VOLUME 46, NUMBER 7 • MARCH 6, 2020

CalChamber

ALERT

California Primary Election: An Initial Review of Results

California's grand political experiment to become relevant in the Democratic presidential primary process appears to have worked.

With California as a Super Tuesday state, California Democratic voters experienced first-hand the presidential nominating process by being witness to multiple visits by the leading contenders, seeing countless TV ads—first by Michael Bloomberg, followed by Bernie Sanders and Elizabeth Warren—and playing host on Election Night to Democratic front-runner Joe Biden. The rapid pace by which the Democratic nominating process turned was unprecedented by almost any standard.

Still, this swift turn of electoral fate runs smack into a brick wall due to the inevitable slow pace by which California ballots are counted. Late absentees, same-day registration and new voting systems leave an estimated 5 million ballots still to be counted, according to Paul Mitchell with Political Data, Inc.

Key Legislative Races

Closer to home, there were several key legislative races of importance to the California Chamber of Commerce that saw engagement by our two super political action committees (PACs), JobsPAC and Silicon Valley JobsPAC. Here are some highlights from the evening:

• **Senate District 7**—Incumbent Steve Glazer (D-Contra Costa). Our top priority race saw an outcome favorable to Glazer, who was being challenged by the unions. Glazer emerged as the top vote getter and will face off against Republican Julie Mobley. This is a safe Democratic seat, making the prospect of Glazer prevailing in November a near certainty.

JobsPAC funded a field program for Glazer and Silicon Valley JobsPAC paid for some contrast mail against the union-funded candidate, Marisol Rubio.

• **Senate District 13**—Incumbent Jerry Hill (D-San Mateo) did not run as he had reached his term limit. This is an important seat for Silicon Valley JobsPAC due to the number of leading tech compa-

See California Primary: Page 6

Author Revives Bill Increasing Litigation Against Businesses

The author of a California Chamber of Commerce-**opposed** proposal allowing the Attorney General and private attorneys to sue taxpayers for perceived tax errors has reintroduced his bill for consideration this year.

AB 2570 (M. Stone; D-Scotts Valley) is a repeat of last year's **AB 1270 (M. Stone; D-Scotts Valley)** that stalled in the Senate Appropriations Committee.

AB 2570 expands the False Claims Act (FCA) to allow the Attorney General and private attorneys to sue taxpayers on potential tax errors, consequently creating inconsistent tax enforcement, litigation, and nuisance lawsuits for taxpayers.

The bill has been presented as a method to combat tax fraud, but the fiscal analysis of AB 1270 last year did not identify any estimated increase in revenue to California from expanding the FCA to allow tax-related lawsuits. Moreover, the CalChamber has found no reporting of rampant tax fraud in California or failures by existing tax agencies that would justify incorporating the FCA and private enforcement.

Massive Penalties

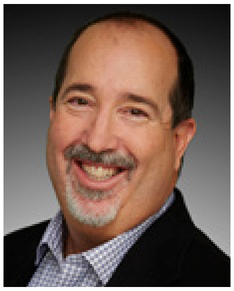
Allowing for-profit attorneys into tax enforcement is gravely concerning, especially because the FCA provides massive penalties for the taxpayer and massive

See Author Revives Bill: Page 10

Inside

Labor Law Corner

Medical Proof of Disability Needed to Start Accommodation Process



David Leporiere
HR Adviser

One of my employees who has been with the company for a few years (and who was about to get written up for failing to complete projects in a timely manner) came to me and said she needed more time to complete her work because she's dyslexic. I asked her to provide me a doctor's note confirming her disability, but she's refusing, saying that she was diagnosed as a child and it would cost too much to go to a doctor now to get a note. Do I have to provide her an accommodation if she's refusing to give me a doctor's note?

When an employee requests an accommodation for a purported disability, that triggers certain obligations for both the employee and the employer under the federal Americans with Disabilities Act and the California Fair Employment and Housing Act.

Under federal and state law, an employer may require a medical certification from a "medical provider," as defined by the applicable regulations, before the accommodation is granted.

Interactive Process

One of the first obligations for both parties is to engage in the interactive process to identify or implement an effective, reasonable accommodation. The law requires both the employer and the employee to exchange essential information without delay or obstruction of the process. (Title 2, California Code of Regulations, Section 11069(a))

As part of the interactive process, the employee is compelled to cooperate in good faith with the employer to complete the process.

Medical Documentation

Where the need for an accommodation is not obvious, the employer is authorized to request reasonable medical documentation to confirm the existence of the disability and the need for a reasonable accommodation. (Title 2, California Code of Regulations, Section 11069(d)(1))

Consequently, in the situation you described, you are entitled to request that the employee provide you with medical certification that she has a disability and her need for an accommodation.

The employee is compelled by law to provide you with that medical certification as part of the interactive process since her need for an accommodation is not obvious.

If the employee continues to refuse to provide you with medical certification, she is refusing to cooperate in good faith in the interactive process. Where an employee refuses to cooperate in the interactive process, you, as the employer, will not be obliged to provide a reasonable accommodation.

Column based on questions asked by callers on the Labor Law Helpline, 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.

California Chamber Officers

Mark Jansen
Chair

Donna L. Lucas
First Vice Chair

Kailesh Karavadra
Second Vice Chair

Gregory S. Bielli
Third Vice Chair

Grace Evans Cherashore
Immediate Past Chair

Allan Zaremberg
President and Chief Executive Officer

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: Taryn DeOilers. Art Director: Neil Ishikawa. Capitol Correspondent: Sara Profitt.

Email: alert@calchamber.com.
Home page: www.calchamber.com.

CalChamber-Sponsored Seminars/Trade Shows

More at www.calchamber.com/events.

Labor Law

Best Practices for Disciplining and Terminating Employees in California. CalChamber. March 19, Webinar. (800) 331-8877.

HR Boot Camp. CalChamber. March 27, San Diego; April 23, Costa Mesa; May 6, Sacramento; June 12, Walnut Creek; August 21, Pasadena; September 10, Sacramento. (800) 331-8877.

Marijuana, CBD, Opioids: How Employers Can Address Drugs in the Workplace. CalChamber. April 16, Webinar. (800) 331-8877.

Leaves of Absence: Making Sense of It All. CalChamber. April 24, Costa Mesa; June 26, San Diego; August 13, Oakland. (800) 331-8877.

International Trade

Foreign Director Investment and Exporting. International Economic Development Council. March 10, Webinar. (202) 223-7800.

Exporting Mechanics Webinar Series II: Cultural Sensitivity Program. National Customs Brokers & Forwarders Association of America, Inc. and U.S. Department of Commerce. March 10, Webinar. (202) 466-0222.

CosmoProf Bologna. CosmoProf Worldwide Bologna. March 12–15, Bologna, Italy. +39-02-454708236.

California–Irish Relations: Launching the Invest in the U.S., California Guide. CalChamber. March 16, Sacramento. (916) 444-6670.

See CalChamber-Sponsored: Page 10

The Workplace

Coronavirus: CalChamber Podcast Examines Potential Economic Impact

Coronavirus continues to dominate the news, raising concerns among individuals and for our economy.

In Episode 51 of The Workplace podcast, CalChamber Executive Vice President and General Counsel Erika Frank is joined by economist Christopher Thornberg, Ph.D, founding partner of Beacon Economics, to discuss the COVID-19 coronavirus and its possible impact on the economy and businesses.

Two Economic Impacts

There are two places in our economy where the impact of the virus will be apparent and each one needs to be handled differently, Thornberg tells Frank.

First, there is a substantial decline in the demand for travel services and basic tourism.

"…Airlines, large hotels, and conference centers will find their Q1 [first quarter] and Q2 [second quarter] will end up being quite bad from a profit-loss perspective," Thornberg says.

Because these types of industries rely on their available capacity to make money, if capacity levels dip, the industries lose money.

The second area that will be visibly affected by COVID-19 is supply chain influences. It can be as big as having trouble getting parts from China and realizing what this means for your particular businesses, or having employees refuse to come to work out of concern or because they have become ill, he explains.

Consumer Spending

If people aren't spending money on tourism and travel, Thornberg says, consumers either are going to save that money and spend it during the second half of the year, which will help the travel sector, or consumers will spend their money on something else.

In the long term, the economy will be better off because people have money saved away to go ahead and spend it elsewhere and help bolster the economy where there are deficits, Frank clarifies.

If one looks at the economy immediately after 9/11, there was a substantial decline in travel and tourism, but the economy did OK because people simply spent their money somewhere else in the economy, Thornberg explains.

He points out that what causes a recession is when consumers pull back on overall spending (aggregate demand shock)—which is not what is happening now.

"This is not an aggregate demand shock; this is a shift in demand away from things like tourism and travel toward other parts of the economy," he tells Frank.

Not If, But How Long?

The real question, Thornberg says, is not *if* companies are going to be hit, but for how long?

It isn't necessarily the case that one or two bad quarters will cause larger companies, like a hotel or an airline, to go bankrupt despite having negative numbers. Larger companies should have enough cash reserves or can borrow to weather a short storm between three to six months, he says.

Small companies, however, simply don't have that kind of wherewithal, so there is going to be a larger amount of stress, he tells Frank.

As a reminder, Thornberg points out that every year there's a substantial decline in economic activity in the first quarter of the year from the last quarter of the previous year due to the holiday shopping season. This seasonal drop doesn't have an impact because everyone is used to it, but a decline that drags into the latter months of the year may be a cause for concern.

"…if this bleeds a little bit into the second quarter, I'm still going to be OK, I'm still not too worried about it. But if we don't get in front of it, if we don't handle it appropriately and it gets into Q3…that's the point in time when this really will start to have an impact on overall economic growth and… could actually lead to a recession-type scenario," Thornberg explains.

Takeaways

"Everyone should appreciate that short-run pain is going to lead to long-run gain," Thornberg says. Despite the legitimate concerns about coronavirus, there are some positive things to take away from what's happening to the economy and nation, Frank says.

While the potential for these kinds of contagions increases every year, the quicker we figure it out, the better systems we will have in place to control the next one, Thornberg reminds listeners.

He points out that overall, the stock market is not doing that badly. A year ago today, markets were down 20% and 2019 was still a perfectly reasonable year for economic activity.

Thornberg emphasizes that the COVID-19 outbreak should be taken seriously: Make sure people understand to stay home if they don't feel well. Don't shut your company down and don't think about canceling investments. People should understand that, with the right aggressive action, this is going to go away relatively quickly.

"Stay calm and carry on," he says.

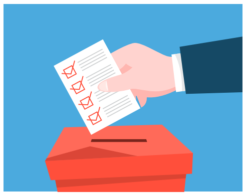
Subscribe to The Workplace

Subscribe to The Workplace on iTunes, Google Play, Stitcher, PodBean and Tune In.

To listen or subscribe, visit ***www.calchamber.com/theworkplace***.

Board Votes on Possible Ballot Initiatives

Support Crime Reduction; Oppose Rent Control, Medical Damage Cap Increase



The California Chamber of Commerce Board of Directors voted on February 28 to support a ballot measure that would reduce crime, and oppose a measure which would establish statewide rent control and one which would increase the noneconomic damages cap under the Medical Injury Compensation Reform Act.

SUPPORT: Reducing Crime and Keeping California Safe Act of 2018

Eligible for the November 2020 ballot, the Reducing Crime and Keeping California Safe Act rewrites two earlier criminal justice reform ballot measures (Proposition 47 and Proposition 57) to enhance the disincentive to commit property crimes and retail thefts, and reclassify certain violent crimes to remove special sentencing reductions.

Many cities around California have reported an increase in retail theft. For instance, Vacaville police records show the annual loss to retail theft has more than doubled since 2014. Organized retail theft, crimes with multiple suspects, were up 40% in 2019 as compared with 2014 in Vacaville. FBI crime data also shows retail theft is up statewide.

The Keep California Safe initiative discourages organized retail thefts by increasing penalties and saves retailers thousands of dollars in lost merchandise and loss prevention programs. The initiative:

• Includes a felony for "serial theft." A person caught stealing merchandise valued at more than $250 three separate times would face felony charges.

• Expands the list of violent crimes for which early release isn't an option.

• Requires the Board of Parole Hearings to consider an inmate's entire criminal history when deciding parole, not just his/her most recently committed offense.

OPPOSE: Rental Affordability Act

The Rental Affordability Act may appear on the November 2020 ballot. The ballot measure would replace the Costa-Hawkins Rental Housing Act, which was passed in 1995. Costa-Hawkins prohibits local governments from using rent control on (a) housing that was first occupied after February 1, 1995, and (b) housing units with distinct titles, such as condos, townhouses, and single-family homes.

This initiative would instead allow local governments to adopt rent control on any housing units, with exceptions for (a) housing that was first occupied within the last 15 years and (b) units owned by natural persons who own no more than two single-family dwellings.

The 2016 Legislative Analyst's Office (LAO) report on California's housing concluded that "[r]ent control will do nothing to increase our supply of affordable housing and, in fact, likely would discourage new construction." The LAO goes on to state that an "attempt to make housing more affordable without increasing the overall supply of housing... does very little to address the underlying cause of California's high housing costs: a housing shortage."

A substantial body of economic research analyzing the effects of rent control supports the LAO findings that rent control depresses new residential construction, decreases affordability of most units, encourages gentrification and creates spillover effects into surrounding neighborhoods.

Additionally, under Costa-Hawkins, landlords can increase rent prices to market rates when a tenant moves out (a policy known as vacancy decontrol). This ballot measure would eliminate vacancy decontrol and instead require local governments to only allow landlords to increase rental rates by no more than 15% during the first three years following a vacancy.

The ballot measure is unnecessary in the wake of AB 1482, which was signed by Governor Gavin Newsom last October to cap annual rent increases at 5% plus inflation for tenants. AB 1482 requires that a landlord have a just cause, as defined in the law, to evict tenants that had occupied the rental for at least one year. AB 1482 included exemptions for housing built in the past 15 years and some single-family homes and duplexes. The legislation was designed to sunset after 10 years.

OPPOSE: The Fairness for Injured Patients Act

The Fairness for Injured Patients Act (FIPA) primarily seeks to increase and adjust the current noneconomic (general) damages cap under the Medical Injury Compensation Reform Act (MICRA) from $250,000 to reflect inflation since its adoption in 1975.

Additionally, FIPA seeks to revise MICRA to:

• Allow for noneconomic damages to exceed the proposed new cap in the event a patient's injuries are catastrophic;

• Adjust the medical malpractice attorney's fees prescribed in Business and Professions Code Section 6146 to reflect the increase in inflation since 1975;

• Abolish MICRA's provision to allow for damages above $50,000 to be paid for by periodic payments;

• Extend the statute of limitations for a plaintiff to sue a health care provider from one year from date of discovery of harm to two years; and

• Extend statute of limitations for a minor to commence an action against a health care provider from three years from date of harm to four years.

Increasing the noneconomic damages cap under MICRA will increase health care costs for employers and employees, as health care providers will pass on the increased damage awards they suffer to patients and plan providers.

Moreover, increasing the noneconomic damages cap under MICRA could result in fewer medical providers in California. Despite proponents claiming otherwise, California has proof of the loss of health care providers in the state when there was no reasonable cap on noneconomic damages and medical malpractice litigation was threatening a significant increase in liability insurance.

ALERT
WWW.CALCHAMBERALERT.COM

Speakers Highlight Economic Vitality of Baja California Region

The cross-border connections that make the Baja California region a dynamic economic center were the focus of a recent California Chamber of Commerce international breakfast meeting at The Lodge at Torrey Pines in La Jolla.

Speakers at the February 28 gathering hosted by the CalChamber Council for International Trade were Rubén Roa Dueñas, undersecretary of the economy for the State of Baja California, Mexico; and Ambassador Carlos González Gutiérrez, consul general of Mexico, San Diego.

The Automobile Club of Southern California sponsored the breakfast, which was held in conjunction with the CalChamber Board of Directors meeting.

'2 Countries, 1 Region'

Consul General González Gutiérrez described the border area as "two countries, one region," a model of the success that financial cooperation can produce.

The "close and daily interaction between Baja and Southern California shows the enormous potential that cross-border cooperation has for Mexicans and Californians alike," he said.

Each day, he noted, 145,000 people—both Anglo and Mexican—commute between Tijuana and San Diego.

The number of cross-border crossings reached a peak shortly before the 9/11 attacks and are close to reaching that peak again now, 19 years later.

The importance of the cross-border transactions have led to innovations in speeding passages, he commented. Most notable of the innovations was the construction of the Cross Border Xpress (CBX) bridge between the United States and Mexico. The CBX bridge makes it easy for travelers to cross the border with little difficulty from San Diego to the Tijuana International Airport, the Consul General said.

Ambassador Carlos González Gutiérrez

Undersecretary Rubén Roa Dueñas

(From left) Ambassador Carlos González Gutiérrez, consul general of Mexico, San Diego; CalChamber Chair Mark Jansen, Blue Diamond Growers; Undersecretary of the Economy Rubén Roa Dueñas, State of Baja California; Susan Corrales-Diaz, Systems Integrated; John Boyle, Auto Club of Southern California (breakfast sponsor).

Finding Common Solutions

Building on the themes highlighted by the Consul General, Undersecretary Roa described the enthusiasm that accompanied the December 2019 signing by the border Governors of the Memorandum of Understanding (MOU) re-establishing the Commission of the Californias.

California Governor Gavin Newsom signed the MOU together with Baja California Norte Governor Jaime Bonilla Valdez and Baja California Sur Governor Carlos Mendoza Davis.

The MOU and the commission provide a forum for developing common solutions among the border states, Undersecretary Roa said.

Areas for cooperation and exchanging ideas, he said, include energy efficiency, renewable energy, advanced manufacturing, biotechnology, medical devices, information technology, wastestream management, pollution abatement, and infrastructure.

Undersecretary Roa pointed to the economic strength of the Baja California region and the aspirations of its people.

He said the region is a "resilient and adaptable melting pot of talent, kindness and people eager to make a better quality of life for them and their loved ones."

Describing the research and innovation and the work on developing regional supply chains to facilitate trade and investment in the Baja California region, Undersecretary Roa commented that there are many projects which embrace technology.

"Smart people want to live here," he concluded.

Staff Contact: Susanne T. Stirling

Pollster/Author Reveals Trends Affecting Campaigns for Presidency

Kristen Soltis Anderson, pollster, commentator and author, entertains and enlightens the audience at the CalChamber Board of Directors dinner on February 27 with observations on the forces that have combined to make politics so unpredictable, elevating a "brand new type of leader" who previously would not have been considered likely to win. Among the trends she identifies is the "hollowing out of the political center" around the globe.

California Primary Election: an Initial Review of Results

From Page 1

nies that are headquartered in this district, which includes both Santa Clara and San Mateo counties. As things look at publication of this newsletter, Josh Becker, a tech-savvy entrepreneur and venture capitalist, appears to be in the runoff with Republican Alex Glew.

Our involvement focused on a digital advertising effort in opposition to Democrat Sally Lieber. Again, a safe Democratic seat all but ensures that Becker will glide to a November election victory.

• **Senate District 15**—Incumbent Jim Beall (D-San Jose) did not run as he had reached his term limit. This appears to be a runoff between two Democrats, attorney Ann Ravel and Santa Clara County supervisor Dave Cortese. This represents another seat important to our technology company members and a viability assessment will be made as part of our November strategy.

• **Senate District 37**— Incumbent John Moorlach (R-Costa Mesa). The term "safe Republican" seat no longer applies in Orange County, so while Senator Moorlach is a good friend, Silicon Valley JobsPAC worked with a coalition of our business allies to oppose Costa Mesa Mayor Katrina Foley, who was heavily backed by labor. At present, Democrat Dave Min appears to be in the runoff with Senator Moorlach.

• **Assembly District 72**— Incumbent Tyler Diep (R-Westminster). As the only Republican to vote for the labor-supported AB 5, the independent contractor legislation, Diep brought upon himself some serious opposition. At the behest of Orange County Republican officials, former senator and fellow Republican Janet Nguyen filed to run against Diep.

Working with our allies in the rideshare sector, Silicon Valley JobsPAC opposed Diep through a targeted mail and phone program. At present, Diep looks to have finished a distant second to Janet Nguyen but could slip into third place when all the late ballots are counted.

Final Results

Of course these were not the only primary election contests; there were a total of 120 legislative and 53 congressional races, many of which will not be decided for several weeks. Counties have until April 3 to complete and certify their vote counts.

One way to look at it is, we will finally know all the winners and losers just before the NCAA hoops champion is crowned.

Staff Contact: Martin R. Wilson

No Slowdown Before the Election Hoedown

U.S. Economic Outlook

This year's Lunar New Year ushered in the Year of the Rat on the Chinese calendar. The past year, the Year of the Pig, might more fittingly be labeled "year of the bear" given the number of grim outlooks for the U.S. economy that were offered up by economists and pundits.

Whether it was the inverted yield curve, the trade war with China, a residential real estate meltdown, or some other perceived economic calamity, there were a lot of bets that the now record-long expansion was going to come to an end, and soon.

Yet as we move through the first quarter of 2020, incoming data from 2019 doesn't indicate anything that signals an impending recession. While the quarter-to-quarter data for the year was quite volatile, overall, 2019 saw U.S. GDP grow at about a 2.3% pace—just slightly slower than the year before. There was a slowdown in business investment—but this was made up for by falling imports and a pickup in public spending.

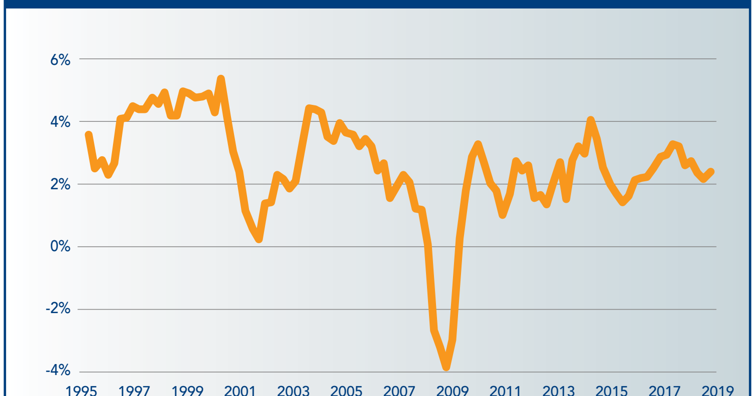
Looking ahead, Beacon Economics' expectation is that U.S. GDP growth in the first quarter of 2020 will be in the 1% to 2% range. For the year overall, expect a modest rebound and growth in the 2% range. Employment growth will slow, but only because of a tight labor market and the difficulty employers face in filling open positions. Rumors of this expansion's imminent demise continue to be highly exaggerated.

Other economic indicators from the past year are also positive. Residential real estate markets have returned to "normal" in terms of sales, and prices are accelerating again. There were 2 million jobs added to the payroll workforce last year and unemployment has remained low. Data from the Atlanta Fed shows worker wage growth accelerating in 2019 over 2018, and savings rates picked up to 8% by the end of the year. Interest rates are low, as is inflation. The bearish headlines have started to diminish along with the fear of an impending recession. This will come as good news for President Trump's reelection bid and will remain a central point in his pitch to voters.

Wildcards

There are still wildcards out there related to the economy. To date the coronavirus has had only modest effects compared to a normal flu season. However, the potential for the virus to spread is evident and it remains an unknown as to how long it will take to contain. This situation could grow worse and have an impact on an already-fragile global economy. Additionally, the stock market is currently in full bubble mode and there are hints that other financial irregularities are popping up in nonbank lending channels. But none of these appear close to having the power to derail the current economic expansion.

Real Gross Domestic Product Year-over-Year Growth GDP



Source: Beacon Economics

Turning to Washington, that the economy is not tipping headlong into another downturn is no vindication of the Trump administration's policies since taking office. This administration inherited a strong economy with one of the healthiest consumer bases in 30 years—doing nothing would have been sufficient to maintain growth.

This is not, however, the election year narrative President Trump and his campaign are promoting, as evidenced so well in the recent State of the Union address. In that address, the President claimed that the U.S. economy had been floundering under the previous administration, and that his policies were responsible for reinvigorating it.

Economic Weakening

But even a cursory look at the data contradicts that and even more, suggests that the U.S. economy is weaker now than it was two years ago when the current administration took over. Moreover, this weakening has occurred despite a strong hit of stimulus from both fiscal policy and falling interest rates.

There are a number of global issues far beyond the control of the White House that explain some of the economic weakness. But a portion of it can be linked directly to current U.S. policy choices related to issues such as trade and immigration. And perhaps most important is that the capstone achievement of this administration—the 2017 Tax Cuts and Jobs Act—has had no positive impact on the economy at the expense of today's trillion-dollar deficit.

This certainly isn't an endorsement of the Democrats' platform—whatever it may look like when (and if) this primary season ever ends. The rhetoric being thrown around by the many candidates still in the running focuses on ideas and initiatives that poll well with the political base but are not tackling the real, and most pressing, economic issues facing the United States.

Avoiding Issues

Indeed, avoiding the real issues—such as entitlement reform, underinvestment in infrastructure, a broken tax system, and a massive federal deficit—seems to be the only true bipartisan effort going on within the nation's political establishment. Neither side has concentrated on these issues and that is the most frightening trend of all.

It adds up to a nation that is squandering a period of unprecedented prosperity, a time when it could start to take on the big problems of our era, to instead battle over populist policies and political power.

Still, these long-run worries will not offset the economy in the year ahead. Here are the highlights and lowlights of 2020 as Beacon Economics sees it.

Positive Trends

Consumer spending growth in 2019 slowed from the year prior—but this is explained by the one-time impact on the economy that occurred in 2018 as a result

See Next Page

No Slowdown Before the Election Hoedown

From Previous Page

of the Tax Cuts and Jobs Act. Still, at 2.5%, consumer spending growth in 2019 was faster than overall U.S. GDP growth (2.3%). Interestingly, the savings rate increased in 2019 to a high of 8% in the final quarter of the year.

The ability of households to both save and spend more than the nation as a whole was due to tight labor markets that saw national income shares shift toward workers.

With tight labor markets, a low debt burden, strong financial markets and low interest rates, there is nothing to hold the consumer back in 2020 — except uncertainty. A solid consumer sector will be the keel on the U.S. economy as it races through rougher global waters.

Residential real estate markets, as predicted, turned the corner sharply in the second half of 2019 with recovering sales and an uptick in construction activity. The markets will also have a good year ahead with low mortgage interest rates, rising ownership rates, and very tight inventories boosting prices.

Interest rates will also be favorable in 2020. Inflation was never a serious threat to the economy, and core rates are still below the Fed's target. This means that the chance of the Fed loosening again is greater than the chance of its tightening. But the greatest odds may be that the Fed largely stands pat until after the 2020 presidential election.

Neutral Trends

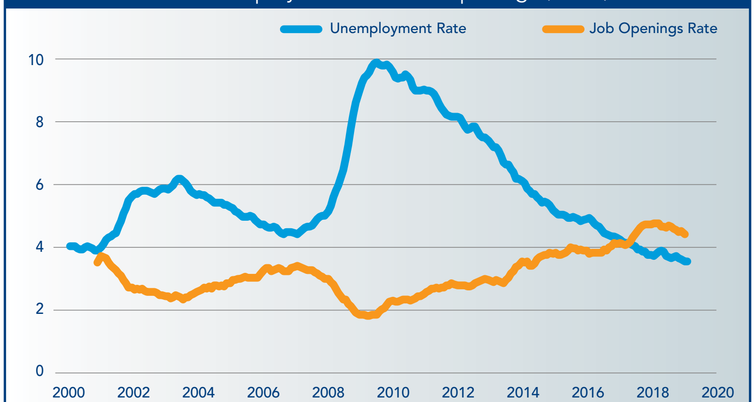
A positive trend for the U.S. economy has been the jump in public spending at the national level. But this increase has been funded, along with tax cuts, by a huge surge in federal borrowing. While this clearly represents stimulus in the economy, it comes at a high future cost by making a bad fiscal balance problem even worse. As such, Beacon Economics sees this as a neutral for the economy… for now.

Trade is also a neutral for the U.S. economy. Last year the national economy showed almost no impact from the trade war with China. Yes, the flow of goods between the United States and China slowed sharply, but on balance, the U.S. simply bought more from other countries and sold more to other countries.

Overall trends in real U.S. imports and exports was flat last year with the trade deficit closing slightly. On net, the impact on U.S. GDP was slightly positive, but we can also observe that the trade disruptions had much to do with the slower pace of business investment.

Overall, U.S. exporters and importers have shown remarkable resiliency in the face of not only tariff wars, but also a weaker global economy and a strong U.S. dollar. While things are looking up for the international economy, it will not drive U.S. trading activity to new heights in the near term.

Labor Markets: Unemployment and Job Openings (Rates)



Source: U.S. Bureau of Labor Statistics, Job Openings and Labor Turnover Survey/Beacon Economics

Additionally, there are plenty of reasons to believe the U.S.-China conflict is not over and President Trump seems intent on creating more issues for the United States' European Union trading partners—for example, threatening to levy tariffs on European cars.

Negative Trends

One big issue for the U.S. economy is a lack of workers. For two years now, the job openings rate has been higher than the official unemployment rate. This worker scarcity issue is causing businesses to struggle to fill positions and is clearly one reason for slower growth. Expanding flows of immigrant workers to the U.S. would have positive economic effects but is politically untenable under the current administration.

Business investment is also weak, despite corporate tax cuts and deregulatory efforts. The reasons for this are numerous. The trade disruptions and weak global economy are partly to blame. Weak profit growth and low oil prices are also at fault. And we have the negative effect that slower workforce growth has on the demand for commercial construction—intensified by big changes in the distribution systems within retail markets.

Finally, we have to consider current, short-term disruptions. The Boeing 737 MAX debacle will have some impact this year, as will slower tourism due to the ongoing coronavirus pandemic. The scope of these impacts, however, is yet to be seen. Pile on the unease of a heated election season in a divided nation and it's not surprising that businesses are shying away from increased investment.

Add it all up and 2020 will be an interesting year for the U.S. economy—but not as interesting as the political scene. Unfortunately, that doesn't imply interesting in a good way. Rather, it is like watching a slow-moving train wreck.

The broken and tribal nature of U.S. politics today means that the nation's leadership will almost assuredly continue to squander opportunities to address pressing long-term issues. Fixing our political system and reducing divisions may be the most important things that can be done to ensure a healthy national economy into the future.

California Economic Outlook

The final quarter of 2019 brought to a close another strong year for the California economy. During the year, 310,300 jobs were added to total nonfarm payrolls in the state. This represented a growth rate of 1.8% for the year, and compared favorably to 2018, when 260,400 nonfarm jobs were added by the state's nonfarm employers, a growth rate of 1.5%

The state's strong fourth quarter paints a picture that is a far cry from the beginning of the year, when the stock market had just seen a major correction, there was anxiety about trade uncertainty, and forecasts about a national and global slowdown were coming from all quarters. The fears surrounding trade, for now, seem overblown, and there is no evidence

See Next Page

No Slowdown Before the Election Hoedown

From Previous Page

that we are on the cusp of a turndown in economic activity.

Yet as California's economy continues to soar, questions remain about the growth of the state's labor force and the out-migration of low-income workers. And with another defeat for SB 50—the state's ambitious effort to increase housing construction though density increases in cities—the state's housing shortage remains cause for worry.

Another Strong Employment Year Caps a Strong Decade

The fourth quarter of 2019 marked the end of a decade of strong expansion for the California economy. Over the past decade, nearly 3.5 million nonfarm jobs were added to the state, at a growth rate of 23%. In the preceding decade, fewer than one-quarter of a million jobs were added to California's economy, a growth rate of 1.5%.

These numbers are obviously skewed by the business cycle: the first decade of this century ended during the depths of the "Great Recession," while the last decade ended in the midst of the nation's longest economic expansion on record.

That said, California's rate of job growth over the past decade was not only impressive compared to the previous decade, but also when compared to the entire nation, where the rate of job growth was 18%.

Within California, job growth has varied by region. Over the past year, Los Angeles County added 66,500 jobs, more than any other county in the state. This is a function of LA County's size—it's the largest in the state and nation—where a small percentage increase in jobs can lead to a large number of total jobs added. In terms of growth rate, the number of jobs in the county grew at a 1.5% rate, slower than the state average.

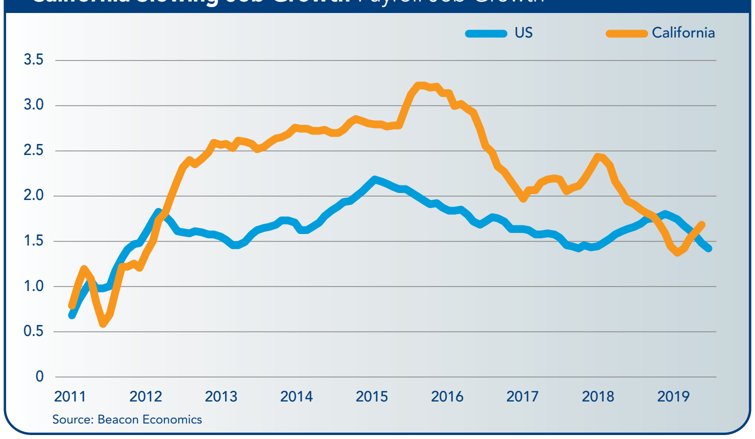
The fastest growth was in the Yuba City Metropolitan Statistical Area (MSA), where jobs grew at a 4% rate. Given the relatively small size of this area, this rate of growth equals just 1,700 jobs, which, while important to the local economy, accounted for less than 1% of the state's job growth.

The most impressive combination of absolute job growth and percentage increases occurred in San Diego County at 34,500 jobs and 2.3% growth, the San Jose MSA at 33,200 jobs and 2.9% growth, the Inland Empire at 30,800 jobs and 2.0% growth, and the San Francisco MSA at 29,800 jobs and 2.6% growth.

Employment Growth by Industry

In terms of relative growth by job sector, Educational Services, Construction, and Health Care and Social Assistance saw the biggest employment gains, while the highest number of jobs was added in Health Care and Social Assistance and Government.

California Slowing Job Growth Payroll Job Growth



Source: Beacon Economics

Long-term trends, particularly an aging population, will continue to drive job growth in Health Care and Social Assistance. Modest job losses occurred in Retail Trade and Wholesale Trade. In relation to Retail Trade, the continued trend toward ecommerce will suppress employment prospects for physical retail businesses.

Beacon Economics is forecasting that employment in California will grow by 1.83% in 2020 or 322,561 jobs. Growth will continue in 2021 with employment forecast to expand by 1.43%, or 252,209 jobs.

Labor Force/Housing Shortages

After five months of no growth or negative growth, California's labor force finally expanded in December 2019, although growth was down for the quarter overall, and December's growth was below the trend since the "Great Regression." This naturally raises questions about the state's housing market, and more specifically, the extent to which local governments have created a conducive environment for creating new, badly needed housing.

The number of housing permits issued in the state peaked in the first quarter of 2018 and has trended lower since then. Even before this downturn, the state was in the midst of a housing shortage. As the shortage persists, it will create two primary effects. First, it will put upward pressure on housing prices, exacerbating affordability problems, and second (relatedly), it will shape the nature of the state's labor force.

Domestic net migration patterns reveal a worrying trend: California has lost more population to other states than it has gained from them. These losses have been offset by international migration to the state, but the nature of domestic net migration raises red flags. California has been losing low-income workers to other states, while also losing workers with lower levels of education as housing shortages are rendering California relatively inaccessible for these residents.

Trading Trends

The recent tariff war truce between the United States and China will be welcome news for California's trade businesses, as 2019 marked downward years for both imports to and exports from the state, compared to 2018. Removing the uncertainty surrounding U.S. trade policies, if only in the short-term, should help to improve the picture in 2020. How this plays out, however, is yet to be seen.

Overall, 2019 marked a strong year for the state's economy, and this trend is expected to continue in 2020.

Staff Contact: Dave Kilby

The California Chamber of Commerce Economic Advisory Council, made up of leading economists from the private and public sectors, presents a report each quarter to the CalChamber Board of Directors. The council chair is Christopher Thornberg, Ph.D., founding partner of Beacon Economics, LLC.

Author Revives Bill Increasing Litigation Against Businesses

From Page 1

rewards for the private litigant. California's FCA provides the following penalties:

• $5,000–$11,000 per violation, adjusted for inflation.

• An added penalty of two to three times the alleged underpayment.

• Attorney's fees if the plaintiff succeeds, adding potentially hundreds of thousands of dollars.

Based on these costs, a $200,000 tax dispute under the FCA could therefore quickly balloon into a potential million-dollar dispute, incentivizing plaintiff's attorneys to bring lawsuits without any merit to scare businesses into paying steep settlements.

Uncertainty for Taxpayers

AB 2570 would create conflicting standards in tax law by ignoring differences between the standards in California's Revenue and Taxation Code and the standards that are written into the FCA. For example, the FCA utilizes a different definition of fraud than existing tax law, as well as a different statute of limitations.

This will make it *even easier* for plaintiff's attorneys to bring nuisance lawsuits against taxpayers because the ambiguity will make it difficult for businesses to determine whether they are in compliance when facing a demand letter, therefore pushing them to pay to avoid the cataclysmic consequences.

Double Jeopardy

AB 2570 fails to include any protection for a taxpayer who has already flagged or resolved a transaction with the taxing agencies. For example, if a taxpayer is audited and no issues are found, the taxpayer still could face an FCA lawsuit years later under this bill.

Moreover, even if the taxpayer had *affirmatively flagged* an issue for review by the taxing agency—potentially to resolve an ambiguous application of tax law to a transaction—that taxpayer still could face the treble damages and attorney's fees of an FCA lawsuit related to the *very same* transaction on which they sought the taxing agency's guidance.

This double jeopardy issue exacerbates concerns about profit-driven plaintiff's attorneys; regardless of whether the taxing agencies have signed off on a taxpayer's documents, that taxpayer is still at risk of a lawsuit.

Incorrectly Codifies Case Law

The FCA currently requires that an alleged misstatement be "material." If it was a small typo or unimportant point, the courts have concluded that it doesn't make sense to impose the FCA's strict penalties because the misstatement did not matter (or was not "material") to the payment.

Problematically, AB 2570 attempts to codify a California case that is already far more forgiving for plaintiffs than federal law. To make matters worse, AB 2570 incorrectly summarizes the California case law and goes far beyond its actual rule. This mischaracterization could lead to uncertainty for businesses and litigation for those facing an FCA lawsuit.

CalChamber Remains Opposed

The CalChamber opposes AB 2570 because it will introduce plaintiff's attorneys into tax enforcement, create ambiguity with existing tax law and leave taxpayers in uncertainty as they face conflicting standards and potential double jeopardy. Notably, a CalChamber-led coalition proposed amendments to resolve these issues last year and worked extensively with the author and the Attorney General's representative, but was unable to resolve them.

Unlike the other areas of law—where the FCA is used in lieu of public enforcement agencies—California *already* has experienced tax oversight from state agencies to watch for any hypothetical fraud. Tax law is better suited to the present system—where it can be handled by taxing agencies with expertise in taxes, well-developed procedures, and no profit motive.

The bill is eligible to be considered by an Assembly policy committee on or after March 22.

Staff Contact: Robert Moutrie

CalChamber-Sponsored Seminars/Trade Shows

From Page 2

Sacramento's Global Technology Initiative. Sacramento Metropolitan Chamber of Commerce, Building Bridges, Greater Sacramento Economic Council, and World Trade Center Northern California. March 23, Sacramento. (916) 609-5400.

2nd Medical Device Research & Development Summit. March 23–24, Tel Aviv, Israel. +972-3-5626090, ext. 3.

Access Asia. U.S. Department of Commerce, International Trade Administration. March 23–26, Sacramento, San Francisco, Oakland, Silicon Valley. Email *george.tastard@trade.gov*.

FIDAE 2020 (Aerospace/Defense Trade Show in Latin America). Governor's Office of Business and Economic Development (GO-Biz)/U.S. Commercial Service. March 31–April 5, Pudahuel, Chile. +56-2-2976-9502.

14th Annual BIS Export Control Policy Forum. Bureau of Industry and Security. April 1–2, Los Angeles. (310) 642-1111.

Exporting Mechanics Webinar Series II: ACE Export Reports for Compliance. National Customs Brokers & Forwarders Association of America, Inc. and U.S. Department of Commerce. April 14, Webinar. (202) 466-0222.

Mission & Business Forum: Indo-Pacific Business Opportunities. U.S. Commercial Service. April 20–27, Hong Kong. (410) 962-3097.

Hannover Messe Trade Fair. Deutsche Messe. April 20–24, Hannover, Germany. +49-511-890.

94th Annual World Trade Week. Los Angeles Area Chamber of Commerce. May 5, Los Angeles. (213) 580-7500.

2020 Annual Export Conference. National Association of District Export Councils. May 19–20, Alexandria, Virginia. (407) 255-9824.

World Trade Day. Northern California World Trade Center. May 21, Sacramento. (916) 321-9154.

Women's Global Trade Empowerment Forum. U.S. Commercial Service. May 27–28, Dallas, Texas. (769) 610-1644.

Select LA Investment Summit. World Trade Center Los Angeles and the Los Angeles County Economic Development Corporation. May 27–28, Los Angeles. (213) 236-4853.

Cal State University Chancellor Touts Benefits of Collaboration

Dr. Timothy P. White, a CalChamber Board member and chancellor of The California State University, tells fellow Board members on February 28 that the CSU is "ahead of track" to close what had been a projected shortfall of 1.1 million students with bachelor's degrees by 2030, according to the Public Policy Institute of California (PPIC). Regional partnerships between local campuses and businesses are helping meet workforce needs in areas such as agribusiness, the wine industry, health care, physician assistants, entertainment and hospitality, he says, concluding by urging listeners to suggest new ways for business to collaborate with the CSU. White will be retiring later this year after eight years as head of CSU, the nation's largest public university system.

Natural Resources Secretary Outlines Administration Water Priorities

Wade Crowfoot, secretary of the California Natural Resources Agency, gives a concise rundown to the CalChamber Board of Directors on February 28 about the core water challenges facing the state and the Newsom administration's priorities in balancing statewide need for a reliable supply of clean water with environmental considerations. He says the state needs more "smart surface storage," such as the CalChamber-supported Sites Reservoir Project in Colusa County, as well as storing more water underground, and better coordination between surface and underground storage. The administration also is pushing voluntary water agreements as a means of improving habitat for endangered species in a way that works for both water users and environmental interests, he says. Commenting that "conflict and litigation" hasn't worked, Crowfoot stresses the importance of "finding common ground" on water matters.

ALERT
CALIFORNIA CHAMBER OF COMMERCE

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

HR Expert & Business Advocate™

Periodicals
Postage
PAID
Sacramento, CA

ADDRESS SERVICE REQUESTED