ALERT

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CalChamber®
CALIFORNIA CHAMBER OF COMMERCE

‘Job Killer’ Update

31 of 37 Dead or Defused at Session Halfway Point

Following last week’s deadline for legislation to pass the house in which it was introduced, just six of the 37 “job killer” bills identified so far this year remain active.

Not Moving

Costly Workplace Mandates

Among the workplace and employment law bills the Legislature did not pass:

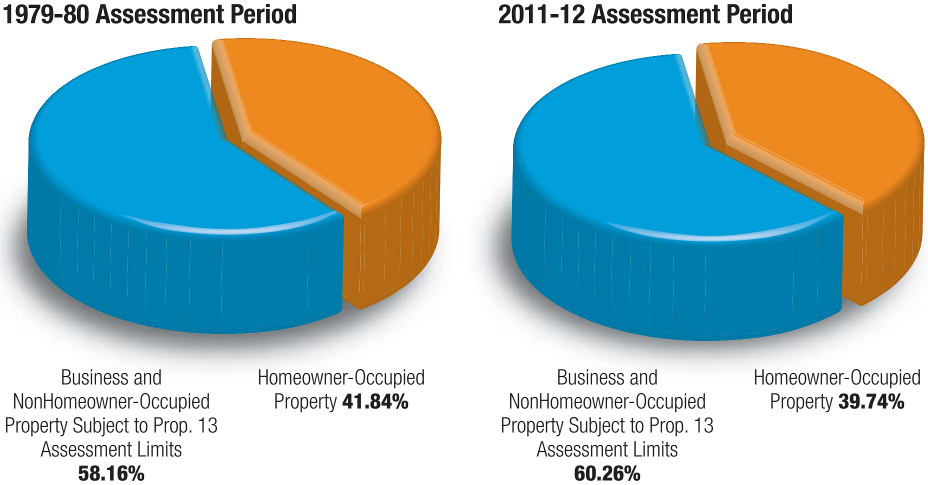
- establishing homeless people as a protected class;
- a new mandate to list every employee covered by your workers’ comp policy and new penalties for any mistakes;
- repealing cost-saving workers’ comp reforms passed last year; and
- expanding paid family leave to businesses with fewer than 50 employees.

Economic Development Barriers

Bills that would have created economic development barriers that also did not pass include the following:

See ‘Job Killer’ Update: Page 4

Commercial/Residential Property Tax Shares Unchanged Since Passage of Proposition 13



Source: CalTax report using data from the state Board of Equalization.

Data from the state Board of Equalization exposes as a myth the contention that Proposition 13 has caused a shift in the property tax burden from commercial to residential properties. In fact, commercial properties account for a slightly larger percentage of property tax now. Story on Page 5.

Budget Committee Nixes New Software Tax, Limit on Taxpayer Claims

A legislative budget committee agreed on June 4 that the California Chamber of Commerce-**opposed** proposals to impose sales tax on certain types of software and limit the opportunity for taxpayers to pursue valid claims before state taxing agencies need further examination.

Rather than rushing the proposals through the budget process, the budget conference committee agreed with the CalChamber position and voted for the issues to receive full vetting via the legislative policy committee process.

Software Tax

The state Department of Finance (DOF) proposal to “clarify” existing law regarding sales tax on computer software delivered on storage media like a disk actually raised complex legal and policy issues.

In effect, the proposal would have overturned an appellate court decision in *Nortel Networks Inc. v. Board of Equalization (2011)* 191 Cal.App.4th 1259 (Nortel).

In that decision, the court determined that amounts charged for intangible personal property (licensing the right to

See Budget Committee: Page 3

Inside

Labor Law Corner

How to Calculate Overtime Premium Pay for Nondiscretionary Bonus

Dale Louton
HR Adviser

My company has a quarterly bonus program that requires hourly employees to meet performance standards to achieve a bonus. We have defined this bonus as nondiscretionary. I know that if an employee meets the stated goal the bonus must be paid. Must I treat the bonus as part of the regular rate of pay and possible payment of overtime? Do I have to pay premium pay over the entire quarter or the payroll period in which the bonus was paid? How do I determine what premium pay is due?

A nondiscretionary bonus is considered part of the regular rate of pay, and as such, premium pay must be paid for any overtime hours worked. Your bonus is designed to be an incentive for increased production for each hour worked, and as such, must be spread over the entire quarter.

Any overtime hours worked in that period of time have already received time-and-a-half or double-time based on the hourly rate in effect at the time. Now, you must calculate premium pay based on the bonus.

Example

The following example will illustrate what is due:

A bonus of $350 for meeting performance standards is paid to an employee who worked 504 regular hours, 60 time-and-a-half hours and 12 double-time hours. Note that the bonus payment already covers straight time for all hours worked, including overtime hours.

To calculate the overtime premium pay, add extra half-time and one times the double-time hours.

Bonus	$350
Bonus $350 divided by 576 total hours	$0.6076
½ times $0.6076	$0.3038
1 times $0.6076	$0.6076
Overtime due on bonus for extra half-time: 60 hours at $0.3038 per hour	$18.23
Overtime due on bonus for extra straight time: 12 hours at $0.6076 per hour	$7.29
Total overtime due on bonus	$25.52

The Labor Law Helpline is a service to California Chamber of Commerce preferred and executive members. For expert explanations of labor laws and Cal/OSHA regulations, not legal counsel for specific situations, call (800) 348-2262 or submit your question at www.hrcalifornia.com.

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Labor Law

Strategies for Employer Compliance Under the Affordable Care Act Webinar. CalChamber. June 20. (800) 331-8877.

California Employers and Workplace Privacy Webinar. CalChamber. July 18. (800) 331-8877.

HR Boot Camp: Toughest Challenges. CalChamber. September 11, San Diego. (800) 331-8877.

Put It in Writing: Employee Handbooks. CalChamber. September 19. (800) 331-8877.

California Rules for Pay/Scheduling Nonexempt Webinar. CalChamber. October 17. (800) 331-8877.

Business Resources

Small Business Seminar: Strategies for Success. Board of Equalization. June 18, Thousand Oaks. (323) 980-1221.

Internship Program Workshop. University of the Pacific and Collegial Services. July 17, Sacramento. 10% discount for CalChamber members. Use promo code "Chambers" when registering. (925) 818-2280.

California HR Conference. Professionals in Human Resources Association. August 26–28, Anaheim. (310) 416-1210.

International Trade

Think Asia, Think Hong Kong. Hong Kong Trade Development Council. June 14, Los Angeles. (212) 838-8688.

Spanish Language/Media Conference. California Leadership Institute and Mentoring Bridges. June 21–22, Los Angeles. (916) 719-1405

U.S.-Saudi Auto Conference. U.S. Saudi Arabian Business Council. June 26, Birmingham, Michigan. (703) 204-0332.

Japan America Society of Southern California (JASSC) 104th Anniversary Celebration. JASSC. July 2, Los Angeles. (213) 624-6217.

CalChamber News

Health Care Tax Doesn't Add Up

A "job killer" bill that would require the state's largest employers to pay a penalty for each worker who opts to enroll in the state's Medi-Cal program is the subject of the latest edition of CalChamber News, a California Chamber of Commerce video series focusing on issues important to job creation and economic recovery in California.

AB 880 (Gomez; D-Los Angeles) impacts a wide range of industries, including large nonprofits, all of which would be hit hard with new significant financial penalties related to health care coverage for their workforce.

Collateral Damage

AB 880 awaits a vote by the full Assembly. The CalChamber and a large coalition of businesses and nonprofits have argued that this "job killer" bill will cause significant collateral damage to the recovering economy and result in fewer new jobs.

"The math just doesn't add up," says CalChamber President and CEO Allan Zaremberg. "When you drive up costs, you hire fewer people. I don't think there is any question that this is a job killer."

In the video, Zaremberg explains that AB 880 imposes a new tax on California employers when they hire part-time employees, shifts the burden of paying for a Medi-Cal program in California from the public sector, from the state, over to the private sector, and eliminates any reason to do efficiencies in the program.

Rick Fowler (right), president and CEO of The Community College Foundation, cites problems AB 880 creates for nonprofits like the foundation, which employs hundreds of part-time tutors.

AB 880 requires large employers to pay a penalty anywhere from $6,000 to $15,000 for each worker who opts to enroll in the state's Medi-Cal program. Employers still will have to pay the penalty even if they offer their own coverage. The requirement also extends to part-time and seasonal workers, even those working as little as eight hours per week.

Doom for Nonprofits

This "job killer" spells doom for nonprofits like The California Community College Foundation, which employs hundreds of part-time tutors to work with disadvantaged youth.

"This bill would actually be devastating to our organization," says Rick Fowler, president and CEO of the foundation. "I do not see how we could continue to be in existence. It would put us out of business."

In the video, Fowler explains that what California needs most is a healthy private sector economy and this bill is a "body blow" against that.

The CalChamber warns that AB 880 will also increase frivolous litigation and limit the ability of businesses to manage their own workforce. Employers are prohibited from asking about a worker's family income or enrollment in Medi-Cal.

The concern is not just more uncertainty in the face of implementing the Affordable Care Act, but the inability for entry-level, unskilled workers, students and older workers to find jobs.

Budget Committee Nixes New Software Tax, Limit on Taxpayer Claims

From Page 1

use software subject to Nortel's patent and copyright interests) transferred with tangible personal property (storage media) pursuant to Technology Transfer Agreements (TTAs) were not subject to sales tax.

The DOF proposal not only would have changed California law, but also supported the Board of Equalization (BOE) litigation position in another case (Lucent Consolidated Case) that is expected to go to trial this fall. This case again involves the issue of whether the amounts charged for intangible personal property transferred with tangible personal property pursuant to TTAs are subject to sales tax.

The DOF proposal was inconsistent with a long-standing BOE regulation and also could have been interpreted as repealing the current sales tax exclusion for custom computer software without any review of the impact of the change on the state's economy.

The budget conference committee agreed with the CalChamber position that the issues raised should receive full review in the legislative policy committee process.

Taxpayer Claims

BOE and Franchise Tax Board (FTB) proposals before the budget conference committee would have eliminated a prevailing party's right to recover attorney fees under the Private Attorney General Act when the litigation pursued "has resulted in the enforcement of an important right affecting the public interest." Consequently, taxpayers' ability to pursue legitimate claims before the BOE and FTB would have been limited.

The CalChamber argued there is no justification for treating tax-related cases and the opportunity for the recovery of litigation costs differently than other broad-based laws that affect the general public. In fact, the CalChamber is not aware of any similar exemption with any other area of law.

Both proposals also sought to further limit the recovery of attorney fees unless the prevailing party could prove the FTB or BOE acted without "substantial justification." This would have added

See Budget Committee: Page 5

'Job Killer' Update: 31 of 37 Dead or Defused at Session Halfway Point

From Page 1

- allowing a higher parcel tax assessment just on commercial property;
- redefining "change of ownership" language that triggers property tax increases;
- moratoriums and overzealous regulations on hydraulic fracturing;
- unreasonable mitigation on infrastructure projects;
- virtually eliminating private personal service contracts with state government;
- allowing liens to be filed on employers' property merely by alleging a wage claim;
- targeting specific products for tax increases—for example, California oil and gasoline, and sodas with sugar;
- bans on fast-food containers;
- expansion of frivolous litigation under the California Environmental Quality Act (CEQA);
- establishing a new, duplicative regulatory scheme over consumer products; and
- new frivolous litigation on a contractor if its employees wore uniforms similar to another contractor.

In addition, numerous bills that would have placed on the ballot proposals to increase commercial property taxes have been tabled until next year.

Still Alive

The following "job killers" are advancing through the legislative process:

- **AB 10 (Alejo; D-Salinas) Automatic Minimum Wage Increase** — Unfairly increases California employers' cost of doing business by raising the minimum wage $1.25 over the next three years and thereafter indexing the minimum wage based on inflation, which fails to take into account the current economic status of the state or other fees and costs employers are required to pay.
- **AB 880 (Gomez; D-Los Angeles) Expansion of Discrimination Litigation and New Health Care Coverage Penalties** — Increases health care costs and increases discrimination litigation by assessing large employers a penalty if any of their employees who work as little as eight hours per week enroll in California's Medi-Cal program and by expanding the Labor Code to include a protected classification for any person who is enrolled in California's Medi-Cal program or in the California Health Benefit Exchange.

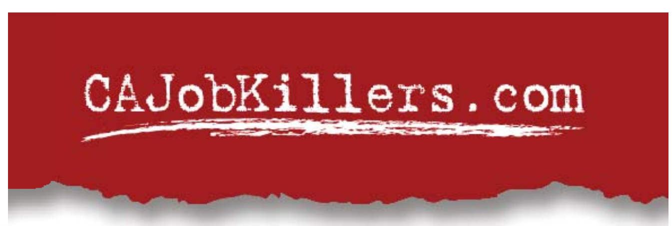
Because it includes an urgency clause, AB 880 remains active on the Assembly Floor. It will require a two-thirds vote to pass.

The bill affects a wide range of industries, including large nonprofits, all of which would be hit hard with new significant financial penalties related to health care coverage for their workforce.

AB 880 is the subject of the latest CalChamber News segment, released May 30 (see story on Page 3). In the video, CalChamber President and CEO Allan Zaremberg explains that AB 880 imposes a new tax on California employers when they hire part time employees, shifts the burden of paying for a Medi-Cal program in California from the public sector to the private sector, and eliminates any reason to promote efficiencies in the program.

- **SB 404 (Jackson; D-Santa Barbara) Expansion of Discrimination Litigation** — Makes it virtually impossible for employers to manage their employees and exposes them to a higher risk of litigation by expanding the Fair Employment and Housing Act to include a protected classification for any person who is, perceived, or associated with a family caregiver.
- **SB 365 (Wolk; D-Davis) Limitations on Tax Credits** — Creates uncertainty for California employers making long-term investment decisions by requiring tax incentives end 10 years after its effective date.
- **SB 686 (Jackson; D-Santa Barbara) Safety Recalls** — Exposes car dealers and rental car companies to significant liability and precludes them from renting, leasing, loaning, or selling a car despite the lack of actual knowledge that the car was subject to a recall, that may or may not pose any imminent harm to the consumer or renter.
- **SB 691 (Hancock; D-Berkeley) Dramatically Increases Pollution Penalties** — Dramatically increases existing strict-liability penalties for nuisance-based, non-vehicular air-quality violations, and expands applicability of those penalties to a wide range of businesses previously not subject to the penalties without adequately defining what types and levels of pollution would trigger those penalties.

The full list of "job killer" bills is available at ***www.calchamber.com/jobkillers*** or ***CAJobKillers.com***.



Report: No Shift in Property Tax Burden from Business to Homeowners from Prop. 13

There has been no shift of the property tax burden from businesses to homeowners, according to a research report released June 5 examining the effects of Proposition 13 .

Despite numerous anecdotes or cherry-picked examples involving individual properties or disputes pending in court, Proposition 13 has done what it set out to do: bring predictability, stability and objectivity to California's property tax structure, concludes the report prepared by the California Taxpayers Association (CalTax) using data from the state Board of Equalization (BOE).

Business Properties Paying More

The fact is, commercial properties are paying a slightly larger percentage of the property tax now than shortly after Proposition 13 passed, the CalTax analysis shows.

Looking at the share of the property tax burden for property subject to Proposition 13 limits, tax assessments on businesses and nonhomeowner-occupied property subject to Proposition 13 accounted for 60.26% of all assessments in 2011–12 compared to 58.16% in 1979–80.

Tax assessments on homeowner-occupied property accounted for 39.74% of all assessments in 2011–12, compared to 41.84% in 1979–80.

Also in 2011–12, the assessed value of all business and nonhomeowner-occupied property subject to Proposition 13 assessment limits was $847.2 billion more than the assessment value of all homeowner-occupied property.

Proposition 13, passed 35 years ago—on June 6, 1978—capped property tax rates for both residential and commercial properties at 1% of the assessed value. It also prevented a property's assessed value from growing more than 2% a year.

Proposition 13 Revisited

The BOE data leads to three primary conclusions, according to the CalTax report:

- Homeowners remain the largest beneficiaries of Proposition 13's property tax assessment protections. The property tax burden has not shifted from businesses to homeowners due to Proposition 13.
- Proposition 13's assessment limits make the property tax a stable revenue source not subject to volatile changes in the real estate market.
- Even with rate limits, the property tax is a growing source of revenue to fund government services.

'Split Roll' Tax

Some opponents of Proposition 13 have argued over the years that the initiative created a "loophole" that allows businesses to avoid paying their "fair share" of the property tax. Opponents still argue that California should adopt a "split roll"—a form of property tax discrimination where the assessment roll is split, and businesses and owner-occupied homes are taxed differently.

A recent example was **AB 188 (Ammiano; D-San Francisco)**, which would have completely altered the definition of "change of ownership" for commercial property for the purpose of increasing property taxes.

This "job killer" bill, **opposed** by the California Chamber of Commerce, was held in the Assembly Revenue and Taxation Committee in May. The bill did not receive enough support from the committee members.

Property Tax Stable Revenue

The report also found that through the ups and downs of the real estate market, the assessment value of property subject to Proposition 13 assessment limits has increased steadily. Assessed values and tax levies have fallen because of foreclosures and other hardships that have hit California's economy especially hard. Proposition 13 has had a stabilizing effect, however.

When real estate values collapsed, assessed values for homeowner-occupied property and business and nonhomeowner-occupied property declined only 1.67%. Without Proposition 13's acquisition-value assessments, local government would have collapsed with the decline in real estate values, the CalTax report states.

Growing Source of Revenue

The assessed value of all property subject to Proposition 13 assessment limits, collectively, has increased an average of 7.38% per year since 1978–79, the report states. This rate of growth has exceeded the growth in inflation and population combined.

As of 2011–12 (the most recent year for which data is available from the BOE), property under Proposition 13 assessment limits had an assessed value of $4.13 trillion.

Budget Committee Nixes Limit on Taxpayer Claims

From Page 3

another hurdle to taxpayers to recover all their costs associated with successfully challenging the constitutionality of a tax statute, thereby ultimately discouraging these types of cases.

Even more concerning, and potentially unconstitutional was the attempt to absolutely bar the recovery of attorney fees if the taxpayer's net worth exceeded $2 million for individuals or $7 million for a corporation, regardless of whether the taxpayer prevailed. This restriction would undoubtedly have discouraged valid challenges to taxes imposed on wealthier taxpayers, only further encouraging aggressive tax assessments and penalties against those same individuals.

Both the FTB and BOE already have tools to curb frivolous claims and/or challenges. For example, the California Revenue and Tax Code allows the FTB to recommend that the BOE impose a penalty for frivolous or illegitimate claims.

The budget conference committee agreed with the CalChamber position that the FTB/BOE proposal is a policy issue that should be vetted through the legislative process so stakeholders can provide input.

Staff Contacts: Jeremy Merz, Jennifer Barrera

CalChamber Forum Gets Preview of Topics for U.S.-China Summit

China's quest to become a global science, technology and innovation leader was the subject of a June 3 international forum hosted by the California Chamber of Commerce and the California Council on Science and Technology.

Dr. Tai Ming Cheung, director of the Institute on Global Conflict and Cooperation (IGCC) at the University of California, San Diego, touched on many topics likely to be raised later in the week at the meeting between U.S. President Barack Obama and Chinese President Xi Jinping in Rancho Mirage, California.

This will be President Obama's first meeting with Xi Jinping since he became China's President. President Obama and President Xi will hold in-depth discussions on a wide range of bilateral, regional and global issues.

They will review progress and challenges in U.S.-China relations over the past four years and discuss ways to enhance cooperation, while constructively managing our differences, in the years ahead.

Dr. Tai Ming Cheung

China's Catch-Up Strategy

Addressing a group of nearly 50 California business leaders, Cheung explained that China's goal is to become a world leader in science, technology and innovation within the next 10–20 years. As a result, this may indicate a seismic shift in the global balance of power, he said.

In 2006, China created some guiding principles and a program to map its long-term science and technology development with an emphasis on "big science" projects—space, nuclear, dual use and manufacturing. Some of China's long-term goals are to:

- Raise its research and development spending to 2.5% of gross domestic product (GDP) by 2020 to be on par with Organisation for Economic Co-Operation and Development (OECD) members;
- Become a top-three science and technology power by 2020; and
- Become the No. 1 science and technology leader by 2050.

China has made some significant progress. In 1995, China's spending on research and development was 0.6% of its GDP. Just last year, in 2012, 1.97% of its GDP was spent on research and development.

In order to meet and exceed this aggressive timeline, however, China will need to change its innovation techniques and make strategic adjustments in its long-term plan.

"China's leaders and scientific elite regard possession of a state-of-the-art autonomous innovation capability as central in their endeavors to build a prosperous and powerful nation and they are investing heavily in bringing this vision to reality," Cheung explained.

He highlighted some mid-course adjustments to the Chinese science and technology plan.

The plan calls for China to:

- Emphasize the role of enterprises—boosting research and development capabilities. Restructure research and development systems, both research institutes and universities.
- Reform science and technology management systems. Tackling compartmentalization, improving evaluations; Improve governance of ethics and intellectual property rights.

Also, in February 2013, China unveiled the National Innovation Capability Building Program. This program will:

- Revamp the national engineer center, build engineering key labs, improve support for industrial technological innovation.
- Increase research and development outlays for large and mid-sized enterprises to 1.5% of revenue, found select groups of top research universities.
- Optimize distribution of regional innovation capabilities.

Innovation Prospects

Asked to sum up China's innovation prospects, Cheung said the country's fate is mixed. China's prospects for success, he said, depends on:

- Changing entrenched bureaucratic and corporate interests and fragmentation.
- If Chinese leadership has an appetite for real change.
- Whether the country can overcome its preference for a top-down, state-led approach. This is especially important in strategic areas.
- Encouraging more market-driven and consumer involvement to instigate innovation.

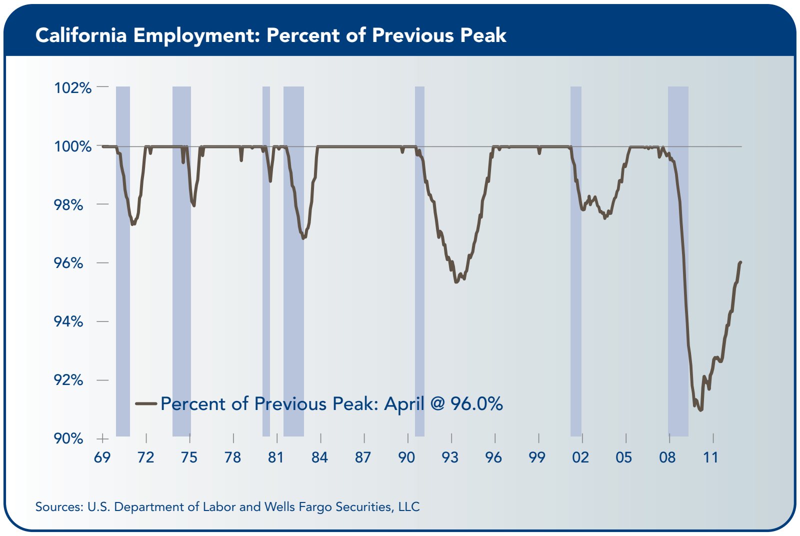
Staff Contact: Susanne Stirling

Economic Growth on Firmer Footing; Job Growth Higher Than Expected

California's economy continues to gain momentum, but key questions remain unresolved involving how sustainable recent gains are amid ongoing questions about the state's budget, public pension liabilities and California's competitive position versus that of other states.

One thing is certain: overall economic growth is clearly on firmer footing than it was a couple of years ago. Employment figures for the past two years were revised higher earlier this year and the most recent data from the quarterly census of employment and wages (QCEW) suggest that the latest monthly figures are already understating job growth in 2013.

Unemployment has continued to drift lower but labor force participation rates remain below the national average and the state's disability rolls are still growing. Businesses also remain exceptionally cautious and some are opting to expand outside the state.



Job Growth

The latest employment figures make a compelling case that California's economy has shifted into higher gear. On the heels of last year's stronger-than-expected gain in nonfarm payrolls, job growth began 2013 on exceptionally solid footing.

Nonfarm employment rose by 67,100 jobs during the first three months of the year and employment is up 2.1% over the past year. The unemployment rate fell 0.2 percentage points in March to 9.4% and has fallen 1.3 percentage points over the past year.

In addition, revisions to previously reported data revealed that California added 135,900 more jobs than initially reported since March 2011 and raised the 2012 year-end gain from 237,800 to 305,500 net new jobs.

Not only has job growth been stronger than the rest of the nation, but the quality of jobs being created has also tended to be better. California's economy is remarkably diverse, and the wide range of industries gives California a key competitive edge.

Many of these industries, especially those in the life sciences and high-tech sectors, provide high-paying jobs that require a highly skilled workforce. Moreover, employees of these firms have also helped spawn numerous start-ups, feeding off one of the largest pools of venture capital anywhere.

Growth in California's tech sector helps fuel gains elsewhere, driving demand for financial, business and personal services, as well as construction, health care, retailing, education and the leisure and hospitality sectors.

Culture of Innovation

Although much has been made of other states raiding California's treasure trove of businesses and the state's costly and oftentimes difficult business climate, few other parts of the country have been able to replicate California's ability to grow these businesses in the first place.

California's culture of innovation is difficult to reproduce. Silicon Valley's mix of entrepreneurs, researchers and venture capitalists is simply unmatched.

Moreover, the state's public universities, including the University of California, California State University, and California Community College systems, cultivate a wide array of graduates with the qualifications needed to fill many of the jobs created in emerging fields.

While competition has increased, California is still the place to be for most emerging tech industries. If anything, the pace of innovation appears to be accelerating, reflecting growth in social networking, the mobile Internet, cloud computing, alternative energy and biosciences.

Coastal Job Gains

Although employment growth has gradually become stronger and more broadly based, the bulk of new jobs have been concentrated in the coastal metro areas. Up until recently, the San Francisco and San Jose metro areas stood apart from the rest of the state as the only regions consistently posting strong job gains.

While San Francisco, San Jose and Oakland are still seeing some of the greatest gains, hiring has also picked up in Los Angeles and San Diego. Even the inland areas are beginning to see stronger gains.

The potential development of the Monterey Shale is an exciting prospect and could be a game changer for the state. One recent study estimates that developing the shale could generate half a million new jobs by 2015, meanwhile furthering U.S. energy independence. The shale formation represents approximately two-thirds of the nation's shale oil reserves, a large untapped resource.

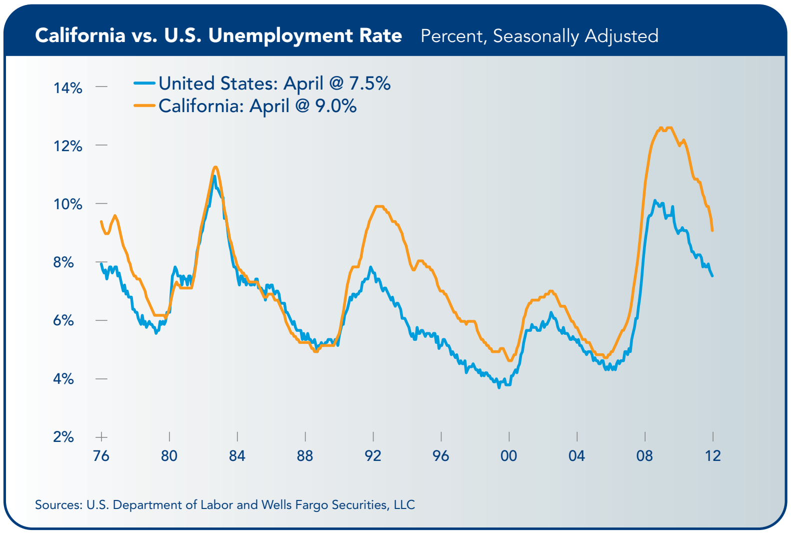
Environmental concerns over hydraulic fracturing, however, which is the only known technique to access this oil, may limit the amount that can be drawn from the area. If hydraulic fracturing is

See Next Page

Economic Growth on Firmer Footing; Job Growth Higher Than Expected

From Previous Page

allowed, development of the Monterey Shale could provide a significant boost to jobs in inland areas struggling with high unemployment as well as provide state coffers with $4.5 billion in oil-related tax revenues.



Agriculture

Agriculture remains vitally important to California, particularly the inland areas. The state's diverse climate, ranging from the coast to the Central Valley to the mountains, allows the agriculture industry to thrive year round.

Roughly one-third of California's agriculture revenue comes from livestock, and the other two-thirds of revenue is from crop sales. The state is home to 81,500 farms, which represent only 3.7% of the U.S. total, but ranks No. 1 in cash receipts, totaling $43.5 billion in 2012.

While 2012 was a good year for agriculture in an overall sense, some areas are clearly struggling.

Dairy

The California dairy industry, which accounted for 17.6% of total state farm receipts in 2011, continues to struggle to be profitable. In addition, the winter has been unusually dry, and 11 counties have already been designated as primary natural disaster areas due to water shortages.

These state-specific issues, along with general setbacks, including fallout from last year's Midwest drought and uncertainty in the Eurozone have led to guarded optimism for 2013.

Milk prices are strengthening after several challenges in 2012, including severe temperatures and high feed costs that impaired production conditions. Global milk production has declined due to poor weather, particularly in New Zealand.

California is the No. 1 dairy state, posting $7.7 billion in cash receipts in 2011; yet, due to the state's unique pricing system and combined dependence on purchased feed, dairy farmers had a tough year in 2012.

Instead of implementing minimum pricing rules established by the Federal Milk Marketing Order (FMMO) system, the state of California uses its own method for determining minimum prices. As a result, California dairy farmers have typically received less money for their output than those in other states, and this price gap continues to widen.

Feed Costs

To complicate this issue, many California operators, especially those without their own feed crop production and/or other crop diversification, suffered notable losses in 2012. Dairy herds in California were already being culled before feed costs skyrocketed with the Midwest drought, although California is somewhat disproportionately burdened when compared to other states.

According to a recent report from the U.S. Department of Agriculture (USDA), feed prices are likely to remain high through summer 2013. Hay prices have declined modestly this past year but may not decline any further this year due to higher water costs. Overall margins are expected to improve in the latter half of 2013, as the U.S. herd is reduced, assuming exports and domestic demand remain strong and feed crop conditions improve worldwide.

Cattle prices have disappointed operators this year to date, as export and domestic demand wanes. The cattle pipeline was also full, because of the drought conditions in the Midwest and the poor dairy profitability, encouraging local dairies to aggressively cull their herds. Declining corn prices will help margins, and better feed conditions and dairy profitability may reduce the number of cattle being put to market. Poultry prices have improved, helping offset higher feed prices.

Fruit

Fruit prices were stronger this past year, benefiting those producers who did not suffer significantly from the hail and freezing conditions last spring. Frost resulted in only minimal damage and cost this year, and citrus producers have enjoyed good prices.

Despite slowing economies locally and abroad, nut sales continue to be strong in 2013, due in large part to robust exports. The almond bloom and pollination this year appear good, and there has been minimal wind damage. Temperatures this winter have been good for vines' and trees' dormancy requirements. Vegetables experienced severe freezing conditions in the deserts early this year, which slowed production for some producers and provided market opportunities for others to realize higher prices.

Crops

Field crop production will decline slightly, because of water shortfalls, but hay prices are expected to remain strong with better dairy demand and exports. Cotton prices have decreased with slowing economies and increased production abroad. Tomato production is expected to remain high, despite water costs and poor profitability at the processors.

Competition from Mexico has raised questions about whether it would depress prices for several key California crops, particularly avocados. The availability of lower-cost avocados has apparently expanded the market, however, and led to increased consumption, which has tended to help California avocado growers.

See Next Page

Economic Growth on Firmer Footing; Job Growth Higher Than Expected

From Previous Page

Improving demand for vegetables, nuts and fruits has bolstered farmland prices. The average price per acre rose to $6,900 in 2011, and likely continued to increase over the past year. The cold weather this winter has put pressure on citrus farmers whose crop is in danger of sustaining damages from freezing temperatures. The extent of the damages will not be fully realized until the end of this season's harvest.

California's almond industry is riding a wave of growing demand, both domestically and with the growing middle class in China and India. While the quantity of almonds harvested in 2012 declined slightly from the prior year, higher grower prices led to another record-breaking year for the state's almond industry in terms of crop value.

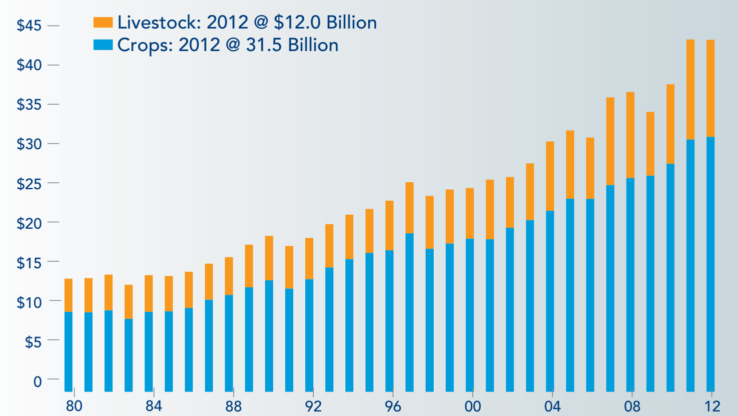
The latest USDA forecast calls for California's 2013 almond harvest to increase 6%, to more than 2 billion pounds. California's pistachio harvest was the best ever, in terms of size and value. Growing demand for nuts has led to increased plantings, which should lead to continued large harvests over the next few years.

Wine

California wine grape growers should benefit from higher prices this year, as wine sales improve and wineries have already worked down their inventories. The average price of crushed grapes posted a record-high $737.61 per ton, up 25% from 2011. The weather problems in the wine grape crops on the coast in 2010 and 2011 have sharply reduced inventories, but plantings of new vineyards in California continue to increase.

Demand for California wines is primarily driven by domestic sales, rather than exports. California wineries generally report significant reductions in finished inventories. Pricing power remains limited, however, as consumers are resisting a full return to pre-recession prices. Competition from imports has been reduced somewhat by the lower dollar, but sluggish growth in Europe has led to discounting by French wine producers.

California Cash Farm Receipts $USD in Billions



Sources: U.S. Department of Agriculture, Bloomberg LP, UW Madison and Wells Fargo Securities, LLC

Water

Commodity prices and good growing conditions provide California agricultural producers reason to be optimistic about revenues for 2013, but short water supplies are challenging many ag producers with higher costs. Precipitation was near normal in the northern parts of California, but they were severely short in the central and southern areas.

Despite good rains in the fall, there were severe drought conditions south of the Delta this last winter, causing projected water deliveries to be reduced to 20% in most of the West San Joaquin Valley and 50% in the East San Joaquin Valley for 2013. This will force some acreage to be fallowed and increase costs for some farmers to pump and/or buy more supplemental water.

Labor

Many producers reported limited shortages of labor in California last year. Fruit and vegetable producers are apprehensive about future labor availability due to the improving economy in Mexico and possible federal regulatory changes requiring stricter worker documentation. They are, however, optimistic about the passage of immigration reform legislation in Congress, designed in part to provide a more stable labor force for California agriculture producers.

Exports/International Trade

Exports rose 1.6% in 2012 and accounted for 10.5% of the U.S. total. Despite the overall rise, export growth slowed from the prior year due to large declines with North American and Asian trading partners.

The slowdown in Europe did not appear to hinder California all that much, as exports to the region were actually up 6.1% in 2012.

Year-to-date trade activity at the Ports of Los Angeles and Long Beach is up 5%. Demand appears to be reviving in Asia.

Import volumes are also improving, as the U.S. economy gains momentum. Growth in international trade has been a key driver in the industrial market in Los Angeles and the Inland Empire. The industrial market has tightened considerably over the past year, leading to an increase in construction of industrial space. Trade-related employment in greater Los Angeles has held up fairly well over the past several months at roughly 140,000 jobs.

With economic growth decelerating in China, foreign direct investment in California has become a popular topic of discussion. A recent report discusses California's strategic advantages for Chinese investors, which includes its dynamic economy, diverse demographics and high-skill labor pool.

Annual investment has blossomed in the past decade, as 156 deals were completed between 2000 and 2011. The majority of investment has found its way to northern and southern coastal areas. California is the No. 1 state for Chinese investors as measured by the number of deals and rounds out the top five in terms of total investment value.

While Chinese investors see California as a strategic opening into the United States and North American market, the inflow of capital brings new industry and

See Next Page

Economic Growth on Firmer Footing; Job Growth Higher Than Expected

From Previous Page

jobs to the state with an unemployment rate currently tied as one of the highest in the nation.

Tourism

Tourism remains a bright spot in California and recent expansions to major tourist attractions are drawing increased attendance at a number of locations. Hotel occupancy rates are running 2.1 percentage points above their year-ago level and revenue per available room (RevPAR) is up a solid 9.2%.

California airport passenger traffic rose 4.3% in 2012. Domestic travel accounted for the majority of California's increase in traffic, rising by 6.1 million passengers. International travelers increased by approximately 1 million. Oakland and San Francisco saw the largest overall gains in passenger traffic, rising 8.4% and 10.4%, respectively.

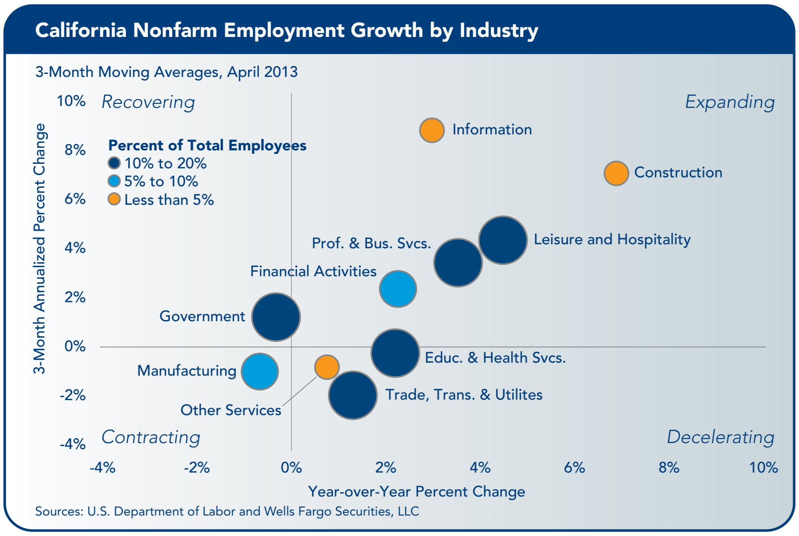
The pickup in tourism has boosted hiring in the leisure and hospitality sector. Overall, payrolls climbed 4.8% or 74,100 jobs. The bulk of that increase was at restaurants, with limited-service operations leading the way. Hotels are only modestly adding to payrolls.

One possible caveat is that many employers are opting to limit workers to less than 30 hours a week to minimize the hit from the Affordable Care Act, which means they are hiring more part-time workers than they have in the past. This may be inflating some of the reported gains at retailers and the leisure and hospitality sectors. A recent University of California at Berkeley study highlighted this concern.

Motion Picture/Sound

Employment estimates for Southern California's motion picture and sound recording industry were revised slightly lower earlier this year. The previous employment figures for December 2012 put employment at 139,300 jobs in December 2012, but revised figures put employment at 120,300, a 14% reduction.

Employment plunged to its lowest level since 2001 in January before bouncing back in March. Films, television shows, and other video productions were up 18% from their year-ago levels during the first quarter, while commercial production was down slightly.



California Nonfarm Employment Growth by Industry

Sources: U.S. Department of Labor and Wells Fargo Securities, LLC

Housing

Housing has improved considerably over the past couple of years. Home sales have increased, prices have risen and the backlog of distressed properties has fallen. The California Association of Realtors (CAR) reports that sales of existing single-family homes rose 4.3% in 2012 to 440,690, despite a 16.1% downward revision from the initially reported 525,120 sales.

Although the lower sales figure is somewhat discouraging, certain factors must be taken into account. The CAR last performed its benchmarking process in 1999, and it is likely that the underlying assumptions of the data series have gradually changed in this time period. For example, the CAR expanded its sample size and geographic coverage.

Notwithstanding the downward revisions, the home sales trends remained intact. Sales rose 4.3% and prices improved markedly, with the statewide median sales price rising 11.6% to $319,340 for the year.

Key Measures

The improvement in the housing market is evident in most other key metrics. The median number of days needed to sell a single-family home has fallen from 52.2 days a year ago to just 29.4 days.

Inventories of homes remain exceptionally lean. There is currently only a 2.9-month supply of single-family homes available statewide and just a 2.5-month supply of condominiums, compared to a 4.2-month and 4.1-month supply, respectively, one year ago. Supplies are tightest in the $300,000–$750,000 range.

By geography, the Bay Area and Silicon Valley have the tightest supply of homes on the market. However, supplies have tightened throughout the state.

Another factor driving inventories lower has been the influx of investors purchasing distressed properties throughout the state. The influx of investor purchases may be exaggerating the extent of the improvement in the housing market, particularly in parts of Southern California and the Central Valley.

No Replay

While prices have spiked, we do not believe we are seeing a replay of this past decades bubble. This time around, buyers truly have a larger stake in what they are purchasing compared to the laid-back, easy money environment during the recent housing bubble.

Private equity has become a major player in the single-family market, particularly in severely overbuilt, lower-priced areas of the state. There has also been some genuine improvement, particularly in Northern California, where the job market has been booming, as well as some bordering interior markets, which are beginning to see the return of the affordability migration that has historically driven residential development in the past.

Homeownership has been rising along with home prices in the Bay Area but is still declining in greater Los Angeles, which raises questions as to how much of the housing rebound in Southern California has been driven by investors.

See Next Page

Economic Growth on Firmer Footing; Job Growth Higher Than Expected

From Previous Page

Budget

One of the most encouraging aspects of California's near-term economic prospects is the improved outlook for the state's budget. The run-up and resolution of the fiscal cliff gave a boost to California's finances at the end of the year. With tax rates going up on the wealthy, there was a year-end rush to recognize income, which resulted in a jump in income tax revenues in December.

Although revenue slightly missed estimates in April, total revenues for fiscal year 2013, which began in July, are running about $5 billion over the most recent estimates.

Members of the Economic Advisory Council noted that it was too soon to tell how much of the improvement in California's fiscal position is due to one-time gains emanating from changes in the federal and state tax codes at the start of the year and how much reflects genuine improvement.

The medium-term outlook for California's finances is also looking better following November's passage of Proposition 30 and Proposition 39. Proposition 30 is expected to raise an average of $6 billion in fiscal years 2013–2017 through higher income and sales tax. Revenues collected through its passage are primarily designated for education spending, which should allay job cuts at the local government level. Preliminary layoff notices for public school employees fell 85% for the 2013 school year compared to 2012.

Proposition 30's passage, however, has also raised concerns—most vociferously by professional golfer Phil Mickelson—that higher tax rates will chase businesses and higher-income households out of the state. There is little evidence of a mass exodus, but higher tax rates do introduce an element of volatility to the state's revenues.

Proposition 39, which changes the formula some multistate businesses use to calculate taxable income, should provide a partial offset to what has been disappointing corporate tax revenue. Given the improvement in California's economy and new tax structure, the council believes the state's near-term budget projections are credible, which removes some of the uncertainty about the state's economic outlook.

Competitive Pressure

Much continues to be made of the competitive threat that California faces from other states, particularly Texas, which has been vocal about its desire to recruit businesses from the Golden State.

While there is clearly some evidence to support the notion that some companies are giving up their battle against the higher operating costs and tougher regulatory environment in California, members of the Economic Advisory Council were divided over how much greater the competitive threat is today than it has been historically.

Texas and other lower-cost Sunbelt states have long been destinations for California-based businesses in search of lower operating costs. This has been especially true for manufacturers and large service employers outside the tourist sector.

Within the past month we have seen a number of notable announcements, including plans by Chevron to relocate 400 jobs from its headquarters in San Ramon to Houston, and Raytheon, which is moving its Space and Airborne Systems headquarters to McKinney, Texas.

California's tech sector has also seen a number of firms expand out of state, but Northern and Southern California still account for the lion's share of venture capital raised across the country and the Bay Area remains one of the strongest economies in the country.

Outlook

The Economic Advisory Council remains relatively optimistic about the state's economic prospects. The recovery continues to gain momentum and is spreading from the coastal regions to interior areas, which had until recently been lagging. Most members expect job growth to gain momentum in 2013, as homebuilding and commercial construction improve.

A few members have expressed concerns about the quality of jobs being created throughout the state, with the strongest growth occurring at lower and upper ends of skill and pay categories. Hiring and income growth for mid-skilled workers has been lagging and median income growth has fallen the past three years.

Demand for new information technologies, mobile computing applications and social networking still appears to be in its infancy, and capital investment in the sector is expected to grow.

Passage of Proposition 30 and changes to the federal tax code have bolstered state finance but also added to concerns about California's competitiveness. Tax increases are easier to stomach when the economy is gaining momentum and that seems to be the case today.

The state's economic recovery is also broadening across more sectors, and traditional stalwarts like the entertainment industry, health care, international trade and tourism are all gaining momentum.

One worrisome element of this recovery is the speculative-driven run-up in home prices and lean inventories of homes and apartments. The high cost of living is always a challenge for California and the investor-led recovery in housing has pushed home prices up much faster than incomes.

This should be at least partially self-correcting, however, as construction ramps up further, deliveries increase and buyers return to more affordable inland communities.

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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 is chaired by Mark Vitner, managing director and senior economist at Wells Fargo Securities, LLC, who prepared this report.

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