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CalChamber Economic Advisory Council State Begins Upturn, But Uncertainty Still High

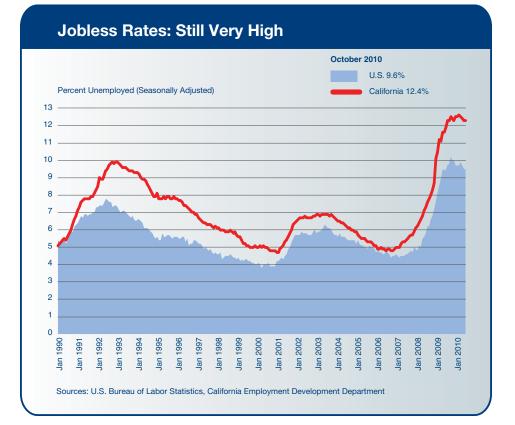
California's economy saw few positive signs during the past quarter, according to the latest report of the California Chamber of Commerce Economic Advisory Council.

The state lost an estimated 1.4 million farm and non-farm jobs during 2008 and 2009, reported the council, chaired by Nancy Sidhu, vice president and chief economist for the Los Angeles County Economic Development Corporation.

Modest Upturn

The upturn to date this year has been modest at best, according to the council. Some 90,300 new jobs appeared between December 2009 and May 2010, but 97,200 jobs disappeared between May and September, leaving a net loss of -6,900 jobs over the first nine months of the year.

Most of the losses were government See State: Page 4



Attempt to Eliminate Health Care Law Tax Reporting Burden Falls Short

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A California Chamber of Commercesupported effort to repeal a significant tax reporting burden on businesses due to the federal health care law fell short of the votes

needed in the U.S. Senate this week.

Supporters of the proposal, however, said they will work to eliminate the tax provision before it is scheduled to take effect in 2012.

Background

Currently, businesses are required to issue 1099 forms to individuals with whom they contract for services, if the aggregate amount is more than \$600.

Due to the passage of the federal health care law, the Patient Protection and Affordable Care Act, earlier this year, however, this reporting requirement will soon change drastically. Starting in January 2012, businesses will have to issue a 1099 form to any individual or *corporation* that is not a tax-exempt entity, if the annual payments to the individual or corporation for services and/or *property* exceeds \$600.

The addition of "corporations" to the See Attempt: Page 4

Inside

Insert: Pictorial Roster of Officers/Legislature



Labor Law Corner State Changes Required Posters/Pamphlets Employers Must Use



Susan Kemp **Helpline Manager**

Are there any changes to the required posters and pamphlets for 2011?

Yes. Once again there was a change to a required poster and pamphlet during the year. These changes were to the workers' compensation poster and pamphlet. The requirement that employers display the new poster and give an updated pamphlet

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E-mail: alert@calchamber.com. Home page: www.calchamber.com. to new employees went into effect on October 8, 2010.

Updates for 2011

For 2011, the following poster has changed:

• the Safety and Health Protection on the Job (CalOSHA) poster has updated contact information.

In addition, the following pamphlets have been updated for 2011:

- State Disability Insurance pamphlet;
- Unemployment Insurance pamphlet. The state disability insurance

pamphlet must be given to all new hires and to all employees who take a leave of absence for pregnancy disability, or any non-occupational illness or injury.

The unemployment insurance pamphlet must be given to employees

who are terminated or who quit.

Through the CalChamber Store, employers can order the 2011 Required Notices Kit—all 16 state and federal required employee notices on one spacesaving poster, plus all five required employee pamphlets, updated as necessary for 2011 in packs of 20.

Poster Protect

Also available for purchase is the Poster Protect service, ensuring customers will receive a new poster at no additional charge if there are any mandatory changes in state or federal employment law posting requirements during the calendar year.

For more information, visit www.calchamberstore.com/kit.

CalChamber-Sponsored Seminars/Trade Shows

More information at

www.calchamber.com/events.

Business Resources

Spotlight on High Technology. Licensing Executives Society (U.S.A. and Canada), Inc. February 10-11, 2011, San Jose. (703) 836-3106.

Preventing Workplace Fraud Webinar On Demand. CalChamber. (800) 331-8877. International Trade

- International Traffic in Arms Regulations. El Camino Center for International Development. December 6, Hawthorne. (310) 973-3148.
- Asia Society Green Finance Conference. Asia Society Northern California. December 8, San Francisco. (415) 421-8707.
- International Business Certificate Program. Northern California World Trade Center. December 13, Sacramento. (916) 447-9827.
- Opportunities in the Korean Food Market. Ministry for Food, Agriculture, Forestry and Fisheries (MIFAFF)/ Korean Trade-Investment Promotion Agency (KOTRA). December 16, Los Angeles. (323) 954-9500.
- U.S. Export Trade Mission to Korea. Korea Trade-Investment Promotion Agency, Los Angeles (KOTRA). January 11-12, 2011, Korea

International Exhibition Center (KINTEX). (323) 954-9500.

- High Tech Mission to India. U.S. Department of Commerce. February 6-11, 2011, New Delhi,
- Bangalore, Mumbai. (202) 482-3663. Complying with U.S. Export Controls. U.S. Department of Commerce, Bureau
- of Industry Security. March 24-25, 2011, San Diego. (858) 467-7040. Labor Law
- HR101: Intro to HR Administration.
- CalChamber. December 7, Sacramento; January 11, 2011, Costa Mesa; January 19, 2011, San Jose. (800) 331-8877.
- HR201: Labor Law Update Seminar. CalChamber. December 8, Sacramento; January 10, 2011, Glendale; January 12, 2011, Costa Mesa; January 13, 2011, San Diego; January 20, 2011, San Jose; January 21, 2011, Emeryville. (800) 331-8877.
- Family Medical Leave Act/California Family Rights Act Seminars. CalChamber. December 8, Sacramento; January 12, 2011, Costa Mesa; January 13, 2011, San Diego. (800) 331-8877.

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CalChamber Urges Employers to Prepare to Minimize Risk at Office Holiday Parties

The California Chamber of Commerce is reminding employers that holiday parties can create a major impact on employer liability, including the potential for sexual harassment claims. Employers should begin planning now for the policies and communication efforts that will ensure a safe and productive holiday season.

Office Parties Gone Wrong

Employers who host holiday parties face several liability risks. Employers should simply plan ahead to minimize the possibility of criminal or civil penalties.

Alcohol is one of the most common causes of trouble at office parties. Case law is filled with examples of holiday party overindulgences, leading to drunk driving, falls, alcohol poisoning or inappropriate remarks. Employers serving alcohol at company events should carefully draft policies addressing appropriate behavior, and encourage employees to drink responsibly.

Generally, California employers don't face criminal liability if an employee drinks too much at a company event then injures himself or someone else on the way home.

Although some states impose "social host" laws on employers or other individuals who serve alcohol to guests who cause injury or damage after a party, California statutes contain no such law. Be aware, however, that some California local governments have enacted municipal social host ordinances.

Alcohol-related liability doesn't arise solely from drunk-driving incidents; some California employees have attempted to sue employers for slip-andfall injuries at parties.

Under California Labor Code Section 3600, an employer is liable, under certain conditions, for any injuries arising in the course of employment. But an employer is not responsible when the injury arises out of voluntary participation in an offduty social activity that is not part of the employee's duties.

Employers can minimize liability by making clear to their employees that attendance at parties is strictly voluntary, and is in no way a requirement of employment. Employers also should avoid "work-related" activities at holiday parties, such as networking with clients, which might make employees think attendance is required.

Sexual Harassment Claims

Although California laws offer employers some protections from alcohol-related injuries and damages stemming from holiday parties, the same cannot be said about claims of sexual harassment.

As alcohol loosens inhibitions, the risk that a joke, comment or action will

spur a sexual harassment or hostile work environment claim goes up. Employers should remind employees before an event that although it's a party, it's still a business function. Employees are expected to act professionally.

Ensure that supervisor sexual harassment training is up-to-date, and that managers know that the same protections in the workplace apply to employersponsored parties.

CalChamber offers an affordable, well-produced online training system (see story below).

Sexual Harassment Prevention Training

AB 1825, signed in 2004, requires California employers with 50 or more total employees (including temporary service employees, independent contractors and employees outside the state) to provide newly hired or promoted supervisors working in California with two hours of classroom or other interactive sexual harassment training within six months of assuming a supervisor position. Employers must provide training to all employees who have "supervisory authority."

Businesses that do not complete the training are subject to a corrective order from the state Department of Fair Employment and Housing, as well as increased exposure to harassment claims, lawsuits and liability.

The CalChamber recommends that employers:

• Ensure all training, including name of provider and dates of training, are maintained for all supervisors.

• Provide mandatory sexual harassment training, such as CalChamber's online, interactive 2-Hour California Harassment Prevention Training, every two years based on the tracking method(s) the company chooses.



• Give all employees a copy of the employer's anti-harassment policy and a sexual harassment information sheet at least once a year but always upon hire.

Training Materials

CalChamber offers an online training system that satisfies the training requirement and *Sexual Harassment Hurts Everyone* information sheets in packets of 20.

More information on the information sheets and the course, *Harassment Prevention Training for Supervisors*, is available at *www.calchamberstore.com*.



State Begins Upturn, But Uncertainty Still High

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jobs, as the federal government slashed its Census 2010 workforce and school districts and cities reduced headcount.

Meanwhile, California's unemployment rate continued at 12.4 percent during the third quarter, compared with 12 percent a year earlier. Joblessness has been at or above 12 percent since August 2009; these rates were the highest since before World War II.

Other Indicators

Other broad-based indicators paint a somewhat less gloomy picture. Personal income earned in California increased by 2.3 percent during the second quarter of this year compared to the second quarter of 2009 (latest data available). A moderate increase, this marked only the second uptick in personal income since the third quarter of 2008.

Problems in the state's construction, state/local government, and finance/real

estate sectors accounted for much of the drag on the state's earnings growth. On the plus side, personal income increased in farming, mining, health care and private education.

Taxable sales sagged during the recession, plunging by -15 percent during 2009. Here too, however, the year-to-year comparisons turned positive during the first and second quarters of 2010, another sign of progress.

Although data are still incomplete, sales declines during the recession were most severe for California's motor vehicle dealers, furniture stores and building materials dealers. Automotive has led the 2010 upturn to date, however, with unit sales through July up nearly 20 percent over the first seven months of 2009.

Tax Receipts

Reflecting the changing economic momentum, tax receipts came into the General Fund a little better than expected during the early part of fiscal year 2011 (which ends June 2011).

However, the budget gap for the fiscal year was estimated at \$18 billion-\$19 billion. It took 100 days of intermittent discussions in Sacramento to find—and accept—the least painful ways to close the gap, a record for such late performance. Many of the "solutions" involved one-time fixes or unrealistic assumptions.

Thus, the budget gap for fiscal year 2012 may well exceed \$20 billion. Some caution about the budget situation seems to be warranted.

Job Loss

While employment may be near bottom in California, the state still lost a total of -62,100 non-farm jobs over the 12 months to September, with key industries still reporting negative results. Job counts fell the most in California's *See State: Page 6*

Attempt to Eliminate Health Care Law Tax Reporting Burden Falls Short

From Page 1

list, as well as including "property," significantly increases the number of 1099 forms that businesses will have to issue.

For example, a small business owner will have to issue a 1099 form to any vendor from whom it purchases office supplies, assuming the amount of the purchases for the year exceeds \$600 and the vendor is not a tax-exempt entity.

If the individual or corporation fails to provide the business with its taxpayer identification information so a 1099 form can be issued, then the business must take on the additional burden of withholding 28 percent of future fees and/or payments to that individual/corporation.

The stated purpose of this heightened reporting requirement for businesses is to generate revenue to cover the costs associated with the health care reform.

The Joint Committee on Taxation estimated this new requirement would raise \$17 billion from 2012 through 2019, as it would capture a large percentage of income that currently goes unreported. Conversely, it creates a huge administrative burden on businesses to keep track of all purchases and to obtain taxpayer identification information.

Internal Revenue Service

The Internal Revenue Service (IRS) has issued final regulations aimed at reducing or eliminating duplicative reporting. Pursuant to these regulations, any transactions made by a credit card, debit card or a third-party network that must already be reported by the bank or processing entity will not have to be reported by a business due to the expanded 1099 reporting requirements.

Federal Legislation

In addition, members of Congress, including California Representative Dan Lungren (R-Gold River), have introduced bills to address the burden of this heightened reporting requirement.

CalChamber signed onto a national letter to Congress organized by the U.S. Chamber of Commerce this fall, demanding repeal of the new 1099 reporting requirement. The letter was signed by numerous businesses and organizations across the country. Nevertheless, on November 29, two attempts to waive U.S. Senate rules to allow consideration of bill amendments to repeal the 1099 reporting requirement fell short of the votes needed.

CalChamber Position

The new 1099 reporting requirement will create an overwhelming administrative burden. The time and energy businesses will have to spend in tracking purchases and obtaining taxpayer identification, combined with the resources utilized by the IRS to process all these 1099 forms, as well as audit such information, seems significantly disproportionate to the alleged benefit the reporting will provide.

The CalChamber believes Congress can find better alternatives to help cover the costs of the new health care law than burdening businesses that are already struggling in this economy. The CalChamber will continue to support efforts to repeal the new 1099 reporting requirement.

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- 4. Ted Gaines (R-Roseville)
- 5. Richard Pan (D-Natomas)
- 6. Jared Huffman (D-San Rafael)
- 7. Michael Allen (D-Santa Rosa)
- 8. Mariko Yamada (D-Davis)
- 9. Roger Dickinson (D-Woodlake)
- 10. Alyson Huber (D-El Dorado Hills)
- 11. Susan Bonilla (D-Concord)
- 12. Fiona Ma (D-San Francisco)
- 13. Tom Ammiano (D-San Francisco)
- 14. Nancy Skinner (D-Berkeley)
- 15. Joan Buchanan (D-Alamo)
- 16. Sandré Swanson (D-Alameda)
- 17. Cathleen Galgiani (D-Livingston)
- 18. Mary Hayashi (D-Hayward)
- 19. Jerry Hill (D-San Mateo)
- 20. Bob Wieckowski (D-Fremont)
- 21. Rich Gordon (D-Menlo Park)
- 22. Paul Fong (D-Cupertino)
- 23. Nora Campos (D-San Jose)
- 24. Jim Beall (D-San Jose)
- 25. Kristin Olsen (R-Modesto)
- 26. Bill Berryhill (R-Ceres)
- 27. Bill Monning (D-Carmel)
- 28. Luis Alejo (D-Watsonville)

- 15. Sam Blakeslee (R-San Luis Obispo)
- 16. Michael Rubio (D-E. Bakersfield)
- 17. Vacant
- 18. Jean Fuller (R-Bakersfield)
- 19. Tony Strickland (R-Thousand Oaks)
- 20. Alex Padilla (D-Pacoima)
- 21. Carol Liu (D-La Cañada Flintridge)
- 22. Kevin de León (D-Los Angeles)
- 23. Fran Pavley (D-Agoura Hills)
- 24. Ed Hernandez (D-West Covina)
- 25. Roderick Wright (D-Inglewood)
- 26. Curren D. Price Jr. (D-Los Angeles)
- 27. Alan Lowenthal (D-Long Beach)
- 28. Vacant

- 29. Bob Huff (R-Diamond Bar)
- 30. Ron Calderon (D-Montebello)
- 31. Bob Dutton (R-Rancho Cucamonga)
- 32. Gloria Negrete McLeod (D-Chino)
- 33. Mimi Walters (R-Laguna Niguel)
- 34. Lou Correa (D-Santa Ana)
- 35. Tom Harman (R-Huntington Beach)
- 36. Joel Anderson (R-El Cajon)
- 37. Bill Emmerson (R-Hemet)
- 38. Mark Wyland (R-Carlsbad)
- 39. Christine Kehoe (D-San Diego)
- 40. Juan Vargas (D-Golden Hill)

- 29. Linda Halderman (R-Fresno)
- 30. David Valadao (R-Hanford)
- 31. Henry T. Perea (D-Fresno)
- 32. Shannon Grove (R-Bakersfield)
- 33. Katcho Achadjian (R-San Luis Obispo)
- 34. Connie Conway (R-Tulare)
- 35. Das Williams (D-Santa Barbara)
- 36. Steve Knight (R-Antelope Valley)
- 37. Jeff Gorell (R-Camarillo)
- 38. Cameron Smvth (R-Santa Clarita)
- 39. Felipe Fuentes (D-Sylmar)
- 40. Bob Blumenfield (D-San Fernando Valley)
- 41. Julia Brownley (D-Santa Monica)
- 42. Mike Feuer (D-Los Angeles)
- 43. Mike Gatto (D-Los Angeles)
- 44. Anthony Portantino (D-La Cañada Flintridge)
- 45. Gilbert Cedillo (D-Los Angeles)
- 46. John A. Pérez (D-Los Angeles)
- 47. Holly J. Mitchell (D-Los Angeles)
- 48. Mike Davis (D-Los Angeles)
- 49. Mike Eng (D-Monterey Park)
- 50. Ricardo Lara (D-Los Angeles)
- 51. Steven C. Bradford (D-Gardena)
- 52. Isadore Hall (D-Los Angeles)
- 53. Betsy Butler (D-Marina del Rey)

Note: Term limit year shown in parentheses. Updates to the roster will be posted as needed at www.calchamber.com.

54. Bonnie Lowenthal (D-Long Beach)

55. Warren Furutani (D-South Los Angeles County)

57. Roger Hernández (D-West Covina)

58. Charles Calderon (D-Montebello)

56. Tony Mendoza (D-Norwalk)

59. Tim Donnelly (R-Twin Peaks)

60. Curt Hagman (R-Chino Hills)

Norma Torres (D-Pomona)

62. Wilmer Amina Carter (D-Rialto)

64. Brian Nestande (R-Palm Desert)

Kevin Jeffries (R-Lake Elsinore)

67. Jim Silva (R-Huntington Beach)

68. Allan Mansoor (R-Costa Mesa)

65. Paul Cook (R-Yucca Valley)

69. Jose Solorio (D-Anaheim)

70. Donald Wagner (R-Irvine)

72. Chris Norby (R-Fullerton)

77. Brian Jones (R-Santee)

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78. Marty Block (D-San Diego)

79. Ben Hueso (D-Logan Heights)

80. V. Manuel Pérez (D-Coachella)

73. Diane Harkey (R-Dana Point)

76. Toni Atkins (D-South Park/Golden Hill)

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< CalChamber

74. Martin Garrick (R-Carlsbad)
75. Nathan Fletcher (R-San Diego)

71. Jeff Miller (R-Corona)

63. Mike Morrell (R-Rancho Cucamonga)

61.



CalChamber Member Companies Receive Recognition for Commitment to Diversity

California has drawn advantages from its cultural diversity for decades, and businesses are increasingly seeking diversity in their workforces in order to accelerate growth and meet client demands.

Hispanic Business magazine has released its State of Diversity issue, in which 60 nationwide companies were chosen as the best companies for diversity. The companies are part of what the magazine calls the Diversity Elite for 2010 and each was ranked based on its commitment to diversity.

Nine of the 10 companies that made the top of the list are active members of the California Chamber of Commerce. Moreover, 35 of the 59 companies chosen for the Diversity Elite are CalChamber members as well.

The companies that made the top of the Diversity Elite list share common strategies. Affinity groups, philanthropic efforts, minority-owned supplier partnerships, and minority recruitment are all ways in which these companies seek to embrace and instill diversity within their organizations.

These companies have found ways to make their employee and client base grow, but they also have dedicated the resources and time to put them into place.

As *Hispanic Business* notes, "Different languages, different customs and different cultures demand a different business. Companies that view diversity as an opportunity for expanding their market share and their employee base are well ahead of those who view diversity with tension or fear."

Following are the nine CalChamber members that made the top 10 diversity list.



AT&T

AT&T Inc. was ranked as the second best company for diversity, receiving top scores for its commitment to diversity marketing, community outreach, and employee promotion and retention. Of AT&T's workforce, 38 percent are ethnic minorities and the company invests in development programs to promote growth and leadership within the company.

AT&T also was commended for having in place a Global Supplier Diversity Program since 1968, which promotes the prosperity of local minorityowned suppliers to meet the company's supply demands. In 2009 alone, AT&T spent \$7 billion with such suppliers.

Yet, perhaps a key display of AT&T's dedication for diversity is its Aspire program. The program was launched in 2008 to motivate underprivileged high school students, of all ethnicities, to stay in school and prepare either for college or the workforce.



Verizon

Verizon Communications ranked in third place, receiving top scores in community outreach, supplier diversity, and diversity employee retention and promotion. Similar to AT&T, Verizon invests in multicultural marketing campaigns to advertise to minority communities and employs multilingual employees to provide service to customers who speak other languages besides English.

Verizon delves into a variety of charity programs for minorities, which include scholarships, mentoring and development programs. Since 2007, the company has donated approximately \$102 million to non-profit organizations for minority communities and in 2009 donated close to \$500,000 in scholarships to Hispanic students. Verizon also holds ethnic development workshops and other employee resource groups to promote diversity growth within the organization.

To encourage economic growth in minority communities, Verizon, like AT&T, is a member of the Billion Dollar Roundtable, a corporate organization whose members spend \$1 billion each year with minority suppliers. Last year alone, Verizon spent \$3.7 billion with minority-owned suppliers.



Southern California Edison

Ranked as fourth on the Diversity Elite scoreboard, Southern California Edison (SCE) received top scores for its diversity at the leadership and personnel level, and working with minority suppliers. SCE also received the highest scores in minority recruitment, retention and promotion.

Fifty-seven percent of SCE's 2009 new hires were ethnic minorities and 36 percent of the new hires were women. In order to engage and retain its diverse workforce, SCE invests in affinity groups, which offer opportunities for networking, leadership skill building and cultural awareness. SCE employee volunteers make up the affinity groups along gender, sexuality, cultural and ethnic themes. The company even has an affinity group named GenNext, which connects employees across age gaps and promotes understanding between employees of different generations.



Bank of America

Bank of America was ranked fifth among the Diversity Elite companies and received top scores in almost all the categories on the scoreboard. The company achieved high scores in diversity recruitment, retention, promotion, marketing, community outreach and supplier diversity.

Like many companies on the Diversity Elite list, Bank of America invests in affinity groups for its employees to provide mentoring and networking opportunities. The company also invests in programs to recruit and retain minority employees.

Bank of America further demonstrates See CalChamber: Page 6



CalChamber Members Receive Recognition for Commitment to Diversity

From Page 5

its commitment to diversity by planning to spend \$10 billion in procurement from minority businesses over the next five years. The company also plans to make \$1.5 trillion in loans and investments in "underserved communities" over the next 10 years.

Philanthropic giving is a pillar in the Bank of America profile. The company donates \$200 million each year to local communities and plans to donate \$2 billion in the next 10 years.



PG&E Corporation

Receiving high scores for diversity in leadership and personnel, and for its support of minority suppliers, PG&E Corporation ranked sixth on the list.

PG&E, like other Diversity Elite companies, does its purchasing through minority-owned suppliers and invests in affinity groups. In the last year alone, the company spent \$928 million with minority suppliers.

To promote an environment of inclusion, PG&E creates workshops to engage employees and holds social networking events.

Since 1995, PG&E has held an annual diversity celebration in San Francisco, giving out a President's Diversity Champion Award to employees who have demonstrated a commitment to diversity.



JPMorgan Chase & Co.

Taking some of the top scores for diversity recruitment, community outreach, and diversity in its leadership and personnel, JPMorgan Chase & Co. ranked seventh on the Diversity Elite list.

The company was credited for its diversity strategy, which entails recruiting talent from different cultures and lifestyles. In particular, JPMorgan Chase holds various internships to bring in new talent.

The company engages employees by hosting events, and creating employee

networking groups to connect people with similar interests and encourage them to grow professionally.



Hyatt Hotels Corporation

Hyatt Hotels achieved eighth place on the list and scored highly in the areas of diversity recruitment, retention, and leadership and personnel.

The corporation sees diversity as an opportunity to compete in a challenging business market and enabling the company to respond to business changes more effectively. The company strives to complement its "increasingly diverse clientele" with a diverse workforce.

Of the company's North American employees, about 59 percent are minorities. On the management level, 37 percent of the employees are minorities.



Macy's Inc.

Similar to Hyatt Hotels, Macy's Inc. received top scores for diversity

recruitment, and diversity in leadership and personnel. Ranked as ninth, Macy's has a workforce that is 75 percent female and about 50 percent ethnic minorities.

Macy's also was given top scores for its marketing and community outreach efforts. The retailer partners with different national ethnic organizations to establish its presence in ethnic communities.

Macy's Hispanic Heritage campaign recognizes the contributions of Hispanic Americans to society. The campaign also sends the message that Macy's is more than a simple retailer; it's a community partner.



Marriott International, Inc.

Rounding out the top 10 companies, Marriott International, Inc. is most noted for its diversity recruitment. The magazine indicates that 40 percent of the company's near-term growth will be outside of the United States.

The company also received high notes for its diversity retention, promotion and partnership with minority-owned suppliers.

State Begins Upturn, But Uncertainty Still High

From Page 4

construction, government, wholesale trade, manufacturing and retail trade sectors.

International Trade

International trade has picked up very strongly in 2010. Exports of goods made in California jumped by +19.7 percent in the third quarter of 2010 compared with the third quarter of 2009.

The largest category of exports computers and electronic products (semiconductors, computer equipment and navigational instruments)—rose by +25.6 percent.

Exports of California's second largest export products—industrial machinery leapt by +47.3 percent, the biggest gain of the top five export product groups.

Meanwhile, exports of transportation equipment climbed by +10.2 percent versus the same quarter last year, and exports of miscellaneous manufactured commodities (including medical equipment and supplies) rose by +22.5 percent. Exports of chemicals (including pharmaceuticals) advanced by +5.6 percent.

Risks

Risks appear to be about even, although the downside issues certainly receive more attention. The economy has passed the bottom of a serious, lengthy recession, but the level of activity is still low.

Some observers still are unconvinced about the recovery's staying power. Among others, uncertainty is high because they do not know yet what the rest of the recovery will look like.

The full report of the CalChamber Economic Advisory Council will appear in the next *Alert*.



Voluntary Use of Certified Access Specialist Key Defense for Disability Access Lawsuit

The California Chamber of Commerce is reminding businesses of the opportunities they have to comply with the Americans with Disabilities Act (ADA), diminish their risk of being sued for denial of full and equal access to individuals with disabilities, and/or potentially reduce the fees and damages incurred if litigation is filed.

During the 2007-08 legislative session, the CalChamber and other business groups worked closely with legislators and their staff, disability rights groups and the consumer attorneys to achieve historic reform to California's disability access laws.

The reform legislation, SB 1608 (Corbett; D-San Leandro, Chapter 549. Statutes of 2008), is designed to promote and increase compliance with laws providing equal public access in places of business to individuals with disabilities, while reducing unwarranted litigation that does not advance that goal.

Certified Access Specialists

One of the key benefits provided by SB 1608 is the availability of Certified Access Specialists (CASp) who are trained and certified as experts in the disability access building requirements. Approximately 330 CASp inspectors statewide are available to inspect building plans and/or existing buildings to determine if the buildings are ADA compliant or if there are deficiencies that need to be resolved.

Contact information for all CASp inspectors is available at the website of the California Department of General Services, Division of the State Architect, *www.dgs.ca.gov*. In addition, all local building inspection offices should have at least one CASp inspector on staff.

A business owner can voluntarily ask a CASp inspector to:

• Inspect building plans for new construction to ensure that any new building complies with disability access laws; or

• Inspect an existing building to determine if there are any deficiencies. The cost of such an inspection is negotiable and varies among different specialists.

Once a CASp inspector has inspected the requested site, the business owner can obtain a certificate to display in the win-



A new window sign is now available for CASp-inspected businesses. The state-issued sign is similar to this one.

dow of the establishment that notifies the public the establishment has been inspected by a CASp. The presumed benefit of this certificate is to inform the public that the owner/tenant has taken steps to make sure it complies with the law and therefore is not an easy target for a disability access case.

Early Resolution of Lawsuits

Pursuant to SB 1608, an attorney who files a lawsuit alleging a constructionrelated accessibility claim also must file and serve a written notice that provides an explanation of the building owner/ tenant's legal rights, including the right to seek an attorney experienced with ADA lawsuits. An attorney's failure to provide this written notice at the time of filing is a violation that can be reported to the California State Bar.

If litigation is filed and the business owner has had a CASp inspection completed, the business owner may request a 90-day automatic stay of the lawsuit and an Early Evaluation Conference to determine the viability of the claims made. This stay and conference will prevent either side from unnecessarily incurring litigation-related fees and costs. Notably, the business owner must provide evidence of the CASp inspection report to the plaintiff as well as the court at least 15 days before the scheduled evaluation conference. Business owners are encouraged to confer with legal counsel on this issue, as well as any litigation filed.

To further encourage early resolution of any disability access case, SB 1608 limits a plaintiff's statutory damages under the Civil Code to one violation per occasion upon which the plaintiff was denied full and equal access at a distinct facility, rather than allowing a plaintiff to claim multiple violations on each occasion and therefore multiple requests for statutory damages. Courts also may consider reasonable settlement offers made between the parties when evaluating the award of any request for attorney's fees at the conclusion of the case. This aspect of SB 1608 places pressure on the plaintiffs and their attorney to make realistic demands of the business owner during litigation.

Commission on Disability Access

Another important element of SB 1608 was the creation of the California Commission on Disability Access (CCDA). This commission is designed to study and report on compliance issues business owners and disabled individuals have with state laws and regulations concerning disability access; the effectiveness of the CASp program; and the need for additional training and education.

The CCDA also will study whether the reform provided by SB 1608 has achieved the desired goal of reducing frivolous and unnecessary civil lawsuits, while encouraging disability access compliance.

Take Advantage of SB 1608

All business owners are encouraged to take advantage of the benefits offered by SB 1608 by obtaining a CASp certification. Although SB 1608 provides no guarantee that a business owner who is CASpcertified will not get sued, it certainly will reduce the business owner's risk of frivolous litigation, as well as provide additional protections not otherwise available to the business owner if litigation is filed.

Contact information for all CASp inspectors is available at: *https://www.apps. dgs.ca.gov/casp/casp_certified_list.aspx*. Staff Contact: Jennifer Barrera



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