ALERT

VOLUME 43, NUMBER 34 • DECEMBER 15, 2017

CalChamber®
CALIFORNIA CHAMBER OF COMMERCE

Hornblower Founder to Take Helm of CalChamber Board

Terry MacRae

Terry MacRae, chief executive officer, president and founder of Hornblower Cruises & Events, has been elected the 2018 chair of the California Chamber of Commerce Board of Directors.

"In the year ahead, we will continue the CalChamber practice of statesmanship and sportsmanship," said MacRae.

"There are strong headwinds, and more storm clouds on the horizon (we call those job killers) as usual…so as we go forward with the CalChamber mission in 2018, let's consider the words of Albert Einstein: 'A ship is always safe at shore, but that is not what it's built for.' I look forward to serving as captain for the next year and supporting the fine seamanship of the CalChamber team."

2018 Officers

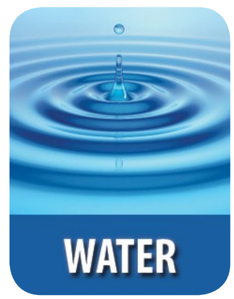
Serving with MacRae as 2018 officers of the CalChamber Board are:

See Hornblower Founder: Page 4

Lieutenant Governor Explains Approach to California Issues for CalChamber Board

Lieutenant Governor Gavin Newsom outlines for the CalChamber Board of Directors on December 8 why growth and inclusion must frame policy conversations on three areas that will define the next state administration: debt and demographics, energy and climate change, and information technology and globalization.

CalChamber Backs Two Proposed Water Bonds



The California Chamber of Commerce Board of Directors recently voted to support two proposed water bond measures, an initiative aimed at the November 2018 ballot, and a legislative proposal slated for the June 2018 ballot.

Initiative Bond

Proposed for the November 2018 ballot is an initiative bond act (17-0010), the State Water Supply Infrastructure, Water Storage and Conveyance, Ecosystem and Watershed Protection and Restoration, and Drinking Water Protection Act of 2018.

It is an $8.877 billion state general obligation bond law to finance various infrastructure projects and fund improvements to water safety and quality, watershed and fisheries, habitat protection programs, water conveyance, groundwater sustainability and storage, and surface water storage and dam repairs.

The bond is needed because it provides critical funding that will help create sustainable water management in the state.

Specifically, the measure:

• Provides $750 million for safe drinking and wastewater treatment for disadvantaged communities, especially in the Central Valley.

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Inside

Labor Law Corner

Tips Left for Employees Must Be Paid Out by Next Regular Payday

David Leporiere
HR Adviser

I own a restaurant and most of the payments for the meals and tips are paid by credit card. To make it easier on my accounting staff, I want to be able to pay out the tips left on the credit cards at the end of each month. Is there any problem with paying the tips on a monthly basis?

Unfortunately, you will not be able to implement that system without violating California law.

California Law

California Labor Code Section 351 specifically addresses this issue. The code section states, in pertinent part: "No employer or agent shall collect, take, or receive any gratuity or a part thereof that is paid, given to, or left for an employee by a patron…Every gratuity is hereby declared to be the sole property of the employee or employees to whom it was paid, given, or left for…An employer that permits patrons to pay gratuities by credit card shall pay the employees the full amount of the gratuity that the patron indicated on the credit card slip…Payment of gratuities made by patrons using credit cards shall be made to the employees not later than the next regular payday following the date the patron authorized the credit card payment."

As a result, depending on how often you pay your employees, the tips left on credit cards must be paid on either a weekly, biweekly or semi-monthly basis. The state views tips as the exclusive property of the employee(s), and therefore, they must be paid to the employee(s) as soon as practical, and no later than the next regular payday following the date on which the tip was left for the employee(s).

You cannot pay the tips on a monthly basis. If you have a semi-monthly pay schedule, you can pay the tips on a twice monthly basis, no later than the 26th day of the month and the 10th of the following month.

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*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**.*

Alert (ISSN 0882-0929) is published weekly during legislative session with exceptions by California Chamber of Commerce, 1215 K Street, Suite 1400, Sacramento, CA 95814-3918. Subscription price is $50 paid through membership dues. Periodicals Postage Paid at Sacramento, CA.

POSTMASTER: Send address changes to Alert, 1215 K Street, Suite 1400, Sacramento, CA 95814-3918. Publisher: Allan Zaremberg. Executive Editor: Ann Amioka. Associate Editor: Sara Espinosa. Art Director: Neil Ishikawa. Capitol Correspondent: Christine Haddon.

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CalChamber-Sponsored Seminars/Trade Shows

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

Labor Law

HR Boot Camp. CalChamber. February 13, 2018, Modesto; February 28, San Diego; April 11, Oakland; April 26, Costa Mesa; June 5, Santa Clara; August 21, Sacramento; September 5, Long Beach. (800) 331-8877.

2018 Employment Law Updates. CalChamber. January 5, 2018, Sacramento; January 8, San Diego; January 9, Costa Mesa; January 10, Long Beach; January 11, Los Angeles; January 12, Glendale; January 19, San Francisco; January 25, San Jose; January 26, Oakland. (800) 331-8877.

Leaves of Absence: Making Sense of It All. March 15, Sacramento; March 22, Pasadena; June 21, San Diego; August 10, Oakland. (800) 331-8877.

Business Resources

Luncheon Forum Featuring Michael Cohen. CalChamber. January 11, 2018, Sacramento. (916) 444-6670 ext. 212.

International Trade

Consumer Electronics Show. Consumer Technology Association and U.S. Department of Commerce International Trade Administration. January 9–12, 2018, Las Vegas. (858) 467-7042.

Asia Pacific Business Outlook Conference. University of Southern California Marshall School of Business. April 16–17, 2018, Los Angeles. (213) 740-7130.

SelectUSA Investment Summit. U.S. Department of Commerce. June 20–22, 2018, Oxon Hill, MD. (800) 424-5249.

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Capitol Coffee Break

Stories about Outrageous Office Parties Include Lessons for the Wise

The office party has long been a potential powder keg. Add a relaxed and celebratory atmosphere to an open bar, music and dancing at an off-site location and all you need is one lit match for it to explode. The most outrageous office party is the subject of the latest CalChamber Capitol Coffee Break video, available to watch at ***www.youtube.com/calchamber***.

Precautionary measures may well be in order. And that's just what companies are doing this year.

According to a survey by Chicago-based consulting company Challenger, Gray & Christmas, Inc., 11% of employers won't have a holiday party this year, even though they held a party in the past—up 4% from 2016 and the highest percentage since the recession.

Those who aren't canceling parties may be curtailing them: More than 15% of companies will budget less for office parties this year. Furthermore, fewer of these parties will serve alcohol, use caterers or other outside services, or invite guests of employees to attend.

Only 49% of companies plan to serve alcohol at their holiday events. Last year, that number was 62%, the most ever in the decade the firm has run its survey. The number had been going up each year as the economy improved.

"Employers are currently very wary of creating an environment where inappropriate contact between employees could occur," said Andrew Challenger, vice president of Challenger, Gray & Christmas, Inc., in a statement.

"One way to create a safer environment is to limit the guest list, hold the party during the workday, and avoid serving alcohol," added Challenger.

Capitol Coffee Break Video

Along the lines of the Challenger, Gray & Christmas, Inc. survey, the California Chamber of Commerce took its camera to the street and asked people around the State Capitol: "What's your most outrageous office party story?"

Some of the responses included:

- dancing on tables;
- handing out inappropriate gag gifts;
- being too intoxicated to return to work.

The Capitol Coffee Break series puts a humorous twist on subjects that are important to California employers.

Plan Ahead

CalChamber reminds employers that if someone drinks too much and sexually harasses another employee during a holiday party, employers can be liable—depending on the circumstances. An off-site and after-hours party doesn't reduce your liability for a company-sponsored event. Moreover, recent California cases have expanded employer liability for drunk driving accidents following company parties.

If your company wants to continue its holiday office party tradition, you need to think in advance about how to manage holiday parties to avoid potential hazards.

Employers may want to consider holding the party on-site during the workday and serving only nonalcoholic drinks at their holiday events.

If you do choose to serve alcohol at your party, take measures in advance to limit the amount people can drink. For instance, you can enforce a drink ticket policy, have bartenders instead of a self-serve bar, close the bar early, serve food, arrange for transportation home and make sure that nondrinking individuals are monitoring the situation.

Perhaps the best way to pre-empt holiday party harassment claims is through careful communication. Set the expectation—let people know what behaviors are and are not acceptable. Send out an email before the party reminding employees in advance of your company expectations regarding professional behavior at office parties and that your Equal Employment Opportunity policy applies to office social events.

Above all, don't let one day set you up for ongoing HR headaches!

CalChamber's free white paper *Set the Tone: Sexual Harassment Prevention* discusses best practices for managing your organization's sexual harassment risk. CalChamber **members can access this white paper** on ***HRCalifornia***.

Hornblower Founder to Take Helm of CalChamber Board

2018 Officers of CalChamber Board of Directors

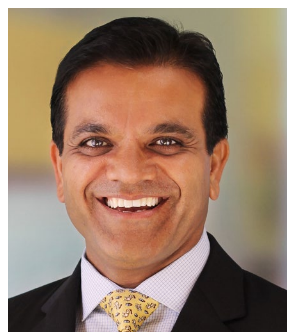
Grace Evans Cherashore

Mark Jansen

Donna L. Lucas

2018 At-Large Members of CalChamber Executive Committee

Gregory S. Bielli



Kailesh Karavadra

Jeffrey Walker Martin

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• **First Vice Chair Grace Evans Cherashore**, executive chairwoman for Evans Hotels;

• **Second Vice Chair Mark Jansen**, president and chief executive officer of Blue Diamond Growers; and

• **Third Vice Chair Donna L. Lucas**, chief executive officer and president, Lucas Public Affairs.

Terry MacRae

In 1980, MacRae purchased Hornblower Tours, a two-yacht charter company in Berkeley. Under MacRae's ownership, Hornblower has expanded to become the largest dining and charter cruise company in North America with more than 70 sightseeing and dinner cruise boats operating in nearly a dozen cities.

MacRae began his career as an environmental engineer with Industrial Clean Air, Inc. He was a senior vice president and vice president of sales following the acquisition of Industrial Clean Air by Ecolaire Systems, Inc.

MacRae is the former vice chairman of the California Travel & Tourism Commission and continues to serve as a commissioner. He is a past president of the Passenger Vessel Association (PVA) and current member of the joint U.S Coast Guard/PVA Partnership Action Team. He also has served as a board member of the San Francisco Convention and Visitors Bureau and is a member of the Society of Naval Architects and Marine Engineers.

He received his bachelor of science degree in mechanical engineering from California Polytechnic State University (Cal Poly) at San Luis Obispo.

Executive Committee

The CalChamber Executive Committee also named three members of the CalChamber Board as at-large members of the Executive Committee. Serving in the rotating position for 2018 will be:

• **Gregory S. Bielli**, president and chief executive officer, Tejon Ranch Company;

• **Kailesh Karavadra**, West Growth Markets Leader, EY; and

• **Jeffrey Walker Martin**, executive vice president and chief financial officer, Sempra Energy.

In addition to the at-large members and current officers, the Executive Committee typically includes the last three chairs of the CalChamber Board. The Executive Committee works with top CalChamber management to determine policy, financial and program direction, including, when necessary, providing policy guidance between the regular quarterly meetings of the CalChamber Board.

Staff Contact: Dave Kilby

Longtime Capitol Journalists Comment on California Political Winds

CalChamber President and CEO Allan Zaremberg (left) moderates a wide-ranging and lively chat on the political challenges facing California with John Myers (center), Sacramento bureau chief of the *Los Angeles Times*, and John Diaz, editorial page editor of the *San Francisco Chronicle*. Subjects at the CalChamber Board dinner session on December 7 included the difficulties of appealing to a millennial audience (for both newspapers and candidates), the campaign for California Governor, the Trump presidency, and the legacy of Governor Edmund G. Brown Jr.

Cybersecurity/Privacy Concerns Get Close Look by CalChamber Board

Nancy Lipin, partner in the Washington, D.C. office of Jenner & Block LLP and chair of the Data Privacy and Cybersecurity Practice, emphasizes to the CalChamber Board of Directors that all companies and organizations have data privacy and cybersecurity issues. Companies and organizations store valuable data electronically and rely on electronic resources like computers and network systems to operate and serve clients and customers. She says she has seen in her law practice how failure to prioritize data privacy and cybersecurity issues can have "disastrous consequences" to company bottom lines and reputations.

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Consul General: United Kingdom Aims to Be Champion of Global Free Trade

Leaving the European Union is not about the United Kingdom cutting itself off from the rest of the world, British Consul General Andrew Whittaker emphasized last week in remarks to a California Chamber of Commerce audience.

Speaking at the CalChamber International Breakfast Meeting in San Francisco on December 8, Whittaker said the UK sees leaving the EU as an opportunity to develop "more ambitious" trade agreements and become "a real champion of global free trade."

The meeting was sponsored by Shell Martinez Refinery, whose general manager, Thomas J. Rizzo, is a CalChamber Board member.

Timeline

At the end of March, UK Prime Minister Theresa May touched off the Article 50 exit clause of the EU treaty, giving the UK and EU until March 29, 2019 to reach agreement on the UK exit from the EU.

Thomas J. Rizzo (left), general manager of the Martinez Refinery for Shell Oil Products U.S., speaks with British Consul General Andrew Whittaker at the CalChamber International Breakfast on December 8.

Whittaker noted that there also is a recognition that additional time will be needed for matters to be settled, so there will be an additional two-year transitional period concluding around 2021.

The next round of UK elections has to happen in 2022, he pointed out, and the government will want to campaign on having delivered the Brexit.

"Everything is up for negotiations," he commented, predicting that discussions "will go right down to the last minute."

Until the UK leaves the EU, it cannot negotiate its own trade agreements, Whittaker said, but "intense talks" about future relations with various trading partners, including the United States, are already occurring.

Common Ground

Unlike discussions for most free trade agreements, Whittaker pointed out, the UK-EU talks begin from having 40 years of exactly the same legislation and regulations.

Negotiators don't have to face the pressure of how to remove barriers, he said. Instead, at the top of the list of concerns is how to minimize for the business community, the uncertainty that comes from Britain leaving the European Union.

An important message for businesses and investors, Whittaker said, is that they "don't face a sudden dramatic shift on the day we leave" the European Union.

The difference, he said, is more one of where the governing entity is. After the exit, for example, a company will be subject to UK processes, rather than having the extra step of going to the European courts of justice.

Challenges

Whittaker outlined the UK's industrial strategy, which identified four challenges for which business, academia, civil society and government will need to come together to work on:

- artificial intelligence and the use of data;
- clean growth—recognizing that "how we consume and produce energy needs to change";
- future of mobility, including vehicles on the road, drones and the use of robotics; and
- aging society, recognizing that people are living longer and how that affects pensions and the future of health care.

Future

As the UK continues its preparations to leave the EU, Whittaker said, it will make sure it doesn't lose sight of where it wants to be as a very forward-looking country in areas such as artificial intelligence, robotics, financial and professional services.

"We want to be sure the UK continues to be a world leader" across all those areas and "make sure we can help facilitate the development of trade and investment relations between our countries."

Staff Contact: Susanne T. Stirling

Worker Shortage, Chronic Lack of Housing Constrain Potential for California Growth

The National Outlook: Cruising Through Rough Waters

It may be tempting to interpret the hurricanes pounding the Southeast, major earthquakes in Mexico, bigger bombs going off in North Korea, and President Trump making a budget deal with the Democrats as the four horsemen of the economic apocalypse.

Yet, despite all the scary headlines, under the surface the U.S. economy is ticking along at a steady if unexciting pace.

Growth came in at 3% for the second quarter of the year (the best since the first quarter of 2015), making up for a relatively weak first quarter, and the outlook for the rest of the year remains in the 2.5% range.

Overall, Beacon Economics expects the U.S. economy to grow faster in 2017 than during the last two years. And the outlook for 2018 looks remarkably similar, short of some major change in government policy.

Here are some of the key economic trends we expect to see over the coming months.

Businesses are Investing

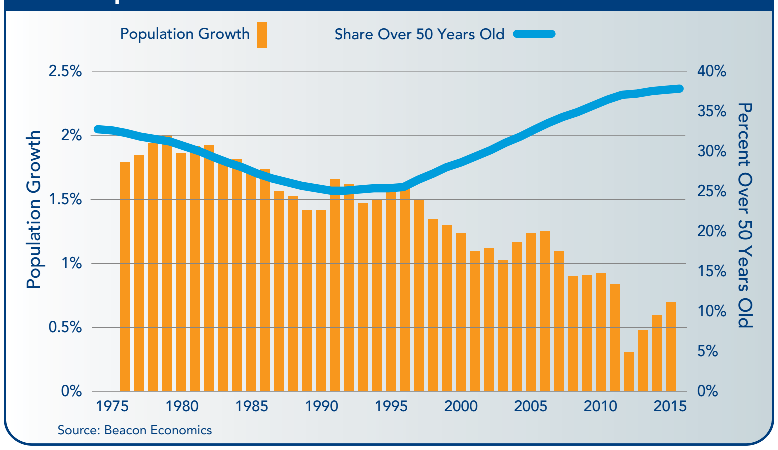
One of the best signs for 2017 is the solid recovery in nonresidential investment. Oil prices have stabilized and production and exploration are yet again on the rise. Globally, the European Union is seeing solid growth, China has stabilized, and commodity economies have started to bounce back, fueling U.S. export growth.

The ISM Manufacturing Index for August had the highest reading in six years. The European Central Bank just announced the end of its quantitative easing program and the U.S. dollar is beginning to depreciate from recent high levels, which should help maintain these trends in the second half of the year.

Disaster Economics

Only halfway through hurricane season, Houston is still in the midst of a major cleanup after Hurricane Harvey inflicted unprecedented damage on this enormous metropolis, and the damage Hurricane Irma wreaked on Florida is still being assessed. The human tragedy of these storms is clear, but it is a mistake to think they will have a negative impact on economic growth.

U.S. Population of 26-64 Year Olds



Source: Beacon Economics

In contrast, the rebuilding that occurs will actually stimulate economic growth in the short term, particularly in the residential sector as billions of dollars will be poured into fixing or replacing damaged homes.

This certainly does not imply that natural disasters should be welcomed as a tool for economic stimulus—the surge in activity is driven by the need to replace destroyed capital (not to mention shattered lives). On net, we are worse off.

Consumers to Rebalance

While business spending is heating up, we expect consumer spending to disappoint in the second half of the year. Solid growth in consumer spending kept the economy humming through the commodity bust—but spending got ahead of incomes by a good margin.

The consumer savings rate has dropped below 4% of disposable income for the first time since before the Great Recession—a very worrisome trend since overspending today can lead to future problems. Beacon Economics believes consumers are starting to rebalance their spending, at least as indicated by recent softness seen in auto and retail sales. The expectation is that savings rates will begin to drift back up throughout the rest of 2017.

Even better news is that this rebalancing will occur without many "side effects" because consumer debt burdens are still near an all-time low level and the tightness of the labor markets is driving solid wage gains.

Beware the Labor Shortage

One of the key messages of Donald Trump's presidential campaign last year focused on the lack of job opportunities for Americans—driven, he claimed, by bad taxes, bad regulations, and the huge number of undocumented workers in the nation. As much as that message resonated with part of the American public, it simply isn't true.

The United States was close to full employment during the campaign and now is not only at full employment, but will start feeling the pinch of labor shortages this year, particularly in relation to the recovery and cleanup efforts that will begin in the Southeastern areas of the nation affected by the recent hurricanes.

The country's headline unemployment rate is now at 4.4%—the lowest since the 1960s with the brief exception of the tech bubble-fueled economy of the late 1990s.

There are a number of benefits to a tight labor market—not the least of which is rising wages for workers. This might seem like a contradiction to the vast majority of press coverage of monthly jobs data, which almost always laments the lack of income growth. But the popular press is failing to account for low inflation and certain issues with the labor survey.

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Once we account for these issues in the data, the picture reveals that, on average, U.S. worker wages are rising at almost the fastest rate they have in 25 years.

Rising wages are pulling people back into the workforce and labor force growth is as strong as it has been in over a decade. This is a positive for discouraged workers who may have formerly dropped out of the labor force, as they will be given opportunities to receive training and experience.

But the pool of "discouraged" workers is small—2 million to 3 million at most. Soon, even that reserve of workers will be gone, and in addition, the baby boomers are beginning to retire in force. The solution to this problem is the expansion of immigration, an entirely opposite stance from the one the current presidential administration is pursuing. As always, our generals continue to fight the last war—not the next one.

The Trump Effect

This brings us to federal policy, or perhaps the lack thereof. When President Trump entered office, he promised radical shifts in government policy. Some of those policies could have been modestly stimulating to economic growth, while others could have put the nation on a path straight into recession.

This uncertainty has been a concern for Beacon Economics—if not the stock markets, which have continued their climb into the stratosphere. But despite our unease, nothing has happened at the federal level except the most basic functions of state. In many ways, the stasis currently gripping Washington D.C. looks to be a lot like what occurred under the Obama administration, with the exception that it is incompetence rather than partisanship that is now freezing the wheels of government.

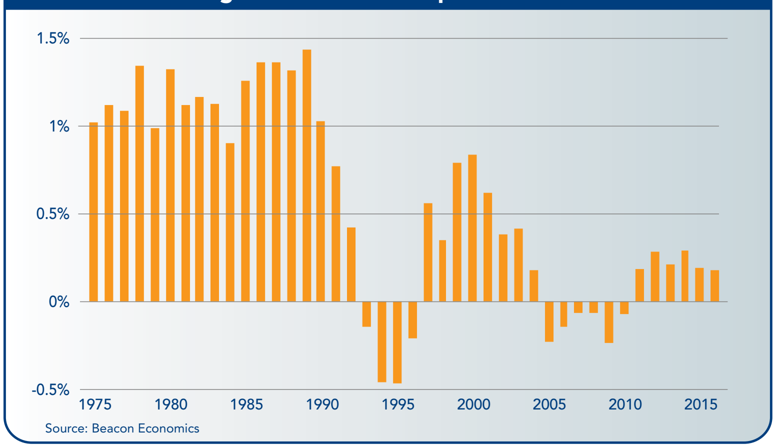
At this point, Beacon Economics believes the chance of a major change in policy (positive or negative) occurring is small but real. In the meantime, we're sitting back and taking in this year's must-watch TV—Survivor: White House.

Janet's Choice

And what about equities? Banks have been slowing their lending, commercial real estate markets seem to be plateauing, there are a variety of political and global worries, and rising wages are putting pressure on profits. But despite all this, equity markets continue to break records month after month.

In Beacon Economics' view the market has become frothy—and apparently this is the view held by the Fed as well. It has continued to tighten despite the fact that bond rates have barely budged and inflation is already slowing from the very brief surge seen at the start of the year.

California Net Migration as a % of Population



Source: Beacon Economics

The Fed is in a tough spot. It needs to figure out how to slow equities before they end up popping on their own with potentially dangerous consequences. Yet, to date, raising the Federal Funds rate and starting to sell off the balance sheet clearly isn't doing the job. Confounding the issue further is the question of leadership at the Fed in 2018 when Janet Yellen's term comes to an end. The prediction as to what the Fed does next boils down to a coin toss.

California Forecast

Economic Growth Limits

For most of the post-recession era, the California economy has been among the fastest growing of the 50 states, both in terms of job gains and growth in economic activity. Credit for this growth trajectory has largely been attributed to high tech, which has experienced phenomenal growth since the recession.

But it also was made possible by enormous slack in the labor market as the state recovered from the highest rates of unemployment seen in at least 40 years. For more than 60 months from early 2012 through mid-2016, California added jobs at roughly twice the rate as the United States.

Job gains were impressive, at times exceeding 3% year-over-year, and the state gradually chipped away at its double-digit unemployment rate, which fell from 12.2% in 2010 to 5.4% in 2016.

Yet, by the third quarter of 2016, that slack had been squeezed out: Instead of handily outpacing U.S. job gains, California's growth rate slipped to just above 1.5%, putting it roughly on par with the nation. But by early 2017, slack in the labor force was wrung out as California saw its unemployment rate hit a 16-year low, effectively at full employment.

Job gains continued in most industries, to be sure, but the pace of growth was much slower than in recent years. Entering the final quarter of 2017, some observers have worried that the slowdown in the labor market is a precursor to a stalling statewide economy.

Not So Fast!

Yes, California's pace of job growth has slowed considerably, but not because the expansion is stalling out. In fact, the state continued to add jobs through the first several months of this year, but at a slower rate. Wage and salary jobs rose by 1.7% year-over-year in July, adding 276,300 jobs year-to-year, second only to Texas.

In the private sector, the Health Care industry made the largest contribution, followed by Construction, and Accommodation and Food Services (by far the largest sector within Leisure and Hospitality). Professional Scientific, and Technical Services, the source of so much job growth in recent years, was essentially flat, as was Retail Trade. The Government sector saw a significant gain, mostly due to hiring by local governments.

Otherwise, job losses occurred only in Mining and Logging and in Durable Goods. In all, growth across the state

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has driven the unemployment rate below 5% in recent months, to the lowest rate since 2000.

Despite the slowdown in job growth, California's gross state product continues to advance nicely, increasing by 3.1% from the first quarter of 2016 to the first quarter of this year. Taxable sales growth slowed considerably, however, advancing by just 2.7% year-to-year in the first quarter of 2017 compared to a 6.7% increase in the final quarter of 2016.

With the state at full employment, job growth and general economic gains will largely be constrained by the availability of workers. This is good for workers who might achieve pay increases in the coming months and quarters, but it poses a challenge for firms that want to grow but cannot because they are unable to hire the necessary workers.

Data at the national level indicates that job openings in general have reached historic highs. This holds true for most industries, from professional and business services to manufacturing to food and beverage establishments. There are shortages of skilled workers in well-paying occupations, of unskilled workers in food services and similar industries, and even of skilled and semi-skilled occupations in manufacturing and construction.

What is holding back growth and can anything be done about it? There is an easy answer to the first question, but the second is a different story.

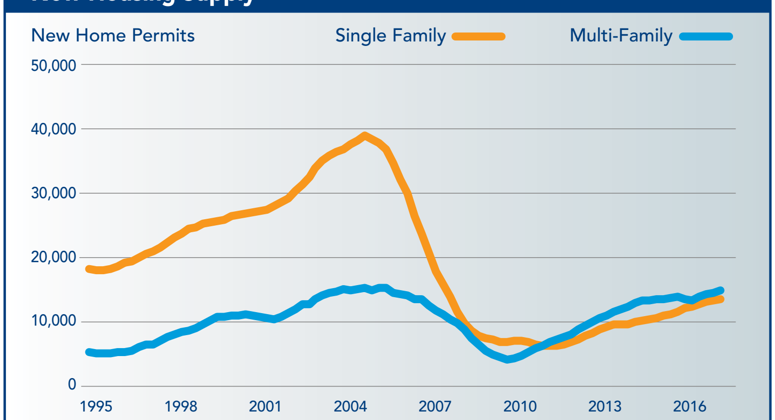
Build It…They're Already Here

For decades, California augmented its homegrown labor force with workers from elsewhere, drawing from both other states and other countries. Through much of the post-World War II era, the state was a magnet for workers from around the country and the world. There were opportunities for aerospace engineers, fruit pickers, and everything in between.

In the 1970s and 1980s, California's labor force grew by an average of 3.1% per year, during which time net migration matched or exceeded California's internal population gains. But net migration turned negative with the 1990s recession, and in turn, growth in the labor force has slowed to just 0.9% annually since 1991. Significantly, in the last decade and a half, consistent state-to-state migration out of California has been offset only by international migration into the state.

It is no coincidence that slower labor force growth has occurred as the cost of living has soared in California. As recently as the mid-1970s, the median price of a California home was just a few thousand dollars higher than the national median. But since 1990, the California median has consistently exceeded the U.S. median by more than 50%, with the state median at least double the U.S. median in 10 of the last 27 years. Meanwhile, rents have reached such heights that rent burdens in many communities across the state are among the nation's highest.

New Housing Supply



Source: Beacon Economics

Countless headlines in recent years have described California as facing a housing shortage and an affordability crisis as construction has lagged demand. This is not a new theme, just the latest chapter in California's housing story. One need only look back to the early 2000s to find the same storylines:

- The state's need for housing far outstrips the current pace of building;
- The state needs more affordable and workforce housing;
- Even middle and upper middle income households face affordability challenges.

Without attempting to sound trite, it all boils down to supply and demand. On the demand side, the much-anticipated arrival of Millennials on the housing scene, coupled with recent job and income growth and low interest rates, are all driving demand for housing, both owner-occupied and rental. On the supply side, existing home sales have fallen below expectations, given the strength of the economy, while new single-family and multi-family construction has been relatively weak since the recession.

Demand-side solutions to the problem include easier underwriting standards (though not as slack as in the 2000s), reduced down payments, and special finance programs for would-be buyers, along with rent subsidies for qualified households. But in the absence of increased supply, these programs result in more would-be buyers/renters competing for scarce housing.

No, the situation ultimately must be addressed by increasing supply, a tall order indeed. But until California does so, in earnest, growth of the statewide economy will be constrained.

That is not to say that California won't grow. It will. The state and its regions should experience continued growth in economic activity and jobs throughout 2017 and into 2018. Most of the job gains will occur in Health Care, Leisure and Hospitality, and Construction. But California will fall short of its potential until it crafts long-term supply-oriented solutions to the chronic problem of high housing costs and low housing affordability.

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, and Robert Kleinhenz, Ph.D., economist and executive director of research at Beacon Economics.

State-Run Retirement Draft Regulations Exclude Critical Instructions for Employers

Draft regulations for the new state-run retirement savings program, Secure Choice, leave out critical instructions to help employers understand their obligations, the California Chamber of Commerce explained during a recent workshop in Sacramento.

The regulatory process is intended to create accountability for the agency and transparency to the public.

The absence of those instructions will only lead to confusion and prevent employers from feeling engaged in the process if they don't understand the rules, or believe they are being tricked, CalChamber Policy Advocate Marti Fisher said at the workshop.

Moreover, the lack of important specifics could be determined to be an underground regulation that is not enforceable.

Secure Choice

Signed by Governor Edmund G. Brown Jr. in 2016, SB 1234 (de León; D-Los Angeles; Chapter 804), along with the original SB 1234 (de León; D-Los Angeles; Chapter 734) and SB 923 (de León; D-Los Angeles; Chapter 737) in 2012, creates a framework for the California Secure Choice Retirement Savings Investment Program.

The program is a state-run retirement savings plan for private employees that includes automatic enrollment with an opt-out provision for an estimated 6.3 million California workers whose employers do not currently offer an eligible retirement savings program. Private employers with five or more employees will be required to automatically enroll their employees into and make payroll deductions for their Secure Choice retirement accounts, unless the employee opts out.

It is anticipated that the program will begin enrollment at large employers in late 2018, followed in subsequent years with enrollment at smaller employers.

ERISA and Enrollment Process

The employer community has been outspoken about the liability that the Secure Choice program could create under the federal Employee Retirement Income Security Act of 1974 (ERISA) for those employers that the state mandates to participate. It is imperative that the employer have no involvement with the Secure Choice program other than minor administrative functions in order to limit liability and administrative burdens.

Therefore, the success of the program for employers depends on the third party administrator (TPA) exercising a strong intermediary role between the employer and employee to ensure extremely limited interaction with the employee that could be construed as or evolve into an employer's endorsement of the program.

The CalChamber and a coalition of employer groups are encouraging the Secure Choice Retirement Savings Investment Board and staff to be mindful that given the nature of the employment relationship, employees will want to seek out their employers for clarification and instruction regarding the employees' decision to participate in this program. It is essential that systemic mechanisms are in place to redirect employees to the TPA to handle their questions and concerns, and not the employer.

Information Packets and Disclosures

The coalition continues to object to using the acknowledgment of receipt of the employee disclosure as a consent form for enrollment into the plan, which is inconsistent with the legislative intent of the program. As employers advocated for and provided structure to the disclosure, they asserted that the function of the form is to inform employees as a consumer protection function and to protect employers.

As a separate function, the disclosure is part of the employee information packet that contains an opt-out form should the employee choose not to participate. Providing the disclosure is intended to protect the employer and ensure the employees are fully informed about the program they have been enrolled in and to make an informed decision regarding continued participation. The enrollment process includes the employee's acknowledgment of having received the disclosure documents and information about the program separate from the automatic enrollment. The acknowledgment is simply part of the administrative function, which the coalition asserts would best be performed by the TPA. The employee acknowledgment was not envisioned to serve as an opt-in or as making enrollment contingent upon it.

Lastly, regarding the disclosures related to employer liability, responsibility and advice restrictions, the CalChamber and coalition request the board and staff to involve and consult with them in developing and designing the document (that is, font size, color and wording) to ensure employees are properly and adequately given notice that this is a government-run retirement savings program.

Missing Provisions

The draft regulations are not specific about some elements of the process, such as how forms are handled, who provides what to whom, and specifically how enrollment occurs. The coalition continues to advocate for a process that limits the employer's function, shifts primary communication and operations with employees to the TPA and is honest with employers and employees.

A number of provisions of the statute are not clarified in the regulations, but should be to avoid being developed as underground regulations, according to the CalChamber and coalition:

- Identifying who tracks contribution limits, who notifies the employee if they have reached it or are close to the limit, and what happens to overpayments beyond the limit.
- Process for employees to take their money out, either in its entirety or partial withdrawal of funds. Is a hardship required to make a withdrawal? What are the rules surrounding these functions?
- What constitutes a hardship? The number of times employees will be allowed to invoke a hardship situation? Is there a cap for a hardship withdrawal, and if so, what is the amount?

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CalChamber Backs Water Bonds Proposed for November, June Ballots

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• Provides funding to implement the Sustainable Groundwater Management Act that stabilizes groundwater levels in over-drafted groundwater basins.

• Provides funding for recycling wastewater, mainly for landscaping and industrial uses.

• Provides major funding for watershed improvements and better management practices that will improve water quality and supply to benefit the environment.

• Provides funding for leak detection, toilet replacement and landscape conversion.

• Provides $200 million for repairing the Oroville Dam Spillway.

This initiative continues the groundwork started with Proposition 1 of 2014, which CalChamber supported.

Legislative Bond

On the June 2018 ballot is the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2018. The state Legislature passed SB 5 (de León; D-Los Angeles) to put the bond measure on the ballot.

If approved by voters, the measure would authorize the issuance of $4 billion in general obligation bonds.

The funds for water quality and supply total $1.27 billion of the $4 billion (30%). The funds for environmental protection and restoration total $2.83 billion of the $4 billion (70%).

Gerald Meral (left), director of the Natural Heritage Institute, and Jay Ziegler, director of external affairs and policy for The Nature Conservancy, outline the merits of water bond proposals for the CalChamber Water Resources Committee on December 7. Meral's bond initiative is proposed for the November 2018 ballot. The SB 5 bond is on the June 2018 ballot. The CalChamber supports both bonds.

The CalChamber Board voted to support SB 5 because the measure:

• Provides funds for groundwater cleanups that improve water quality.

• Provides funds for flood protection and repair.

• Provides $250 million for clean drinking water and drought programs with $30 million available for grants in the San Joaquin River basin, where many communities lack access to clean safe drinking water.

• Provides funds for parks in urban and disadvantaged communities.

• Improves state park tourism.

• Helps address the backlog of deferred maintenance at state parks.

• Invests in rural communities.

Staff Contact: Valerie Nera

State-Run Retirement Draft Rules Exclude Critical Instructions

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• What is the employee opt-out process; what are timeframes; how long after employees provide notification is their money returned?

• If there is a dispute between employee and employer, between employee and TPA, or between employer and TPA, what is the dispute resolution process?

• What happens when an employer drops below 5 employees?

The coalition believes that most, if not all, of these functions should be handled by the TPA and should be specified in the request for proposal (RFP) and in the regulations. As written, without the specific processes, the development of policy to address these items without formal regulation is likely underground regulation and not enforceable.

Additional Concerns

The coalition also raised concerns and questions about the definition of an employer eligible to participate in the program; details about the open enrollment period and handling employees who opt out of the program; voluntary enrollment prior to the program start; the process and requirements for a pilot program; deleting an option for employers to self-certify themselves for exemption from the program; and whether a traditional IRA or a Roth IRA should be the default investment choice.

Next Steps

The Secure Choice Board is scheduled to meet on December 18. Staff will brief the board and discuss public input regarding the proposed regulation draft, and seek further direction from the board.

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