional Center for International Trade Development (CITD). March 19–25. (916) 563-3200.

Connect to Thrive Global Summit. Bay Area Regional CITD. March 23–24, San Bruno. (650) 738-7117.

Connect to Thrive—Impact of Digital Data and Commerce Across the Global Supply Chain. Bay Area Regional CITD. March 23–24, San Bruno. (650) 738-7117.

Asia Pacific Business Outlook Conference 2017. University of Southern California Marshall School of Business. March 27–28, Los Angeles. (213) 740-7130.

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CalChamber Calendar

Capitol Summit:
May 31, Sacramento

Criminal History Regulations: CalChamber Seeks Rejection

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The bill, AB 1008 (McCarty; D-Sacramento) includes various mandates set forth in the pending regulations, including requirements for employers to:

• consider the factors and nature/gravity of the offense or conduct, the time passed since the conviction and the nature of the job sought;

• conduct an individualized assessment; and

• allow the employee to respond and mitigate any criminal history information.

If the FEHC had authority to promulgate the regulations that include these new mandates on employers, there would be no need for the Legislature to amend the Government Code as proposed in AB 1008.

Confusion, Litigation

The CalChamber points out that the regulations essentially preclude employers from having policies that uniformly exclude applicants with certain criminal convictions unless that employer can establish that it assessed each applicant individually and determined whether that applicant posed an unacceptable risk.

The regulations then create a presumption that considering any conviction more than seven years old is discriminatory.

If the employer deems that the applicant does pose a risk, the employer could be exposed to litigation for discrimination under FEHA.

If the employer decides the applicant does not pose a risk, the employer could expose members of vulnerable populations, such as children or the elderly, to potential harm.

Similar concerns apply to individuals who have felony convictions dealing with theft or embezzlement, and whether such individuals should be hired for a position dealing with customer financial information, employee personal data, and employer financial accounts or money.

The risk of litigation under FEHA is enhanced by the catchall provision at the end of the regulations that states even if an employer demonstrates its decision not to hire an applicant with a criminal history is job-related and excluding the applicant is consistent with business necessity, the employer still may be liable if the applicant can show there was a less discriminatory alternative available other than denying the applicant employment.

Next Steps

OAL has 30 days to review and disapprove or approve of the pending regulations. OAL has until March 27 to take action.

Staff Contact: Jennifer Barrera

CalChamber Board Reviews National, International Political Landscape

(Left) Lanhee Chen, Ph.D., David and Diane Steffy research fellow at the Hoover Institution, presents a recap of the top issues for the first 100 days of the Trump administration to the CalChamber Board of Directors on March 3. Topics touched upon include the executive orders; tax, immigration, health care and trade policy; and regulatory reform.

(Right) Myron Brilliant, executive vice president and head of international affairs at the U.S. Chamber of Commerce, explains at the CalChamber Board of Directors dinner on March 2 how various U.S. trading partners have been reacting to presidential actions and statements in the early days of the Trump administration.

CalChamber-Sponsored Seminars/Trade Shows

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Trade Connect Introductory Workshop. Port of Los Angeles. April 5, Garden Grove. (310) 732-7765.

Export Compliance Training Program. Orange County CITD. April 17–May 22, Santa Ana. (714) 564-5415.

NAFTA's Economic Progress 2017. Port of Los Angeles. April 28, Camarillo. (310) 732-7765.

World Trade Week Kickoff Celebration Breakfast. Los Angeles Area Chamber. May 4, Los Angeles. (213) 580-7569.

California Pavilion—TUTTOFOOD Milan World Food Exhibition. Northern California-Sacramento Regional CITD and Mission College CITD. May 8–11, Milan, Italy. (408) 855-5390.

NAFSA Annual Conference and Exhibition. NAFSA: Association of International Educators. May 28–June 2, Los Angeles. (202) 737-3699.

SelectUSA Investment Summit 2017. SelectUSA. June 18–20, Washington, D.C. (202) 482-6800.

More Shakedown Lawsuits; Housing Affordability Hit

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project for which a prevailing wage would be paid.

SB 49 is set for hearing March 14 in the Senate Natural Resources and Water Committee.

AB 199 is scheduled to be considered March 15 by the Assembly Labor and Employment Committee.

Environmental Overreach

An attempt to deal with California concerns about the uncertainty at the federal level associated with environmental laws identified in the bill, SB 49 is a premature, overbroad, and vague response to things that could happen in the future while in the present creating substantial uncertainty for businesses in advance of any such potential changes and correspondingly greatly increasing the potential for costly litigation.

SB 49 requires the state agencies to adopt the baseline federal standards in the federal Clean Air Act, the federal Safe Drinking Water Act, the federal Water Pollution Control Act, the federal Endangered Species Act, and "other federal laws" defined as unidentified laws "relating to environmental protection, natural resources, or public health."

If there is interest in preserving various federal environmental laws, the CalChamber believes a targeted approach where state agencies respond to federal action on a case-by-case basis is more appropriate.

Offering one example of the impact of SB 49, a practicing environmental attorney explained: "If passed, Senate Bill 49 would nearly double the number of listed species under [the California Endangered Species Act (CESA)] by adding 74 animals that are currently only protected under the federal Endangered Species Act (federal ESA). Further, Senate Bill 49 would arguably protect federal listed species from habitat modification that rises to the level of 'take' under the federal ESA, a protection those species do not currently enjoy under CESA. This could create many headaches for developers, in particular as they deal with a state agency that does not have the resources or experience to process incidental take permit applications for species listed only under the federal ESA."

Private Rights of Action

The private rights of action contemplated in SB 49, if triggered, would essentially create a Private Attorneys General Act (PAGA) for environmental laws similar to PAGA in the labor and employment context. PAGA in the labor and employment context has resulted in various shakedown lawsuits that only increase costs to businesses without providing any corresponding benefit to employees.

The private rights of action contemplated in SB 49 would similarly merely create an additional avenue of costly litigation against businesses that will limit their ability to grow their business and workforce in California, while also adding cases to the overburdened dockets of the judicial system.

Moreover, federal courts have created specialized procedures to deal with the citizen lawsuits relating to federal environmental laws due to the complexities created by such lawsuits. Without having such institutional procedures in place, lawsuits under the contemplated private rights of action in SB 49 would most likely hold businesses hostage for an even greater period of time while the overburdened California courts attempt to deal with the influx of such cases and the unique complexities associated therewith.

Vague language in SB 49 as to when the private rights of action would be triggered also raises questions that would need to be settled by the courts, which will result in many pending cases sitting on the dockets for years without any certainty for businesses while they struggle with increased litigation costs.

Housing Cost Increases

Countless newspaper articles and recent reports have highlighted the dire condition of housing in California. Such articles explain that the cost of imposing prevailing wages on private residential projects may increase labor costs by approximately 30% or more and the cost of housing by an estimated 37% or more.

A Los Angeles ballot initiative mandating payment of prevailing wages in a fashion similar to AB 199 is estimated to increase a project's total cost by 45.8% due to the increase in labor costs.

One estimate predicts that "prevailing wage would add roughly $90,000 to the cost of building a 2,000 square-foot house in San Diego County."

In San Joaquin County, the bill is estimated to increase the cost of a 1,500 square-foot home by $75,000.

The increase in costs will price many Californians out of the housing market. A recent study done for the National Association of Home Builders found that for every $1,000 increase in a California home, 15,000 buyers are priced out of the market.

Thus, as *The Sacramento Bee* points out, California is essentially exporting its poor to other states and attracting wealthier people into the state.

Housing Crisis

The state is facing a crisis in housing affordability and supply. The two are inextricably linked, as the Legislative Analyst's Office points out in a February 9, 2016 study, "Perspectives on Helping Low-Income Californians Afford Housing."

It is estimated that California has a housing deficit of approximately 1 million units across all income levels. The California Department of Housing and Community Development estimates that the state must build at least 180,000 units per year to keep pace with demand, not accounting for the backlog of 2 million units that has accrued over the last several decades.

The industry is producing approximately half of that and homeownership rates are at abysmal levels—the lowest level since the 1940s—currently ranking 49th nationally.

Bills like AB 199 that impose significant costs on housing construction make a full recovery much more difficult, only exacerbate the housing crisis rather than help ameliorate it, and threaten to stifle construction, thereby having a deleterious effect on the state economy in whole.

Action Needed

The CalChamber is asking members to contact their legislative representatives to urge them to **oppose** **AB 199** and **SB 49** as **job killer** bills.

Easy-to-edit sample letters are available at ***www.calchambervotes.com***.

Staff Contact: Louinda V. Lacey

North America Trade Policy: Opportunities Abound with California Neighbors

While there are areas that can be improved, the North American Free Trade Agreement (NAFTA) serves the employment, trading and environmental interests of California, the United States, Canada and Mexico, and is beneficial to the business community and society as a whole, panelists concluded at a discussion co-hosted by the California Chamber of Commerce this week.

CalChamber President and CEO Allan Zaremberg served as moderator of the May 8 luncheon gathering attended by more than 100 people. Speakers included: Brandon A. Lee, consul general of Canada; Pedro Noyola, Ph.D., former undersecretary of trade and foreign investment and undersecretary of finance of Mexico, and representative of Mexico in various trade negotiations; and Andrew Grant, president and CEO, Northern California World Trade Center.

Photo by Sara Espinosa

CalChamber President and CEO Allan Zaremberg (at podium) moderates a luncheon discussion on the future of trade policy in North America with panelists (from left) Brandon A. Lee, consul general of Canada; Pedro Noyola, Ph.D., former undersecretary of trade and foreign investment and undersecretary of finance of Mexico; and Andrew Grant, president and CEO, Northern California World Trade Center.

The objectives of the CalChamber-supported agreement are to eliminate barriers to trade, promote conditions of fair competition, increase investment opportunities, provide adequate protection of intellectual property rights, establish effective procedures for implementing and applying the agreements and resolving disputes, and to further trilateral, regional and multilateral cooperation.

Rules-Based Trade Benefits All

Speaking for Canada, Consul General Lee explained that under NAFTA, all three countries have benefited from the open and predictable, rules-based trading environment that NAFTA created more than 25 years ago.

Trilateral trade within North America is one of the largest economic relationships in the world with more than $1 trillion in goods traded annually. In California alone, more than 1.6 million jobs depend on trade with Canada and Mexico, and more than $100 billion in goods and services are traded between the two countries and California each year.

Consul General Lee noted that nearly 9 million jobs in the U.S. depend on trade and investment with Canada and 35 states in the U.S. have Canada as the No.1 buyer.

To put NAFTA in perspective, he said, when you add the number of jobs that depend on Mexico and the U.S., which is 5 million, in total there are 14 million jobs in the U.S. that depend on trade with either Canada or Mexico.

"Fourteen million jobs is 10% of the U.S. workforce," Consul General Lee stated. "Trade leads to growth and growth leads to more jobs."

The future of trade policy in North America is coming, but changes to NAFTA are also needed, Consul General Lee explained. He promised that Canada will work with the U.S. and Mexico to put forth policy recommendations that will maintain NAFTA as a vibrant tripartite trade agreement.

"Free trade is not a zero-sum game," Consul General Lee said. "For someone to win, that doesn't have to mean someone else has to lose. In fact, when we looked at the trade numbers and the job numbers and the integrated nature of trade, this collaboration benefits all countries together, and this is a direct result of NAFTA."

Issues to Address

Dr. Pedro Noyola explained to the attendees that NAFTA faces logical and strategic difficulties that need to be addressed.

First and foremost, the means used to examine NAFTA's performance must be examined correctly, he explained.

Although a country's trade balance has been equated to a company's income statement, those are "two completely different things," Dr. Noyola said. "Trying to interpret a trade balance as you would the income statement of a company can lead to really serious problems."

One of the biggest problems is the data: 91% of the U.S. trade deficit is explained by trade that the U.S. does with countries with which the U.S. does not have a trade agreement. Nine percent of the U.S. trade deficit is explained by countries with which the U.S. has a trade agreement.

"The U.S. has been placed in a difficult situation. Literally, the country has been painted into a corner," Dr. Noyola

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North America Trade Policy: Opportunities Abound with California Neighbors

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said. "We can try to drag [the country] out and destroy the room that was just painted, but I think…we should just try to build a door in the corner of the room so that [we] can walk out."

This arrangement Dr. Noyola proposes has four pillars:

• Address the border trade. Border trade between the U.S. and Mexico is $2 billion a day. If an efficiency of 1% can be created in border crossings, that would be a huge monetary savings.

• Improve the Rules of Origin chapter of NAFTA.

• Address labor mobility by introducing a "seasonal concept" to immigration to address the seasonality of production.

• Security. Where should the security belt be in North America?

To properly address these concerns with NAFTA, they should be negotiated trilaterally, Dr. Noyola stated. In addition, during the negotiation process, there must be a standstill clause, that the current rules of trade will remain in place throughout the negotiation process. Third, nothing during the negotiation process should be agreed to until the entire agreement has been agreed to. Finally, Dr. Noyola said there should be a line in the sand for all countries, like there was when NAFTA was negotiated originally.

Tipping Point

Andrew Grant, president and CEO, Northern California World Trade Center, said there is a tipping point of what we can achieve through trade and what we lose because of increased international trade.

When reflecting on the recent presidential election, Grant framed the economics and relationship into two groups of voters:

• Voters who voted for something.

• Voters who voted because of something that might occur because of the decision.

"Any future trade agreement that we have with these countries and others needs to embody some of what people said when they made the choice to elect Trump," Grant said.

Photo by Sara Espinosa

(From left) Andrew Grant, president and CEO, Northern California World Trade Center; Allan Zaremberg, CalChamber president and CEO; Brandon A. Lee, consul general of Canada in San Francisco; Canadian Mounted Police Constable Jessica Brown; and Pedro Noyola, Ph.D, executive director, aklara, pose for a photo after the North America Trade Policy luncheon.

Question from Audience

Taking a few questions from the audience, panelists were asked: What can be done to make NAFTA better? The fact that the iPhone didn't exist when NAFTA was being crafted was used as an example to frame the types of important issue areas that have changed, evolved and therefore been left out of the agreement.

Consul General Lee said that the impact of technology is enormous and will be around every economy in the world.

"If we are open-minded and actually take advantage of the opportunities to set up our three countries for success…if we can find common ground, it will greatly help our three countries as the technology will come and change every sector that we know," he said.

Addressing the same question, Dr. Noyola explained that NAFTA can be strengthened while addressing some of the real anxieties in the countries' communities and without throwing away the entire agreement. Specifically, Dr. Noyola proposes to modify the Rules of Origin, which is a set of regulations that help the exporter determine what makes a product a North American good, and therefore subject to free trade transit among the three countries. He explained that there are 5,300 tariff lines and that tightening the extra regional allowances is one way to make NAFTA better.

From a strategic sense, Grant said that Mexico needs to be viewed less as a place of "blue collar labor and more as a place where the same things we expect from advanced economies come from Mexico as much as they come from other places and whatever provisions we make, we need to reframe that dynamic between the three [countries]."

Canada Day

This year marks Canada's 150th anniversary, also known as the 150th anniversary of Confederation and promoted by the Canadian government as Canada 150. The San Francisco and Los Angeles consulates general traditionally host a Canada Day every March in Sacramento.

This year the annual luncheon was expanded to include Mexico and California to provide an opportunity to discuss trilateral trade and investment.

Staff Contact: Susanne T. Stirling

Registration Opens for CalChamber Capitol Summit, Host Breakfast

Registration is now open for the California Chamber of Commerce 2017 Capitol Summit and the Sacramento Host Breakfast events the CalChamber co-sponsors with the Sacramento Host Committee.

The Summit is set for May 31, and will be followed by the Sacramento Host Reception the evening of May 31 and the Host Breakfast on June 1.

The Host Reception provides networking opportunities for business leaders from all industries in California to discuss key issues facing the state.

The reception is a prelude to the Sacramento Host Breakfast the following morning. The breakfast provides a venue at which California's top industry and government leaders can meet, socialize and discuss the contemporary issues facing businesses, the economy and government.

Traditionally, the Governor of California and the chair of the CalChamber Board of Directors speak at the breakfast about the issues facing employers in California. Invited to join the discussion are leaders from business, agriculture, the administration, education, the military and legislators from throughout the state.

Registration

The registration fee for the Capitol Summit, Host Reception and Breakfast is $65. Space is limited. The registration deadline is Friday, May 19 or until sold out.

To register, visit ***www.calchamber.com/2017summit-host***.

CalChamber Seeks Nominations for Small Business Advocate Award

SMALL BUSINESS ADVOCATE
CalChamber

The California Chamber of Commerce is seeking nominations for its annual Small Business Advocate of the Year Award.

The award recognizes small business owners who have done an exceptional job with their local, state and national advocacy efforts on behalf of small businesses.

"The award winners are living proof that one person can make a difference by speaking up," said Dave Kilby, CalChamber executive vice president, corporate affairs. "We look forward to receiving many nominations of outstanding spokespersons for small business so that we can give statewide recognition to the advocacy that helps keep the community strong."

Application

The application should include information regarding how the nominee has significantly contributed as an outstanding advocate for small business in any of the following ways:

• Held leadership role or worked on statewide ballot measures;
• Testified before state Legislature;
• Held leadership role or worked on local ballot measures;
• Represented chamber before local government;
• Active in federal legislation.

The application also should identify specific issues the nominee has worked on or advocated during the year.

Additional required materials:

• Describe in approximately 300 words why nominee should be selected.
• News articles or other supporting materials.
• Letter of recommendation from local chamber of commerce president or chairman of the board of directors.

Deadline: May 1

Nominations are due by May 1. The nomination form is available at ***www.calchamber.com/smallbusiness*** or may be requested from the Local Chamber Department at (916) 444-6670.

Uncertain Political-Economic Environment Spawns California 'Rogue One' Reactions

The political-economic environment went from unsettling in the aftermath of the November election to disruptive when President Donald Trump assumed the Oval Office, as the new president moved with lightning speed to sign a string of executive orders that embodied his campaign promises.

The administration soon discovered that signing an executive order is easy compared to execution, at which stage it must answer to the U.S. Congress, the courts and the states.

California's Trade Ties

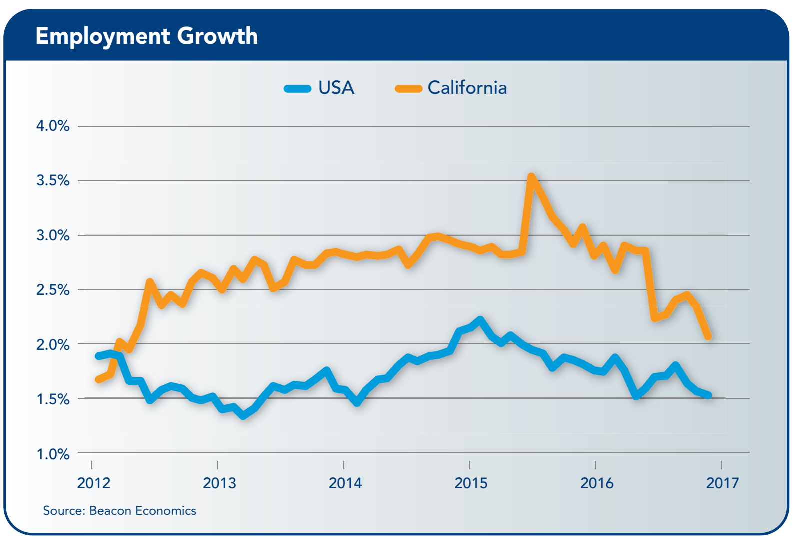
California has good reason to be concerned about the moves afoot in Washington. As home to the two largest ports in the Western Hemisphere, a number of other ports and airports that engage in foreign trade, not to mention significant ports of entry on the California-Mexico border, the state economy is hardwired to the rest of the world.

The administration's decision to withdraw from the Trans-Pacific Partnership (TPP), along with its stated goals of renegotiating the North American Free Trade Agreement (NAFTA) and getting tough on trade with China all have significant implications for California's transportation and logistics industry, not to mention its exports of services, notably intellectual property in the form of creative content that comes out of Hollywood and other parts of the state.

Regarding the TPP, many of the signatory nations have substantial trade relationships with California and its businesses. This pact would have strengthened these relationships by reducing trade barriers while adding more worker and intellectual protections than in past agreements, thereby reducing friction among nations that are already engaged in vibrant international trade activity.

This includes Japan, which has a significant long-standing relationship with California and the United States as a whole. Similarly, California's top export markets are Mexico, Canada and China.

Because of NAFTA, raw materials, semi-finished goods, and final goods move back and forth across the borders of the three North American countries. And with the admission of China to the World Trade Organization (WTO) in the early 2000s, trade between China and California increased dramatically.



At a minimum, pulling out of the TPP equates to forgone opportunities on the part of California businesses. As for NAFTA and the U.S.-China trade relationship, the Trump administration has not yet announced any concrete plans, but significant changes could be disruptive to California businesses. More generally, any efforts on the part of the administration to raise tariffs (including a "border tax") would almost certainly lead to higher prices for California consumers as well as businesses.

Disruption

The Trump administration's desire to secure the nation's borders through a travel ban and greater restrictions on immigration also will be disruptive to California's businesses and its residents.

In 2015, foreign-born residents made up more than a quarter of California's population, compared to 13% for the nation as a whole. Moreover, most of California's foreign-born residents are not children but adults, most of whom are a part of the state's workforce and play integral roles in statewide industries from agriculture to technology.

Efforts to limit immigration have the potential to exact significant damage upon the state's industries. This is not to say that the nation's immigration problems should be ignored. Rather, the nation and California are in dire need of a rational immigration policy that acknowledges the importance of immigrants to many vital industries and the broader economy.

Most of the state's economic growth in recent years has come from a handful of industries that face significant downside risks if the Trump administration makes good on its promises to rewrite trade agreements and get tough on immigration.

So it should be no surprise to see state and local officials, along with business leaders, in California "go rogue" in the coming months as they lead their peers across the nation in challenging the administration on these and other policy fronts, such as environmental regulation and infrastructure investment.

State leaders will need to ensure that decisions in Washington neither trip up the California economy nor work against its businesses and residents.

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Slower Growth Ahead

California's economy behaved much like the nation's as it moved through 2016. As the labor market tightened, the state experienced steady, but somewhat slower growth. In January 2016, California registered a 2.8% year-over-year growth rate in wage and salary jobs; by December the growth rate slipped to 2.0%.

Meanwhile, the unemployment rate finished the year at 5.2%, down from 5.9% one year earlier, but moving sideways in the second half of the year as the labor force surged with the largest number of entrants to the California labor force since the Great Recession.

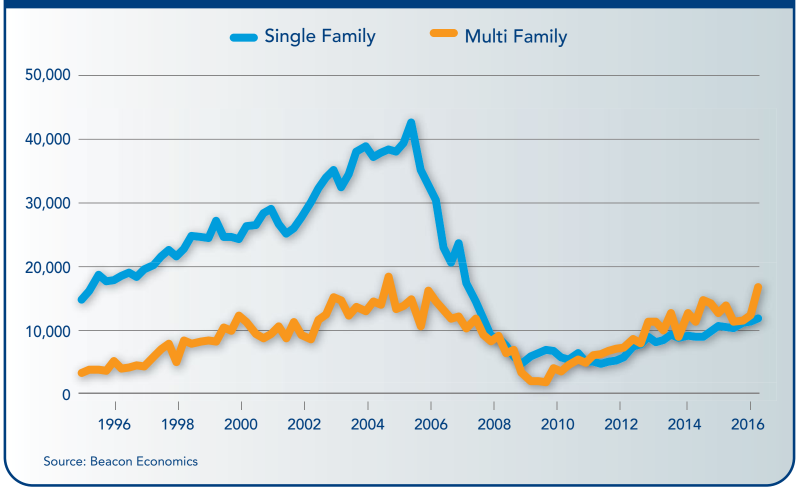
Similarly, economic growth in California continues to expand steadily. In the third quarter of 2016 (latest available data), California's real gross domestic product (GDP) grew 3.3% over the prior quarter in annualized terms, approximately on par with the nation's 3.5% rate in that period. For all of 2016, the pace of growth was slower than in 2015.

California's economic growth continues to get significant contributions from the tech sector, which accounted for 30% of the state's growth in the third quarter. The transportation and logistics sectors, along with finance and insurance, each accounted for 14% of growth, while durable goods manufacturing accounted for 12%.

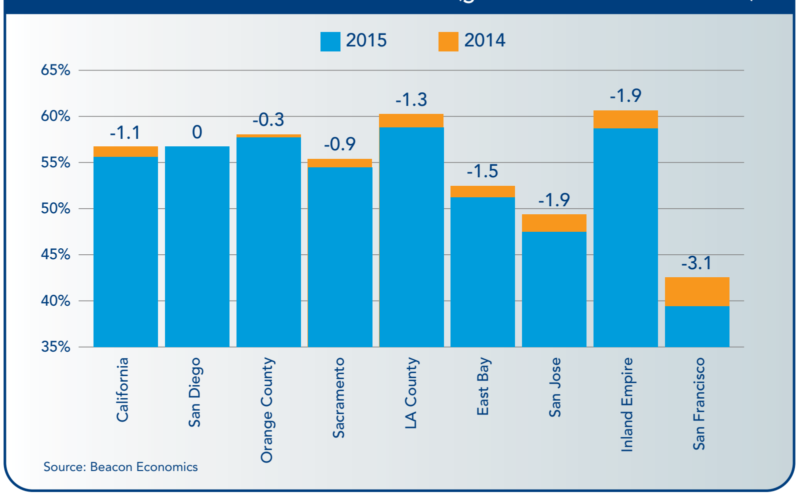
From December 2015 to December 2016, California added 332,500 jobs. Health care, leisure and hospitality, and professional services added the largest number of jobs in the private sector, but the government sector posted the largest absolute gains (60,100 jobs), mainly because of increases at the local level (especially public education).

Private education, logistics, and professional services experienced the largest percentage gains, while job losses occurred in manufacturing (-0.6%) and administrative support (-0.5%). Agriculture also posted job gains and finished the year with the highest annual employment on record (428,100 jobs), despite the drought and the strong dollar.

Residential Units Construction



Rent vs. Income: Share Rent Burdened (greater than 30% of income)



Regionally, virtually all the metro areas of the state saw job gains through 2016. Among the metropolitan statistical areas (MSAs) with more than 100,000 jobs, Santa Cruz led the way with a 4.3% increase from December 2015 to December 2016, followed by San Jose, Sacramento, and the Inland Empire. As usual, Los Angeles County led in terms of absolute job gains (61,300 jobs).

Housing Outlook Mixed

The picture for housing has been mixed in recent years, with prices advancing modestly despite hurdles that have limited sales activity. Outside of the San Francisco Bay Area, home prices have yet to surpass their pre-recession peaks. Demand for homes has been sustained by low interest rates, but also has been impeded by limited inventories, high underwriting standards, and large down payment requirements.

On the supply side, existing home sales have been well below their long-run averages, while new home construction has been relatively weak since the recession. Meanwhile, with the homeownership rate at its lowest level in decades, rental units have been in high demand, driving rents up and rental vacancy rates down.

The outlook for housing in 2017 is mixed. With growing incomes, more households will seemingly be in a position to become homeowners. Interest rates, however, are expected to rise, as will prices, and it appears that lenders are ratcheting up their lending requirements.

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A just-released Federal Reserve Bank Senior Loan Officer Survey suggests that already-tight consumer credit standards have become more stringent as the economy's expansion has lengthened and raised concern in the lending community about a forthcoming slowdown.

Meanwhile, the rental market will offer little relief as renters face yet another year of rent hikes, prompting concern about affordability in many communities around the state.

Statewide Policy Issues

The year ahead should bring continued growth in economic activity and jobs, with the largest contributions to employment coming from health care, leisure and hospitality, and professional services. The labor force will continue to edge up, but job growth will absorb these entrants with the unemployment rate edging down over the year.

As if the challenges brought on by the new administration in Washington are not enough, California has its own home-grown issues. As mentioned earlier, housing affordability continues to garner attention, both with respect to owner-occupied housing and rentals.

Unfortunately, "head-in-the-sand" approaches, such as building moratoria (e.g., Measure S in the City of Los Angeles) and tougher rent controls, will do little to address the state's long-term housing needs.

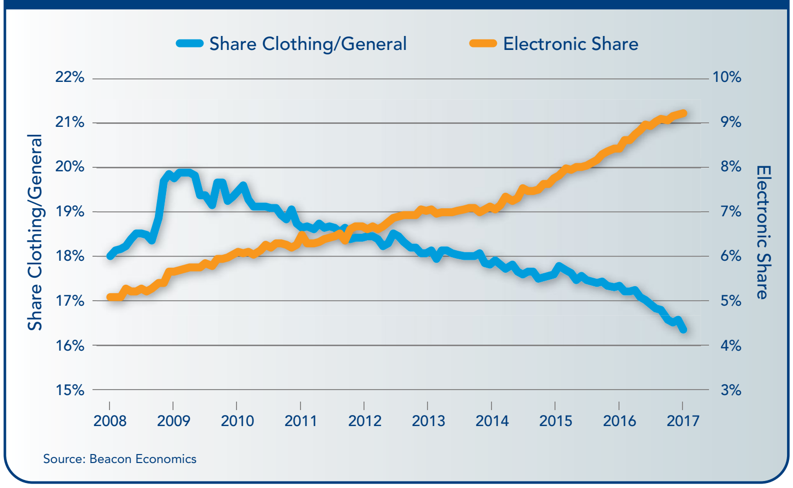
Water Problems

California continues to deal with water problems. Recent rains and snowfall have ended the severe drought conditions in most, but not all, parts of the state. They have also directed collective attention to another challenge: infrastructure.

The recent situation at Lake Oroville has brought the state's infrastructure needs into greater focus. Decades, not just years, of neglected maintenance and repairs have contributed to a significant infrastructure investment deficit.

The state and its regions must do more to ensure that the all-important statewide water system, which ties north to south and inland California to coastal California, will be up to the task in the future.

Consumer Spending: Share of Total Retail Sales



Source: Beacon Economics

More generally, California must find ways to address and finance its infrastructure needs in transportation and other systems to support a growing state economy in the decades ahead.

U.S.: The Unknown Unknowns

The U.S. economy has started 2017 with two distinctly opposing trends forming in terms of the outlook for the year. On one hand, the economy is clearly starting to pick up momentum after a slow year of growth in 2016.

On the other hand, the policy uncertainties created by the surprise election of Trump to the presidency have only become worse. The net result is that while Beacon Economics' point estimate for growth has been moved up a notch, the range of variance around the estimate is also widening.

Growth in the last quarter of 2016 came in at a weaker than expected 1.9% and is likely to be revised down modestly. But this top line number was pushed down by a very large jump in the nation's trade deficit.

When looking only at growth in domestic demand (driven by increases in consumer, business, and government spending) we see a 2.6% pace of growth—the best since the third quarter of 2015, with growth in fixed investment as the primary driver.

Momentum Indicators

There are plenty of other indicators that the U.S. economy is gathering momentum. December's industrial production estimate from the Federal Reserve saw the first year-over-year growth since 2015. The Institute for Supply Management (ISM) indexes for both manufacturing and services popped up in January.

The nation's proximate sources of strength are readily apparent as well. While the global economy has been struggling with a commodity glut, which hurt U.S. exports and mining activities, the second half of the year saw rebounds in both these areas.

Also significant is the nation's increasingly tight labor market. The headline U.S. unemployment rate is well below 5%, even as job openings remain near at an all-time high level. The net result has been an increase in wages as

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well as a sharp acceleration in labor force growth. In other words, President Donald Trump is fortunate to have inherited the strongest economy in the last decade.

Nonexisting Problems

Unfortunately for the President, Candidate Trump ran on a platform that emphasized, not economic strength, but profound weakness. From trade to regulations to immigration to taxes, Trump created straw men to blame for problems that don't actually exist in the nation.

He has proposed sweeping changes—most of which, by definition, cannot deliver the promised positive effects. The primary impacts of these proposed policy shifts will largely be confined to what economists refer to as the "law of unintended consequences"—the secondary negative impacts that accompany a shift in policy, but are not intended.

One example is the federal budget. President Trump's administration is proposing broad tax cuts for corporations and individuals, even as it pushes increases in infrastructure and defense spending. Implicit in this proposal is the idea that a surge in economic growth combined with a reduction in wasteful spending and some tax deductions will make these actions largely revenue neutral.

Years-Long Task

While waste certainly exists in the federal system, it is unlikely to be nearly large enough to offset broad tax cuts, and in any case, finding and implementing solutions would take years to accomplish, at best. As for reducing tax deductions (e.g., the mortgage interest deduction or state income tax deduction), as always, the Republicans will figure out that such programs are as popular in red states as they are in blue states.

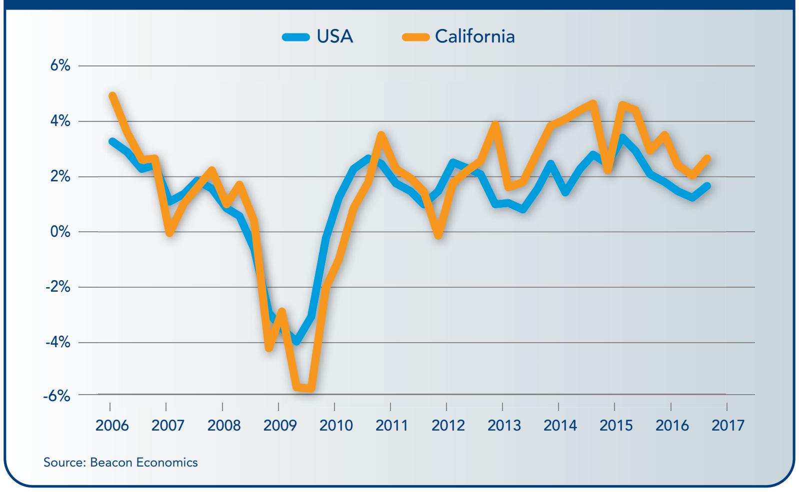
And of course this entire conversation has aggressively steered clear of the political minefield known as federal entitlements, all of which are about to see a rapid acceleration in spending growth due to the baby boomer generation moving into retirement.

It is no wonder that Janet Yellen's last speech to Congress came as close to chastising the Office of the President for its fiscal plans as any chairman ever has, given the famously bland nature of their public communications.

Similar arguments can be made around other hot policy items on the presidential agenda, including trade and immigration. In short, the U.S. economic outlook is becoming more worrisome as time passes.

This seems to fly in the face of the stock market's ongoing rally. But the stock market is strikingly incompetent in recognizing vague threats. Remember that it wasn't until the failure of Lehman Brothers—during the third quarter of the year-and-a-half-long Great Recession—that the markets finally tanked. The market's focus is exclusively on profits and the potential for corporate tax cuts.

California Gross State Product: Real Output Growth



Source: Beacon Economics

First-Month Signs

Is it time to pull the rip cord and get out? Probably not. Although the policy promises of the current administration appear to be more dangerous than helpful, what's occurred during just the first month of this administration begs the question as to whether anything will get done at all.

There are clear signs of infighting among President Trump's team of advisers, and the lack of government experience is telling. The conflict of interest issues have not been resolved and Las Vegas odds makers are now suggesting that the chance of Trump actually making it through his first term is only slightly over 50%.

If there were a well-defined direction in policy, even if the policies are unwise, it would allow for some clarity on the direction of the economy. But the chaos in this administration leaves us, as forecasters, with little idea as to what might actually occur. As we move through the year, beware the unknown unknowns.

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 Christopher Thornberg, Ph.D., founding partner of Beacon Economics, LLC.*

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CALIFORNIA CHAMBER OF COMMERCE

P.O. BOX 1736 SACRAMENTO, CA 95812-1736
(916) 444-6670 FACSIMILE (916) 444-6685
www.calchamber.com

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