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CalChamber

ALERT

CalChamber Recommends Ways to Fire Up Economy

Setting liability limits for employers facing lawsuits over COVID-19 exposure, postponing the 2021 minimum wage hike, and expediting retraining programs for unemployed workers are some ways lawmakers and the Governor can help ensure California's economy recovers from the pandemic crisis, the California Chamber of Commerce has told state leaders.

In a letter addressed to California Governor Gavin Newsom, Assembly and Senate leaders, and members of the Legislature, the CalChamber pointed out that the private economy is the engine that creates jobs and tax revenue to support state spending, including critical government services threatened with cuts.

In order to stimulate a recovery, the CalChamber stated in the May 26 letter, the Legislature needs to refrain from imposing any new burdens on employers and proactively eliminate or suspend costs and burdens so that employers can reopen and rehire the millions of workers who have lost their jobs.

Recommendations

On behalf of its 14,000 members representing every size, type and location of California business, the CalChamber

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CalChamber Supports Gig Economy Initiative

The California Chamber of Commerce Board of Directors has voted to support the Protect App-Based Drivers and Services Act, an initiative that is currently pending qualification for the November 2020 ballot.

The CalChamber supports the initiative because it allows companies in the gig economy that provide rideshare or delivery services to offer important benefits and protections to drivers without blurring the legal line between employee versus independent contractor status. This would allow gig economy companies to continue operating in California and provide workers with the opportunity to earn income along with the freedom to set their own schedules.

If passed, the measure would also apply retroactively, thereby addressing any liability that may have been incurred by a transportation and delivery network company (TDNC) arising from **AB 5 (Gonzalez; D-San Diego)**, which went into effect on January 1, 2020.

The CalChamber believes supporting app-based drivers in the gig economy is critical to a diverse and robust economy. In light of the recent economic turmoil created by the COVID-19 pandemic crisis, it is more important than ever to do everything possible to position California for a robust comeback.

Initiative Provisions

The Protect App-Based Drivers and Services Act would provide important clarifications for determining who is an

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Newest Job Killer Imposes Headcount Tax on Employers

Legislation that will discourage hiring and job growth by imposing an employee "headcount tax" on certain employers has been added to the California Chamber of Commerce job killer list.

The bill, **AB 398 (Chu; D-San Jose)**, institutes a tax of $275 per employee for "an entity, including, but not limited to, a limited liability company, corporation, or limited liability partnership, that has more than 500 employees that perform any part of their duties within the state."

Employers who have weathered the COVID-19 storm are struggling to survive while other businesses have been forced to close their doors. In its opposition letter, the CalChamber cautions that unemployment rates are soaring and AB 398 will strongly disincentivize employers to hire beyond 499 employees since employee 500 will trigger $137,500 in additional taxes.

"During times of economic prosperity AB 398 would be a job killer," the CalChamber states in the letter. "During this time of economic crisis, AB 398 is catastrophic."

Discourages Job Creation

Higher taxes influence a plethora of business decisions, such as where a business will locate, how many employees they will hire and what wages they can offer.

AB 398 would degrade California's economic competitiveness against other

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Inside

Cal/OSHA Corner

New Law Requires Awareness Training on Valley Fever Symptoms

Mel Davis
Cal/OSHA Adviser

I understand the Labor Code has been revised to address an increase in the number of reported cases of Valley Fever since 2016. As a small construction company, how will the revisions affect our operations?

Valley Fever awareness training is the emphasis of new Labor Code Section 6709, added by AB 203 (Salas; D-Bakersfield; Chapter 712), signed into law on October 19, 2019.

Section 6709 is specific to construction workers affected in a number of Central Valley counties. It requires employers performing earth-disturbing activities that create airborne dust to provide effective awareness training to employees about Valley Fever exposure.

Other outdoor occupations at risk for Valley Fever include wildland firefighters and oil and gas, agricultural, ranch and mine workers.

Valley Fever

Valley Fever (coccidioidomycosis) is a fungal respiratory infection caused by inhaling tiny fungal spores found in the soil—primarily in the top 2 to 12 inches—of dry dusty areas in some parts of California.

When the soil where fungal spores are present is disturbed, either by high winds or through activities such as digging, grading, earth moving and operating vehicles, the spores become airborne and may be inhaled.

Symptoms are similar to the common cold or flu, resulting in misdiagnoses or the infected person going without treatment.

The law describes common signs and symptoms of Valley Fever as including fatigue, cough, fever, shortness of breath, headache, muscle aches or joint pain, rash on upper body or legs, and "symptoms similar to influenza that linger longer than usual."

According to the California Department of Public Health (CDPH), the number of Valley Fever cases reported in the state has risen more than 50% since 2016, with 7,534 cases reported in 2017 and 8,187 cases reported in 2018.

There currently is no vaccine to prevent Valley Fever. The illness is not contagious, but because of the different ways the spores can become airborne, it can be difficult to identify where an exposure took place.

About 60% of people who become infected with Valley Fever have no symptoms and get better on their own, but in rare cases, the illness may become serious or fatal, according to the CDPH.

Training

The training must contain, at a minimum, topics on transmission of Valley Fever, prevention methods, early detection and diagnosis, common treatment, personal risk factors that may create a higher risk for some individuals, and prognosis of the disease.

The Labor Code states that the train-

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Leaves of Absence: Making Sense of It All Virtual Seminar. CalChamber. June 25–26, Virtual Seminar; August 13–14, Virtual Seminar. (800) 331-8877.

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Inaugural Women's Global Trade Empowerment Forum: Expanding Trade in North America and Beyond.

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The Workplace

Tips for Investigating Harassment of Employees Working Remotely

In Episode 72 of The Workplace podcast, CalChamber Executive Vice President and General Counsel Erika Frank, and employment law expert Jennifer Shaw discuss important takeaways when conducting workplace harassment investigations while employees are working remotely.

Even when employees are working remotely, instances of sexual harassment may still arise.

Whether it's displaying explicit content in the background of a video conference call, or accidental displays of nudity or inappropriate attire, the relaxed atmosphere of being at home is pushing the boundaries of what constitutes being "at work."

"…People are forgetting that it's still the workplace," Shaw tells Frank.

Investigations

When instances of harassment arise, some employers may erroneously think they can postpone conducting investigations due to the COVID-19 pandemic crisis, but Shaw cautions that the crisis is not a valid excuse.

Human resources professionals are particularly swamped with work at the moment, as they have to juggle the needs of remote employees and following Families First leave laws, Shaw explains.

Nevertheless, employers still have the legal obligation to conduct prompt workplace investigations of harassment, she emphasizes.

Moreover, just because employees are working remotely, it doesn't mean an investigation can't happen. Virtual conferencing platforms, such as Zoom, are an option for conducting remote interviews, Shaw says.

Recording Calls

If conducting an investigation interview over a virtual conferencing platform, it may be tempting to utilize the recording feature of the software. However, Shaw reminds podcast listeners that in California both parties must consent to being recorded.

Frank points out that some virtual conferencing software automatically records the conference, and the employer must manually turn the feature off. She cautions that employers must be careful not to inadvertently record employees.

If an employer is thinking about recording investigations, Shaw encourages the employer to really think about what the benefit is of recording the interview. While the employee is being recorded, the employer also is being recorded, and that can be problematic, she says.

Review Policy, Procedures

The last takeaway Shaw provides is for employers to use this time to really think over their harassment investigation processes and policy. Are there tweaks that need to be made?

"One of the things that I really want folks to think about is what do you do in your regular investigation process and then let's think about how that applies outside of the regular investigation," Shaw says.

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New Law Requires Awareness Training on Valley Fever Symptoms

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ing requirement applies to construction employers with employees at worksites where Valley Fever is "highly endemic," including, but not limited to the counties of Fresno, Kern, Kings, Madera, Merced, Monterey, San Joaquin, San Luis Obispo, Santa Barbara, Tulare and Ventura.

Highly endemic means the annual incidence rate of Valley Fever is greater than 20 cases per 100,000 persons per year.

The legislation is specific about eight items that are to be included in training outlined by the regulation; some items appear to infringe on health privacy.

Injury and Illness Prevention Program (IIPP) training broadly covers several of the required items, but the law states that the Valley Fever training may be included in a standalone training program.

The eight prescribed training items listed in the law are:

- What is Valley Fever and how is it contracted.
- High risk areas and when chances for infection are greatest.
- Information on personal health issues that could increase the risk of being infected.
- Personal and work area exposure prevention methods.
- Importance of early detection, diagnosis and treatment.
- Recognizing symptoms.
- Employee reporting of symptoms to expedite diagnosis and treatment.
- Information on common treatment and prognosis.

The law states that training must be provided by May 1, 2020 and annually thereafter before an employee begins work that is reasonably anticipated to cause exposure to dust. Cal/OSHA can issue an order to take special action, citing the Labor Code.

Resources

Both Cal/OSHA and the CDPH have extensive online resources regarding Valley Fever.

The Cal/OSHA web page at ***www.dir.ca.gov/dosh/valley-fever-home.html*** includes a link to the form the employer is required to fill out if a worker reports Valley Fever symptoms.

The CDPH web page at ***www.cdph.ca.gov/workrelatedvalleyfever*** includes a webinar and tailgate training guide for California construction workers.

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.

CalChamber Supports Gig Economy Initiative

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independent contractor and eliminate costly and ongoing litigation against companies in the gig economy.

The act would deem drivers of app-based companies (which includes rideshare companies and delivery service companies) as independent contractors as long as:

a. The companies do not control the days, times, or number of hours the driver is logged onto the companies' platforms;

b. The companies do not require the driver to accept any delivery or rideshare service;

c. The companies do not restrict the driver from performing services for multiple network companies or from performing any other lawful business or occupation.

The measure provides a number of benefits to app-based drivers, such as a minimum earnings guarantee of 120% of the applicable local or state minimum wage, as well as mileage reimbursement for all engaged time spent completing the rideshare request or delivery.

It also provides drivers a quarterly health care subsidy to help the them secure health care through Covered California, and provides accident insurance, disability insurance and death benefits.

In addition to providing contractors with these benefits, the measure institutes a number of safeguards to protect contractors as well as the general public. For example, the measure:

• Requires anti-harassment and discrimination policies to protect drivers;

• Requires network companies to conduct criminal background checks for each app-based driver;

• Requires network companies to require an app-based driver to complete safety training;

• Requires network companies to institute zero tolerance policies for drug or alcohol use while driving; and

• Precludes app-based drivers from being logged on a network company's platform for more than 12 hours in a 24-hour period.

Background

Up until last year, the California Legislature had never addressed the appropriate standard for determining whether an individual is an independent contractor or an employee. Rather, the standard had been developed through case law, with *S.G. Borello & Sons, Inc. v. Dept. of Industrial Relations* (1989) 48 Cal.3d 341 as the main case on the issue.

The *Borello* decision set forth a flexible, multi-factor approach, primarily focusing on whether the hiring entity had a "right to control" the manner in which the worker performed the contracted service, along with eight other "secondary" factors, such as whether the worker was engaged in a distinct occupation or business, the skill required in the particular occupation, and whether the worker or the hiring entity supplied the tools used to perform the work and the place where the work was performed.

On April 30, 2018, the California Supreme Court made a surprising and unprecedented departure from the *Borello* test and announced its decision in *Dynamex Operations West, Inc. v. Superior Court of Los Angeles*, adopting the "ABC" test for determining whether an individual is an employee under the Industrial Welfare Commission Wage Orders.

Under the "ABC" test, a person is considered an independent contractor only if the hiring entity can prove **all** three of the following:

A. That the worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact;

B. That the worker performs work that is outside the usual course of the hiring entity's business; and

C. That the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed.

In 2019, AB 5 was introduced in the Legislature, which sought to codify the *Dynamex* decision and the ABC test. AB 5 also expanded the application of the ABC test to the Labor Code and Unemployment Insurance Code, essentially making the ABC test the standard for all labor and employment-related issues.

AB 5 provided multiple exemptions for various industries and professions from the application of the ABC test, allowing those exempt professions to utilize the standard set forth in *Borello*. The gig economy, however, was one of the targeted industries of AB 5 and despite attempts from several labor unions and the Governor's office to reach a deal on the issue, nothing was ever worked out.

Failure to properly classify an individual as an employee can subject a company to significant costs and penalties, including back wages, workers' compensation coverage, unemployment insurance coverage, and unpaid taxes.

On May 5, 2020, the California Attorney General filed a lawsuit against Uber and Lyft, claiming the companies continue to misclassify their drivers as independent contractors in violation of AB 5.

Opposition Stops Job Killer Housing Bill

Opposition from a California Chamber of Commerce-led coalition of groups has stopped a job killer bill that would have impeded housing construction and harmed the state's economic recovery.

SB 950 (Jackson; D-Santa Barbara) sought to expand existing requirements of the California Environmental Quality Act (CEQA) by adding costly new mandates that would have burdened local agencies, added substantial time and costs to the CEQA process, and provided project opponents with new legal arguments to delay or block housing and other projects.

Testifying via telephone to the Senate Environmental Quality Committee, CalChamber Policy Advocate Adam Regele pointed out why SB 950 is a CalChamber job killer.

Not Balanced

Opposition from developers, unions and others "highlight the fundamental flaws of this bill," Regele said, refuting the supporters' claim that the proposal is balanced.

The bill was not the result of a process involving entities that represent the tens of thousands of stakeholders affected by CEQA on a daily basis, Regele asserted.

Instead, he commented, the language in SB 950 is the result of a well-intentioned but small group of CEQA practitioners hand-selected by the bill's sponsors, and the only two developer-side participants ultimately resigned from the effort.

A bill of the magnitude of SB 950, substantially affecting all significant land use development in California, including and especially housing, should be developed through a robust stakeholder process, in a full legislative session, with multiple committee hearings that fully flesh out every change contemplated, he said.

"SB 950 is the exact opposite of what California needs right now," he continued. The bill creates new costly burdens on lead agencies whose budgets are already underwater; increases time, costs and litigation for housing in California; overrules a California Supreme Court decision with implications for virtually all ballot initiatives; revises the original legislative intent of CEQA; does not fix the problems caused by "late hit document dumps" (when a project's opponents file extensive opposition arguments toward the end of the public comment process, sometimes as late as the final day of hearings); and removes bond protection for moderate-income housing projects when the state's middle class needs such housing more than ever.

Moving the bill out of the policy committee when there is no ability for all stakeholders to participate in developing the legislation is "highly inappropriate," Regele said.

Senator Jerry Hill (D-San Mateo), a member of the committee, noted that the opposition to SB 950 "is coming from all sides" and "I can't vote for it…I'm not seeing the reform that we're all looking for."

Key Vote

SB 950 fell short of votes to pass Senate Environmental Quality on May 29.

Ayes: Allen (D-Santa Monica), McGuire (D-Healdsburg), Wieckowski (D-Fremont).

Noes: Dahle (R-Bieber), Hill (D-San Mateo).

No vote recorded: Bates (R-Laguna Niguel), Hertzberg (D-Van Nuys).

Staff Contact: Adam Regele

Newest Job Killer Imposes Headcount Tax on Employers

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states that notoriously compete to attract California companies by providing tax benefits and other incentives to support businesses. This bill, the CalChamber argues, would take the exact opposite approach and unnecessarily raise the cost associated with job growth.

As the old tax policy adage goes, if you want less of something, tax it. If California wants less jobs, less employers, and an amplified economic disaster, placing an employee "headcount tax" on California businesses would be an ideal way to accomplish that, the CalChamber warns.

AB 398 takes aim at one of California's true competitive advantages—its skilled workforce. The concentration of skilled and motivated workers in California helps overcome many of its competitive disadvantages stemming from high taxes, burdensome regulation and vexatious litigation. Employers who depend on skilled workers can justify these other burdens because of the state's talented employee base. But like a smart bomb, this tax increase takes direct aim at one of the great attributes that distinguishes California business.

Regressive Tax

AB 398 also is an openly regressive tax disproportionately borne by lower-wage and lower-margin workers. A "headcount tax" increases the labor costs for businesses by making each employee more expensive, with the tax having a marginally higher impact to the lower-wage employees compared to their higher-paid, often higher-skilled counterparts.

The increased labor costs from a "headcount tax" would put downward pressure on employee wages and workforce expansions, while simultaneously placing upward pressure to increase prices or even relocate the business outside of California. Unprecedented furloughs and layoffs are already happening in California due to the COVID-19 crisis. An employee "headcount tax" will exacerbate unemployment in California by raising costs on businesses since it makes each employee more costly.

In attempting to solve one crisis—reduced funding for schools and local government—AB 398 simultaneously creates another, the CalChamber argues. The bill unnecessarily risks damaging California's economic rebound and recovery when the state and country are in an economic free-fall. Such a policy would hurt California businesses, employees and consumers by disincentivizing the hiring of more employees, providing higher wages and growing business in-state.

An employee "headcount tax" by its very nature punishes businesses for hiring more Californians who, in turn, contribute to rising sales and property tax revenues—revenues that most cities rely on to function. AB 398 will depress business growth and employee wages in California and amplify an already-historic crisis.

Staff Contact: Preston Young

CalChamber Recommends Ways to Fire Up Economy

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urged the Newsom administration, Assembly, and Senate to collaborate to expeditiously break down the barriers to economic recovery by focusing on the following areas:

Liability Relief

To encourage businesses to reopen in a safe and responsible manner, California must provide assurances of immunity to all private entities providing critical services, goods, and facilities during the COVID-19 state of emergency, including private donations of critical services, goods, and facilities. The Administration has issued thoughtful, industry-specific guidance detailing safety procedures for businesses to follow.

The Legislature and Administration should ensure that businesses that follow this guidance will not be shut down by litigation for claims of negligence if a consumer alleges he or she contracted the virus while on premises. Liability limits should apply to any regulatory or administrative orders from state or local agencies.

This limitation would only apply to negligence claims and would still preserve the ability for harmed individuals to seek remedies for gross negligence and willful misconduct.

Businesses Contracting with Businesses

Lawmakers should immediately settle the ongoing uncertainty created by AB 5 over independent contractor status for a business that contracts with another bona fide business. This clarity is critical for numerous industries and professions: to ensure that medical professionals can still provide necessary health care to all communities throughout California; that businesses can support available services such as information technology (IT), creative design, payroll, and delivery; that nursing facilities can contract for necessary services for their residents; and that individuals who are struggling, have lost employment, and want to become a sole proprietor, have an opportunity to build a business.

Eliminate Disincentives for Telecommuting

Work-from-home has saved thousands of businesses and propped up large segments of the economy. Pursuant to state guidance, even when the economy reopens, employers will need to limit the number of employees in the workplace. Telecommuting provides that alternative, but employers will only fully embrace that option if it doesn't lead to liability and frivolous litigation.

The Legislature and Administration should change workplace rules to recognize at-home work locations (meal and rest period requirements, Cal/OSHA requirements, and posting/notice requirements), or employers may in effect be forced to limit this opportunity to only salaried employees, who are not covered by several of these requirements, leaving hourly workers with no work-from-home option.

Exempt emergency pandemic compliance from the Labor Code Private Attorneys General Act (PAGA)

During the pandemic emergency, government ordered within days—and sometimes even on less than a day's notice—businesses to completely alter their work environments. Employers reacted quickly with new workplace arrangements, such as telecommuting and new distancing and attendance practices, while trying to accommodate a chaotic market and new government costs and mandates.

The Legislature and Governor should protect employers from facing vexatious litigation during these tumultuous times by temporarily suspending PAGA for at least a year. The Labor Commissioner would retain her sweeping enforcement authority to remedy any labor violation and provide an employee with the full amount of damages owed.

However, unlike PAGA, the Labor Commissioner has the discretion to determine whether a violation is willful and whether penalties are appropriate. California does not need to further enrich trial attorneys with abusive PAGA claims at the expense of the state's struggling economy.

Postpone Minimum Wage Hike for 2021

Sponsors of the 2016 legislation to raise the minimum wage touted an improvement upon the then-proposed ballot measure by providing the Governor the option to postpone by a year any of the annual step increases in the event of a major economic recession or state budget crisis. Indeed, including this temporary offramp likely made the difference in the bill's passage. The criteria in the law for postponement fit the current conditions like a glove. The mechanism for the Governor to decide on a postponement does not kick in until this summer, but signaling his sympathy with this approach may in turn encourage more hiring sooner for lower-wage jobs. If postponement is not indicated under this dire economic and budget circumstance, then just when would this offramp apply? Finally, the Governor can propose to increase minimum wages for state-funded workers, but that does not constrain him from pausing the increase in the private economy.

Postpone Nonessential Compliance and Rulemaking Activities

Dozens of state agencies are committing regulatory business-as-usual. For example, the California Air Resources Board has requested comments to a major regulatory proposal about mandating electric commercial trucks. Businesses are consumed with getting back on their feet and complying with all the existing rules. The Governor should order state agencies to hit the pause button on all nonessential regulatory functions not urgently needed to protect human health and extend the time to implement rules that have not yet taken effect. Top of the list: The Attorney General should suspend enforcement of the still-unfinished regulations for the California Consumer Privacy Act.

Accelerate Construction and Permitting of New Housing

The homebuilding and related construction industries are positioned to be an economic engine for job creation and immediate economic activity. They produce skilled, decent paying jobs while maintaining a safe working environment. But achieving a rapid reboot of this industry will require focused attention on the impacts of overregulation.

In the short run, the most effective policy will be for the Governor to stop further burdens on this sector: (1) Delay the effective date of the vehicle miles traveled (VMT) regulation, (2) Delay implementation of Waters of the State (WOTS) Procedures, and (3) Delay the adoption of the Construction General Permit (stormwater) for at least 24 months.

None of these regulations affects the immediate health and safety of Californians; each will require massive state or local staff costs during a time of enormous budget pressure; and each creates enormous burdens on homebuilders that will delay the economic benefits from production of new homes.

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Post-COVID-19 Economy: Case for the 'V'

Overview: Is Hysteria the New Normal?

The good news is that the number of new, confirmed cases of the coronavirus in the United States has, at least for now, peaked and appears to be falling. Stay-at-home mandates across the nation have been having their intended effect of limiting the spread of the virus beyond the initial surge.

We are far less cognizant, however, of what the full scope of the economic shock will be, as economic statistics significantly lag public health stats. There is some data for March, but much of the month had passed before public health closures were widely mandated; hence they don't tell us much. April numbers won't start arriving until early May.

Guessing Game

Regardless, there is little doubt that these health-mandated closures will cause a record decline in economic activity in the second quarter of the year. How much is a wild guessing game right now as there is no historical precedent for the current crisis and little good data as of yet.

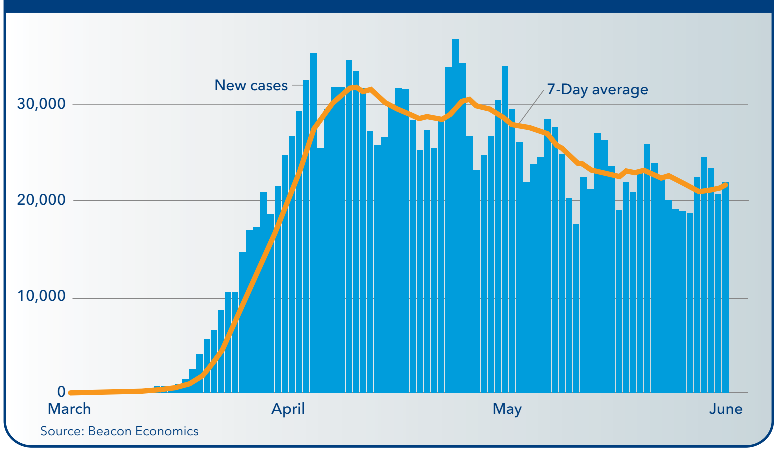
Current estimates from a variety of forecasting organizations suggest second quarter growth could run from -20% to -40%, and we don't disagree. Those numbers, however, sound far worse than they are as economists have a habit of reporting gross domestic product (GDP) statistics in annualized form. This means that the total output of the economy will contract by -5% to -10% from the first to the second quarter. Still, this is larger than anything experienced in the past.

What Comes Next?

The real debate is over what comes next. As always, the issue has been boiled down to a spelling bee: will it be a "V" recovery or a "U"? Or perhaps a "W," and for the true pessimist let's not forget the dreaded "L."

The broad consensus appears to be "U"— meaning that there will be little bounce following the record second quarter downturn, after which we'll have a long painful climb back to normality. Under this scenario, unemployment will remain elevated well into 2021 if not beyond. Most of the "U" camp is suggesting a business cycle that is as large or larger than what transpired during the Great Recession.

New Reported Cases by Day in United States



Source: Beacon Economics

The problem with these forecasts is that they are leaping to extremely grim conclusions with little basis. While there are many anecdotes and grim news stories—not to mention the universally odd experience of closed schools and empty highways—there is very little hard data yet. And we don't have any recent economic experiences within the developed world to use as a historical metaphor.

All forecasts right now are, at some level, a leap in the dark. But very few seem to acknowledge this even as they put out extremely negative predictions.

Five Basic Questions

Rather than pretend there is any logical way of building a mathematical model to predict trends in the coming months, in the outlook below, we boil the question of how this business cycle will look into five basic questions that should determine how rapidly the economy can bounce back after what will surely be a record second quarter decline.

Even cursory answers to these questions suggest that while a "U" is certainly possible, it is actually a far less likely outcome. There is little reason to think the economy can't and won't, bounce back rapidly—possibly even so rapidly as to call into question whether this entire episode can be accurately described as a recession as opposed to a national natural disaster.

So why have the bulk of outlooks gone so negative? In truth, it is a relatively typical reaction. In January 2019, the stock markets were down 20% and the majority of contributors to the *Wall Street Journal's* "Next Recession" consensus survey were predicting a recession within 12 months.

Why? The real estate collapse, rising inflation, rising interest rates, and of course the trade war with China, which was going to do incredible damage to the U.S. manufacturing sector. Of course, none of this came close to occurring. By April, the markets were yet again hitting record high levels.

Obviously, the impacts of today's public health mandates are substantially more severe than what was happening back then—but the level of hysteria has simply risen proportionately. This kind of reaction is, unfortunately, the new normal.

Not the Great Recession

The one data point that really stands out is the 26 million initial claims for unemployment insurance filed over the five weeks since the mandated shutdowns went national. In all of 2008 (the Great Recession) there were 22 million initial claims filed.

Never has the nation had so many people out of work and never has it happened so quickly. Worse yet, historical patterns on unemployment rates are clear: once up they take a long time to fall again. This naturally leads to the conclusion that this downturn will be worse than the last one.

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But there is no similarity to what is happening today and what happened in the lead up to the Great Recession, or to any recessions in the last 60 years or more, if ever. This means we can't necessarily use past patterns as a lens to predict the path ahead.

Collapse of Subprime Credit Bubble

The Great Recession was driven by a collapse of the massive subprime credit bubble, which formed during the preceding years and which pumped $15 trillion in new financial and household debt into the economy. This enormous credit inflow highly overinflated consumer borrowing, and the housing and commercial real estate industries. Easy credit pushed consumer savings rates to the lowest on record while the resulting consumption binge opened the widest trade deficit in decades.

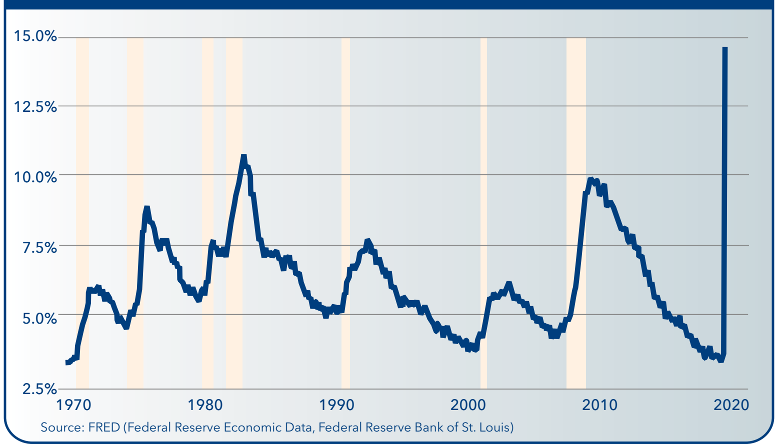
When it finally became clear that the entire subprime lending industry was little more than a giant Ponzi scheme, everything began to unwind. All those businesses that made billions of dollars during the bubble inflation suddenly lost their ability to earn a profit. The crash ultimately caused the permanent loss of millions of jobs connected with the bubble.

Short of another bubble, these businesses/jobs were simply unsustainable. The crisis eventually caused the worst downturn since the Great Depression and the U.S. economy didn't fully recover until 2015.

What is happening today is nothing like what happened in 2008. The vast majority of people currently applying for unemployment are being laid off from profitable, sustainable businesses that have been shuttered temporarily as a result of public health mandates. If a cure for COVID-19 was discovered tomorrow, these mandates would be relaxed quickly, and there is no reason to think that companies wouldn't reopen again as viable businesses and bring their employees back to work. What is happening today amounts to temporary layoffs—not permanent job losses.

The difference between now and then is apparent in the data. When a broad negative shock, such as a collapsing subprime bubble, hits the economy, employment in a lagging indicator because businesses shut down and lay off employees only as a last resort. The peak in initial claims for unemployment during the Great Recession occurred in June 2009—the last official month of the recession.

Unemployment Rate



Source: FRED (Federal Reserve Economic Data, Federal Reserve Bank of St. Louis)

Unemployment Spike Shocks System

This time around the spike in unemployment has occurred first. As opposed to job losses being the result of a shock to the system, in this case, they are themselves the shock to the system. But this shock only lasts as long as the health mandates.

Of course, that should not imply that there are no serious effects. While the world waits for the coronavirus to be contained to the point where it is safe to lift the public health mandates, businesses are losing revenues and families are losing income. This will cause them to fall behind on financial obligations, which can lead to other difficulties such as bankruptcies, defaults, and business failures.

Moreover, the lack of consumer and business spending is sending shock waves through supply chains, leading to additional lost income and revenues, and more strain.

As this continues, true structural damage will begin to build within the economy—harm that in theory could slow an otherwise rapid return to normalcy. How much damage will ultimately determine whether the economic trajectory looks like a sharp V or a protracted U.

Organizing Our Ignorance

"A good forecaster is not smarter than everyone else, he merely has his ignorance better organized."

—Anonymous

To try and tease out what is likely to transpire in the economy in 2020, there are five basic questions that help approximate how much sustained damage will be generated from the public health-related closures. If the answers suggest a lot of harm—then a slow recovery will be in order. If they don't suggest sustained harm, then there is no reason to think the economy won't rapidly return to normal.

When thinking through these questions, we do not necessarily arrive at the conclusion that there will be an extended contraction of the economy.

1. How long until the public health mandates are lifted?
2. How deep is the current shock to the economy?
3. What is government doing in the meantime to soften the blow?
4. How fragile/healthy was the economy when the pandemic first hit?
5. Will there be permanent significant changes in consumer behavior?

Public Health Mandates

As for the first question, the good news is that the number of new coronavirus cases appears to have peaked in the United States as well as in many other hard-hit nations. Some areas are already clamoring to lift certain mandates and even California, which has been very cautious, is beginning to see some partial lifting of controls.

"Hot spots" may reemerge in certain

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locations, which will slow the process, but remember, we are not the same nation as we were in February when we were given empty assurances from the federal government and were blindly going about our lives with little cognition of the outbreak that was already growing rapidly. This time, the reaction to new outbreaks will be fast and fierce.

The best example is China, which is ahead of the rest of the world in both its post-shutdown surge and its control efforts. If the United States follows roughly the same path, we can expect mandates to start lifting in earnest in late May. Things won't go back to normal immediately—either in terms of the mandates being universally relaxed or people returning to public life—but the process should begin. Certain activities such as large music festivals and conferences may continue to be prohibited, but smaller scale activities should begin to resume.

Data from China (again) suggest that production should be back up and running in about three months while consumer spending will take about four months to return to normalcy. Either way, mandate wise, expect things to return to normal (mostly) by the third quarter of this year.

Depth of Economic Shock

How deep is the current shock? Many households and businesses are being denied income because of the public health mandates. But those who aren't losing income are being denied the ability to make desired purchases. This will likely lead to a build-up in demand and financial savings that will give the economy a boost when it reopens. The depth of the current shock will help us understand the balance between the first and second group.

At this point, we don't know exactly how deep the current shutdown in economic activity is. The obvious issues are with restaurants, hotels, airports, travel operations, and a large portion of retail. But these kinds of businesses don't make up that large of a share of U.S. GDP. In fact, the closures currently add up to less than 10% of U.S. economic activity in a typical year.

Of course, the shock expands as it works its way into supply chains. This takes time, given the basics of inventory pipelines. There also are productivity impacts as many people are forced to work from home, but again, we have little ability to estimate how big of an impact.

Share of Unemployed on Temporary Layoff

Source: Beacon Economics

Notably, we are fortunate to live in an era of connectivity where a large share of retail business has and is shifting to an online environment. Many restaurants are offering take out and office meetings are being held over Zoom. All these changes will continue to expand and help mitigate some of the hits the economy is taking.

In total, we anticipate that the U.S. economy will contract by 7.5% to 10% in the second quarter, an annualized rate of 30% to 40%. This is huge historically, but it also suggests the income hits suffered by this 10% of the economy will be offset by pent up demand in the balance of the economy.

Government Intervention

How about the government intervention? There has been an unprecedented degree of public support for businesses and workers who are being negatively impacted. Initial claims for unemployment are up so dramatically in part because the eligibility has been widened to include many workers who would not have been eligible in 2008.

Benefits have been heavily expanded. In California, they can be up to $1,100 per week and there have even been anecdotes about employees who prefer being laid off to working.

Additionally, eligible households are getting $1,200 per person and small businesses are receiving forgivable loans to ensure they keep people employed. Billions of dollars more are going to social programs and direct support for local governments, hospitals, transit, and other services.

The current tally comes $2 trillion-plus in government stimulus, which is enormous. The entire U.S. economy is approximately $22 trillion in size, meaning that on a quarterly basis, overall economic activity runs about $5.5 trillion. As the predicted declines are in the 10% range for the second quarter, that amounts to a half-a-trillion-dollar decline, give or take.

A $2 trillion stimulus package is four times the size of this calculated decline. Much of the stimulus will flow straight into the financial markets, which are currently in full swoon—but the remainder will significantly boost demand.

Pre-Pandemic Economy

How healthy was the economy when the crisis began? There is little doubt that the pandemic is delivering a significant negative shock to the supply chain. Even those industries not directly impacted by the health mandates are being disrupted at some level.

But will otherwise profitable businesses collapse into bankruptcy because of a two-month closure? Will mortgages move into foreclosure due to a couple months of lost income? That all depends on the health of the economy (made up of

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these businesses and individuals) when the pandemic started.

The positive news is that the economy is much less fragile now than it has been in the past. Structurally, a lot more of today's economy is in services where there is little of the kind of inventory buildup that can create lasting harm during a crisis. Similarly, the United States is less dependent on global trade than other developed nations, implying that disruptions in global trade and supply chains are likely to have a smaller impact.

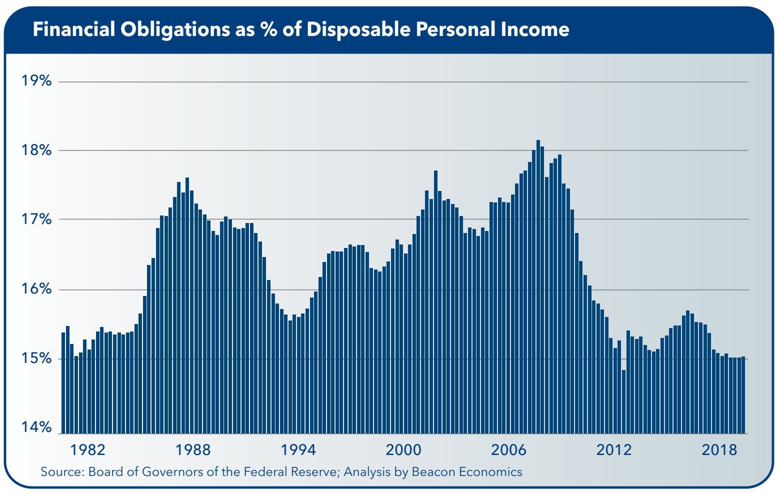
Cyclically, the nation is in good shape despite the length of the current expansion. While the recovery from the Great Recession was long and slow, and overall growth remains slower than in past expansions, the fundamentals of the U.S economy are fantastic.

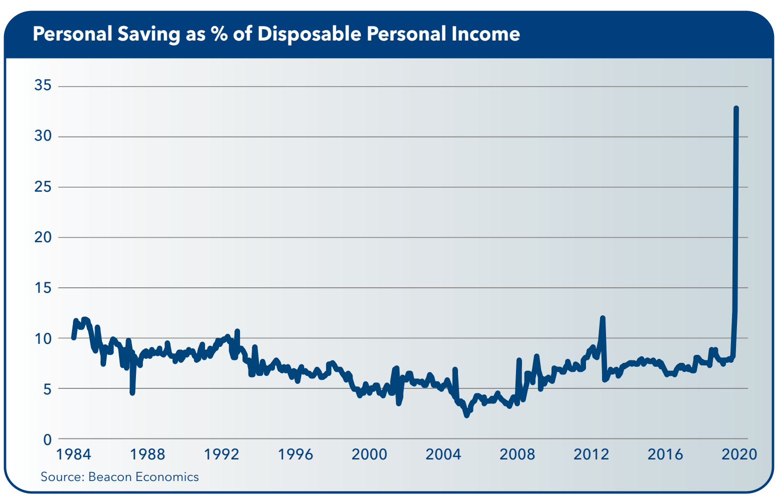
Pre-COVID-19, unemployment was at a 50-year low and in recent years labor shortages have been a problem in much of the nation. Both commercial and residential construction have had moderate runs with little sign of excess inventories. The pacesetter of consumer spending growth has been in travel, recreation, and restaurants. Business investment has been moderate. In short, nothing appears to be out of balance or due for collapse.

The financial economy, overall, is also healthy. Household savings rates are at a 30-year high, financial obligations ratios are at record low levels, and consumer debt markets have very low delinquency rates.

Debt burdens on U.S. households are lower now than they were in 2007 at the peak of the bubble or even in more normal 1998. Real estate has a close to record low debt-to-equity ratio and, thanks to changes in banking regulations following the Great Recession, borrowers in the last decade have had a median credit score above 750, the highest ever.

Corporate debt as a share of U.S. GDP is at an all-time high level, but the ratio of corporate profits to GDP also is close to record highs. And with such low interest rates, the aggregate debt burden on corporate America is actually quite low. The banking sector has great leverage, has been lending conservatively, and is enjoying close to record low loan delinquencies and losses. This is not a fragile economy.





It Looks Like a 'V'

There is no doubt that the 10 million-plus people who are entering into unemployment will face a challenging period, even with expanded unemployment benefits and direct payments from the federal government. Many small businesses also are being pushed close to the edge as they wait to restart operations.

But among much of the consuming public, savings rates are good, debt burdens are low, and consumers are maintaining their earnings. For this group, the inability to spend money during the public health-mandated shutdowns will lead to a surge in savings and significant pent up demand. While some households will not be able to spend as much post-pandemic, others will likely spend considerably more than usual. The same applies to businesses and investors.

All this does not suggest a "U," but a very large and rapid "V." The second quarter will definitely post record negatives, but that will be followed by record positives in the last half of the year as we quickly return to normalcy.

We see GDP growth as follows: 0% in Q1, -30% in Q2, 25% in Q3, and 5% in Q4, with unemployment falling back to the low 4's over the year. Not all the damage will be erased, but much of it will and things should largely return to normal faster than many expect.

Indeed, we may find that the second quarter will be the only negative growth quarter of the year, which will cause plenty of debate over whether this was or wasn't a true recession.

It is also worth discussing the chaos that overran the financial markets in recent weeks—led by the collapse in the

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equity markets. The problems stemmed less from economic realities and more from financial improprieties. After the early 2019 sell-off, the market exploded upwards and at the start of this year, price-earnings (P/E) ratios were at 31—the third highest on record, topped only in the years 2000 and 1929, according to Robert Shiller's index.

Maybe it will ultimately be a positive that this bubble was popped before it began to do harm in the broader economy. But the recent wild swings in the numbers cause havoc in short-run debt markets and put substantial, unnecessary strain on an economy dealing with a very real pandemic.

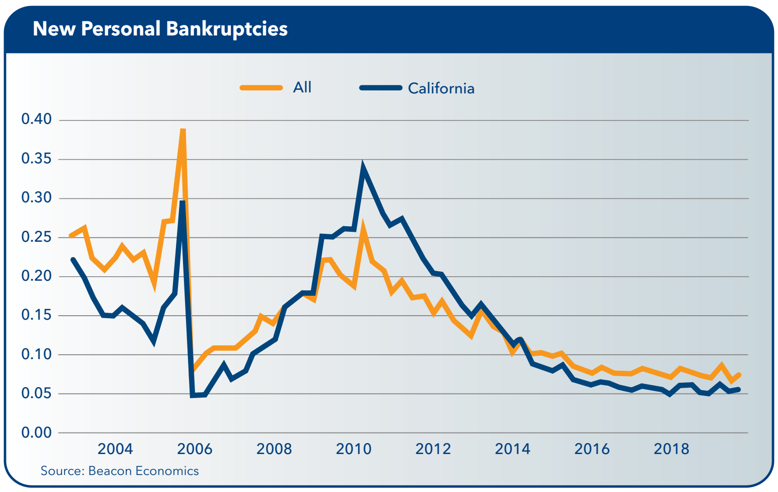
The Fed has now injected trillions of dollars into short-term credit markets, but it looks like much of the panic has already passed. Credit markets are settling down and the economy will, in the short term at least, enjoy record low interest rates along with lower gas prices and all the other benefits that come from falling commodity prices. This will also help with the third quarter bounce.

The larger question, however, is at what point will regulators finally begin to seriously address the excessive volatility of the financial markets over the last decade? The markets are supposed to be the shock absorber for the U.S. economy, but have turned into a shock expander.

Wildcards

While we believe that the most likely outcome for the U.S. economy is better than what most forecasts are currently suggesting, we must also be humble in the face of such an unprecedented shock. In this case there are two major wildcards.

• **The first, of course, is the virus itself.** They are wily things and can take strange and unanticipated twists and turns. If the spread of the coronavirus should spiral out of control again, public health mandates will once again take over and more damage will be done.



But even in such a case, public response should be faster and more forceful the second time around, allowing us to weather the storm better. The global population has experienced a big learning curve and we are likely to continue behaving vigilantly, which will help limit negative outcomes.

• **The second wildcard is whether there will be a dramatic shift in consumer behavior after the pandemic ends.** Certainly, people will wash their hands more often and handshakes may well become a thing of the past, but will consumers stop going to ballgames and music festivals? Will they be too afraid to go to restaurants?

We can't really know, but it is worth noting that for hundreds of years people have faced pandemics that were far deadlier and more frightening than this one because they didn't have the science or the medical responses we have today. Nevertheless, when there weren't pandemics, or they ended, people continued living active lives. Even during wartime, or in places that are under constant threat of terrorist or other attack, people don't allow low odds to halt their enjoyment of life.

This is not a new normal—it is a return to one that has been with us for a long time.

While we believe a "V" recovery is ahead, we say so very cautiously, and hope the false narrative that the "cure is worse than the disease" is not allowed to push us off our current path.

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. The text of this report was first published on April 23, 2020. Graphics are a selection of those presented at the CalChamber Board meeting via Zoom on June 4.

CalChamber Raises Questions on Feasibility of Wildfire Smoke Rules

The California Chamber of Commerce and a coalition of employer groups this week voiced concerns about the feasibility of the wildfire smoke protection emergency regulation and suggested solutions that could take effect immediately since this year's wildfire season has already begun.

In a letter sent to the Chief of the California Division of Occupational Safety and Health (Cal/OSHA) this week, the CalChamber and coalition pointed out that due to the COVID-19 pandemic, it may be logistically impossible for the state's nonmedical employers to comply with the emergency regulation's requirement to acquire and stockpile N95 masks. As a result, these employers may be forced to shut down when wildfires occur.

When the COVID-19 crisis began and the worldwide shortage of personal protective equipment, including N95 masks, made headlines, many businesses and citizens donated their own N95 stockpiles to help the health care system.

For some, these N95s were required for day-to-day work, but extras were on hand. For others, the N95 respirators were purchased in order to be ready for fire season.

When facing the immediate risk of COVID-19, these employers and citizens made a laudable decision that doctors and nurses needed that gear right now and donated. Regardless of the circumstance, what few N95s were in circulation were transferred to, or purchased by, the health care system.

Because the wildfire regulation remains in effect, businesses are being forced to purchase N95 respirators and compete with doctors and nurses. While recognizing the importance of protecting workers from wildfire smoke, the CalChamber and coalition believe that COVID-19 should be given priority. Health care workers and others facing immediate and ongoing respiratory hazards should be given available N95 respirators until the crisis is over.

The CalChamber and coalition are proposing two solutions:

• **Option 1: Provide Guidance Regarding the Temporary Use of Alternative Respirators.** Permitting the use of alternative respirators, such as KN95 respirators, would allow employers to provide either equivalent or partial protection to employees while N95s remain scarce.

To facilitate the use of these alternative respirators, the CalChamber and coalition ask that Cal/OSHA consider issuing an advice letter or similar guidance to address this issue. This would provide employers a feasible method to comply with the regulation and provide at least partial protection to employees—instead of simply shutting down worksites whenever the Air Quality Index (AQI) rises to 151 for PM2.5.

• **Option 2: Suspend the Regulation Under the Governor's Emergency Powers.** In this state of emergency, Governor Gavin Newsom can temporarily waive regulatory requirements that are not feasible or productive. Such action could, depending on its phrasing, remove or alter compliance requirements for the wildfire smoke regulation. Though the letter does not propose text for such an order, CalChamber expresses willingness to work with the Governor on this language.

In conclusion, the letter notes that the proposed solutions are not ideal, but points out that California cannot stockpile N95 respirators that do not yet exist.

Forcing businesses to close due to the lack of the required masks is not ideal for the economy, which is struggling to re-start after months of shutdown.

The CalChamber and coalition remain eager to work with regulators to address the dangers of wildfire smoke and find solutions that improve safety while simultaneously allowing employers to comply.

Staff Contact: Robert Moutrie

CalChamber-Sponsored Seminars/Trade Shows

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U.S. Commercial Service. June 25, July 9, July 23, August 6, Webinar. Email: *Jessica.Gordon@trade.gov* or *Richard.Swanson@trade.gov*.

Brazil's Energy Sector Overview and Opportunities. U.S. Commercial Service. June 17, Webinar. (800) 872-8723.

Cross Border eCommerce: Overcome Digital Roadblocks. U.S. Commercial Service. June 17, Webinar. (800) 872-8723.

Panama: Digital Hub of the Americas and a Gateway of Opportunities for U.S. Companies. U.S. Commercial Service. June 18, Webinar. (800) 872-8723.

Infrastructure Sector Business Opportunities in Ecuador. U.S. Commercial Service. June 19, Webinar. (800) 872-8723.

Mexican Fintech Market: Mexico's Road Toward Open Banking. U.S. Commercial Service. June 22, Webinar. (800) 872-8723.

Agribusiness Opportunities in Brazil. U.S. Commercial Service. June 23, Webinar. (800) 872-8723.

Canadian Power Generation Sector: Civil Nuclear, Present and Future. U.S. Commercial Service. June 23, Webinar. (800) 872-8723.

U.S.-Mexico-Canada Agreement for the Information and Communication Technology Industry. U.S. Commercial Service. June 24, Webinar. (800) 872-8723.

Energy Sector Business Opportunities in Jamaica. U.S. Commercial Service. June 24, Webinar. (800) 872-8723.

Coffee with Asia – Laos. U.S. Commercial Service. June 25, Webinar. (800) 872-8723.

Coffee with Asia – Pakistan. U.S. Commercial Service. June 25, Webinar. (800) 872-8723.

The ICT Ecosystem in Ecuador—Challenges and Opportunities. U.S. Commercial Service. June 25, Webinar. (800) 872-8723.

Back to Business Virtual Auto Expo. U.S. Commercial Service. June 29–July 17, Webinar. (800) 872-8723.

Chile Infrastructure for Aviation/Airport Equipment Sectors. U.S. Commercial Service. June 30, Webinar. (800) 872-8723.

Market Opportunities in Morocco's Water Sector. U.S. Commercial Service. June 30, Webinar. (800) 872-8723.

Upcoming Energy Projects in Remote Indigenous Communities in Panama. U.S. Commercial Service. July 1, Webinar. (800) 872-8723.

Opportunities in the Cybersecurity Sector in Peru. U.S. Commercial Service. July 2, Webinar. (800) 872-8723.

U.S.-United Kingdom Trade Discussions Feature First-Ever Virtual Negotiations

This spring marks 75 years since the end of battles in Europe in World War II. Since 1945, transatlantic cooperation has been all important for the nation's peace, democracy, shared values of freedom and the rule of law.

The United States maintains a deep trade and investment relationship with the United Kingdom, which officially left the European Union on January 31, 2020. Now that the two countries are able to enter into a formal free trade agreement (FTA), negotiations are underway and a second round is scheduled to begin the middle of June.

The California Chamber of Commerce believes strengthening economic ties and enhancing regulatory cooperation through agreements with our top trading partners that encompass both goods and services, including financial services, is essential to eliminating unnecessary regulatory divergences that may act as a drag on economic growth and job creation.

This is the first FTA ever to be negotiated virtually. During the first round in May, approximately 100 negotiators on each side covered multiple topics in approximately 25 different chapters. A second virtual round will take place the weeks of June 15 and 26, with further rounds expected to follow.

Preparing for FTA Activity

In July 2017, U.S. Trade Representative Robert Lighthizer and U.K. Secretary of State for International Trade Dr. Liam Fox formed the U.S.-UK Trade and Investment Working Group, which focused on providing commercial continuity for U.S. and UK businesses, workers, and consumers as the U.K. left the European Union. The working group laid the groundwork for the FTA negotiations as it explored ways the two countries can collaborate to promote open markets, and freer and fairer trade around the world.

The working group has met six times going into 2020 and created the U.S.-U.K. Small and Medium-Sized Enterprises (SME) Dialogue, which met several times.

In October 2018, the U.S. Trade Representative notified Congress of the Trump administration's intent to enter into trade negotiations with three markets: the European Union, the United Kingdom, and Japan. In February 2019, the U.S. Trade Representative released a list of specific negotiating objectives.

Anticipated Action

The CalChamber is hopeful that negotiations for the U.S.-U.K. trade agreement will conclude this year. The CalChamber supports the goal of strengthening the trading and investment relationship between the two countries, with a focus on securing open market access. The CalChamber supports the following issues being discussed during negotiations:

- market access for goods;
- data protection and data transfers;
- financial services;
- intellectual property rights;
- movement of labor; and
- regulatory cooperation.

Andrew Whittaker, the British Consul General in San Francisco, comments: "the rationale for the FTA is strong. The U.S. and the U.K. are respectively the first and fifth largest economies in the world. Our bilateral trade in goods and services was $304 billion in 2019. We are already each other's biggest investors, creating high-skilled jobs and stimulating growth in both of our economies. In California alone, over 100,000 jobs are supported by exports to the U.K. and another 112,000 Californians are employed by U.K. subsidiaries."

He continues: "We want to enhance the mutual trading relationship in key areas such as food and drink, advanced manufacturing and services, with mutually beneficial tariff reductions, better customs arrangements and other enhancements. We want to take full advantage of the chance that an FTA provides to set new standards for digital trade and intellectual property protection. We want to future-proof the agreement to take account of changing technology and disruptive innovation, with cutting-edge provisions that maximize opportunities for digital trade economy-wide."

Trade Impact

Two-way trade between the United States and the United Kingdom was $132.33 billion in 2019 and the U.K. was the fifth largest importer of U.S. goods with a total value of $69.15 billion.

Top exports to the U.K. were transportation equipment, making up 19%, followed by primary metal manufacturing, chemicals, and oil and gas. The U.S. imported $63.18 billion from the U.K. in 2019. Transportation equipment accounted for 26.9% of the total, followed by chemicals, nonelectrical machinery, and reimports. (U.S. Department of Commerce)

The United Kingdom is California's 12th largest export destination, with more than $5.2 billion in exports. Computer and electronic products accounted for approximately 25% of exports—more than $1.3 billion. Transportation equipment brought in $797 million, or 15.1%; while both secondhand merchandise and chemicals accounted for 11% and 8.6%, respectively.

In 2019, imports into California from the United Kingdom were approximately $6.16 billion, with the top categories being transportation equipment, which made up almost 50% of the total, followed by computer/electronic products, used or secondhand merchandise, and reimports.

Investment Impact

The U.S. Department of Commerce describes the U.S.-U.K. investment relationship as the largest in the world, valued at more than $1 trillion in 2016 and creating over 2 million jobs, about 1 million in each country.

More than 42,000 U.S. firms export to the United Kingdom. Annual U.S. exports to the U.K. are valued at more than $100 billion.

British investment is key in the United States. More than a million Americans go to work every day for British companies. Similarly, 1 million Brits go to work for American companies every day.

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U.K. foreign direct investment (FDI) in the United States contributed $7.9 billion to research and development and an additional $43.1 billion to expanding U.S. exports. The top industry sectors for British FDI in the United States are: business services, software and information technology (IT) services, financial services, communications, industrial machinery, and textiles. (Select USA)

In California, the No. 2 country for FDI through foreign-owned enterprises (FOEs) is the United Kingdom. British FOEs in California provide more than 111,430 jobs through 2,433 firms amounting to $9.44 billion in wages. The top jobs by sector are: professional/business services, manufacturing, wholesale trade, transportation/warehousing/utilities, and retail trade (World Trade Center Los Angeles, FDI Report, May 2020).

CalChamber Position

The CalChamber, in keeping with long-standing policy, enthusiastically supports free trade worldwide, expansion of international trade and investment, fair and equitable market access for California products abroad and elimination of disincentives that impede the international competitiveness of California business.

Agreements like this have the capability of ensuring that the United States may continue to gain access to world markets, which will result in an improved economy and additional employment of Americans.

European Union-United Kingdom FTA

At the same time, the U.K. is in talks over its future trade partnership with the European Union. There are ongoing rounds of negotiations and only six months left before the deadline for concluding an FTA at the end of the year.

Negotiators failed to find much common ground during the third round in May. The fourth round, which concluded the first week of June, left the EU and Britain far apart on issues including fair competition, governance and fishing rights. Negotiations will resume in late June or early July.

If the negotiation period is not extended this month, a deal needs to be completed by the end of October to allow time for ratification by the 27 members of the European Union.

If no agreement is reached, the U.K. would leave the European Union at the end of 2020 and operate under the terms of the World Trade Organization.

Although the U.K. officially left the 27-nation bloc on January 31, it remains within the EU's economic and regulatory rules until the end of the year and must now develop a new relationship covering trade, security, etc.

It may be difficult to conclude a U.S.-U.K. FTA until the U.K.-EU agreement is concluded. At the same time, the U.S.-U.K. FTA can set the standard for future U.K. FTAs, which now must be established following the United Kingdom's departure from the European Union.

Staff Contact: Susanne T. Stirling

CalChamber Recommends Ways to Fire Up Economy

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The Legislature should also take action to extend for 24 months all local entitlements, approvals and permits.

Expedite Retraining Program for Unemployed Workers

The shock to the economy and labor market will reverberate for years, as businesses contend with customer and regulatory reaction to the pandemic. The Administration and Legislature can help cushion the shock to workers left idle by the shutdown, and by a slow recovery, by providing retraining for jobs in industries that remain vibrant or that recover more quickly.

Fierce economic shocks have barraged employers large and small with unprecedented speed, destabilizing thousands of workplaces and erasing millions of jobs. Some industries, such as hospitality and other public-facing businesses, have suffered more than others.

Low-wage and often low-skilled workers that work in these industries have also been impacted, even more so, and their jobs will not reappear until their employers are again healthy. This will require affirmative efforts by elected state leaders to reduce employer costs to offset their loss of economic production, the CalChamber stated in the letter.

"Despite a reduction in the overall amount of legislation, the focus and scope of many bills is still alarming given the economic crisis. We are long past the time for business as usual; the Legislature can no longer enjoy the luxury of legislating as if still in an expanding economy with labor shortages," the CalChamber said.

"We most certainly cannot afford to be considering and passing job killing bills, such as proposals to increase taxes on business, new threats of litigation, and expanded mandatory leaves, to name just a few. The Legislature and Administration must identify ways to relieve burdens on business."

Staff Contact: Jennifer Barrera

Federal Government Amends Paycheck Protection Program Rules

As COVID-19 began to impact businesses, the federal government resolved to help by creating the Paycheck Protection Program (PPP), which offers loans to help small businesses with fewer than 500 employees stay afloat and keep workers employed—but also has caused a fair amount of confusion.

In response to concerns about the inflexibility of the PPP, Congress recently passed amendments to the program that allow employers to better take advantage of the program. The amendments, which the President signed into law on June 5, address a variety of issues regarding how the funds should be spent, when the funds should be spent, and how to handle re-staffing problems during the pandemic.

Forgivable Costs Under the PPP

The key aspect of the PPP is that the loans provided can be fully forgiven without repayment if the employer meets certain conditions. One condition is that the funds are expended only on certain costs. To be forgivable, the funds must be expended on:

- Payroll costs;
- Mortgage interest payments;
- Business rent or lease payments; and
- Electricity, gas, water, transportation, telephone and internet access.

The original terms of the PPP required employers to spend at least 75% of their PPP funds on payroll costs. For some employers, this is a difficult threshold to meet due to operational needs and the circumstances of the pandemic.

In the amendments, employers now must use at least 60% of the PPP loan for eligible payroll expenses, instead of the original 75%.

Timeframe to Expend PPP Funds Extended

Another condition employers must meet to qualify for forgiveness is that all funds must be expended within a "covered period."

Originally, employers had eight weeks from the receipt of the PPP funds to spend it all. Because the pandemic has caused employers to remain closed or open more slowly than anticipated, the covered period was too short for many employers.

The PPP amendment now extends the covered period to 24 weeks from the date the loan funds were disbursed to the employer.

For employers who have not yet received funds but are participating, or considering participating, the covered period ends either 24 weeks from the date of receiving the loan funds or December 31, 2020, whichever occurs sooner.

Staffing Requirements

A third condition employers must satisfy for loan forgiveness is that the employer returns to staffing and salary levels it maintained pre-pandemic.

Originally, employers had a safe harbor until June 30, 2020 to return to those levels. Recognizing the slow reopening of many businesses, Congress extended the safe harbor to December 31, 2020.

Ongoing Staffing Issues

The staffing level requirements have created some concern and confusion amongst employers. Under a variety of circumstances outside the employer's control, the employer may not be able to get back to pre-pandemic staffing levels. The PPP amendments include a couple of new exemptions from the staffing level condition.

Loan forgiveness will not be impacted based on staffing levels if an employer, in good faith, is able to document the following:

- An inability to rehire individuals who were employees on February 15, 2020; and
- An inability to hire similarly qualified employees for unfilled positions on or before December 31, 2020.

Forgiveness also will not be affected based on staffing levels if the employer, in good faith, is able to document an inability to return to the same level of business activity due to compliance with federal workplace requirements or guidance related to sanitation standards, social distancing, or other customer or worker safety requirements related to COVID-19.

Future Rule Changes

Due to the PPP's scale and rapid deployment, many rules have been added or modified since the program began. Moreover, due to the recent congressional amendments to the PPP, the U.S. Small Business Administration may modify or add new rules in response to the changes.

Employers participating in the PPP should consult regularly with their lender or visit the SBA website at ***www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program*** to learn about any additional rules or rule changes that may occur.

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Ireland a Center of Transatlantic Activities for U.S., California Firms

Ireland's role as a bridge for U.S. and California trade and investment operations with the European Union is highlighted in a report released this month by the American Chamber of Commerce (AmCham) Ireland.

AmCham Ireland will observe the 60th anniversary of its founding in 2021. It was founded in 1961 to "... promote trade and commerce between the United States of America and Ireland in both directions." At that time, Ireland was an emerging economy—an island located on the periphery of Europe.

Today, Ireland is one of the most open and innovative economies in the world—a member of the European Union (EU) and a key trade and investment partner with the United States.

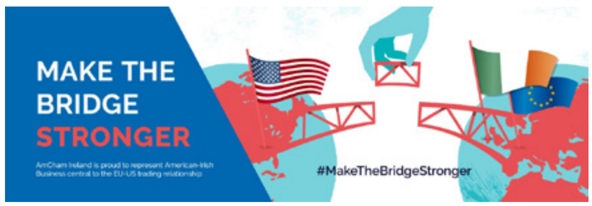
Ireland has proven itself to be resilient and reliable as a member of the global community and a key component of diversified global supply chains responding during the COVID-19 pandemic.

Bridge to European Union

The political and economic progress Ireland has made in 60 years is evident and Ireland continues to act as a bridge between the EU and the U.S.

AmCham Ireland's June 2020 report summarizes what the AmCham believes to be the key fundamentals in Ireland's success at attracting investment that has spurred its transformation into an inclusive, outward-looking society.

As an open internationalized economy, Ireland is characterized by innovation and competitiveness. The report also sets out AmCham's vision for how Ireland can now "Make the Bridge Stronger."



AmCham Ireland believes U.S. companies play a critical role in Ireland's economy and society, calling the U.S. teams in Ireland the "shining lights" of their companies' global operations and the center of a "vibrant two-way transatlantic bridge between the world's two largest and most integrated economies."

Irish companies employ almost as many people in the United States as U.S. companies employ in Ireland. The U.S. operations of Irish companies are leaders in many sectors, from construction supplies to life sciences to nutrition.

California-Ireland Trade/ Investment Statistics

In 2019, California exported more than $1.07 billion to Ireland, providing 11.8% of total U.S. exports to Ireland, and making California one of the top exporting states to Ireland.

Top exported products in 2019 included computers/electronic products (39%) and chemicals (21.9%), followed by manufactured commodities and special classification provisions. (U.S. Department of Commerce)

In California, Ireland is the No. 7 country for foreign direct investment (FDI) through foreign-owned enterprises (FOE). Irish FOEs in California provide more than 30,821 jobs through 460 firms, amounting to $2.84 billion in wages.

The top jobs by sector are manufacturing, professional/business services, wholesale trade, other services, and construction (World Trade Center Los Angeles, FDI report, May 2020).

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