CALIFORNIA INSTITUTE

THE CALIFORNIA INSTITUTE FOR FEDERAL POLICY RESEARCH
1608 Rhode Island Avenue, NW, Suite 213, Washington, D.C. 20036
202-974-6384 fax:202-223-2330 e-mail: ransdell@calinst.org web: http://www.calinst.org

California Capitol Hill Bulletin

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To expand communications between Washington and California, the California Institute provides periodic news bulletins regarding current activity on Capitol Hill that directly impacts the state. Bulletins are published weekly during sessions of Congress, and occasionally during other periods.

CONTENTS:

INTELLECTUAL PROPERTY: SENATE JUDICIARY EXAMINES MUSIC PERFORMANCE RIGHTS

On Tuesday, August 4, 2009, the Senate Judiciary Committee held a hearing on "The Performance Rights Act and Parity among Music Delivery Platforms." The hearing focused on S. 379, introduced by Chair Patrick Leahy (VT) and co-sponsored by Sen. Dianne Feinstein, who chaired Tuesday's hearing. The legislation would create a compensable performance right for music played on traditional radio stations.

Witnesses included: Sheila E, Grammy Award-winning Artist, On behalf of the MusicFIRST Coalition, Sherman Oaks, CA; Steve Newberry, Joint Board Chairman, National Association of Broadcasters, President and CEO, Commonwealth Broadcasting Corporation, Glasgow, KY; and Ralph Oman, Adjunct Professor, George Washington University Law School, Washington, DC.

In his opening remarks, Sen. Leahy said: "The issue is simple, even if the solution may be complicated. Broadcast radio stations use the work of recording artists and profit from it. But, unlike webcasters, broadcast stations do not compensate the artists. They use the property of another without permission or compensation. While that may be okay in countries like North Korea and Iran, that is not consistent with American property law or the laws of most countries around the world. Compounding the problem, this anomaly in our law means that American artists do not receive millions of dollars each year collected in European and other countries to pay for the use of their music by broadcast radio stations there." He also noted that the Register of Copyrights submitted testimony to the Committee "in support of ending the current inequity."

Mr. Newberry strongly opposed the legislation. He argued that radio airplay more than compensates for not paying royalties by providing great promotional value to performers
and the recording industry. He also argued that having to pay royalties would jeopardize the continued existence of smaller radio stations.

Sheila E, who supports the legislation, responded to the argument regarding the promotional value of airplay, saying: “Radio's argument that a "promotional effect" exempts them from payment is a tired argument that wouldn't hold water in any other context. Imagine the radio industry withholding payment from popular talk radio hosts claiming that they promote their books sales and TV ratings.”

During the question and answer session, Sen. Feinstein responded skeptically to the broadcasters arguments, as well, and noted that the United States is the only industrialized country that does not compensate performers. It was also noted that the House Judiciary Committee approved a companion bill with an amendment that would permit small stations to use sound recordings for a flat rate of $500 a year. That bill, H.R. 848, was approved by a vote of 21-9 on May 13, 2009, by a vote of 21-9,

Senator Jon Kyl (AZ) raised the issue of whether a performer’s right to place his or her songs on a “Do Not Play” list would be acceptable to broadcasters. The broadcast witnesses would not commit to that approach, but did note that it would have to be done on a nationwide basis, in order to protect small radio stations from debilitating costs.

For the testimony of all the witnesses, go to: http://judiciary.senate.gov .

Appropriations: Senate Passes Energy & Water Appropriations

On July 29, 2009, the Senate passed its $34.3 billion FY 2010 Energy and Water appropriations bill (HR 3183/S.Rpt. 111-45) by a vote of 85-9. The bill provides $27.4 billion for the Department of Energy, $5.4 billion to the Corps of Engineers, and $1.13 billion to the Interior Department’s Bureau of Reclamation.

During floor consideration, Senators Barbara Boxer and Dianne Feinstein offered an amendment to ease water transfers between water contractors in the Central Valley. The amendment, approved unanimously, is identical to one successfully attached to the House Energy & Water bill (also H.R. 3183/H.Rpt. 111-203), by Reps. Jim Costa (Fresno) and Dennis Cardoza (Atwater).

For more information on the funding in the bill, go to: http://www.calinst.org/bul2/b1620.shtml#TOC1_5 or http://appropriations.senate.gov/news.cfm .

Appropriations: Senate Passes FY10 Agriculture Appropriations

The Senate passed its FY 2010 Appropriations for the Department of Agriculture on August 4, 2009, by a vote of 80-17.

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In discretionary spending, the bill, S. 1406/S.Rpt.111-039, provides $24.046 billion, compared to the FY09 enacted level of $21.355 billion and the President's request of $23.596 billion. The bill also contains mandatory spending of $100.848 billion, compared with the FY09 level of $87.798 billion, and the President's request of $100.846 billion.

Major programs funded include:

Nutrition/WIC: The bill provides a total of $86.092 billion, including mandatory funding, for domestic nutrition assistance.

The Supplemental Nutrition Assistance Program (S0AP), formerly the Food Stamp Program, is funded at $61.352 billion in mandatory budget authority.

Child Nutrition: School Lunch and Breakfast programs are funded at $16.8 billion in mandatory budget authority.

The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). WIC is funded at $7.552 billion in discretionary budget authority, which is an increase of nearly $700 million above the fiscal year 2009 non-emergency enacted level, the largest single discretionary increase in the bill. Coupled with WIC contingency funds remaining from the American Recovery and Reinvestment Act of 2009 (ARRA), the appropriation will be sufficient to meet current estimates of WIC caseload requirements, according to the Committee on Appropriations.

The bill also includes $2.787 billion for USDA research agencies. This is an increase of nearly $140 million above the fiscal year 2009 enacted level. The primary agricultural research agencies, the Agricultural Research Service and the National Institute of Food and Agriculture receive $1.229 billion and $1.306 billion respectively.

The Institute will prepare a more detailed analysis of the bill with California implications in the near future. More information can be found at: http://appropriations.senate.gov .

ENERGY: SENATE COMMITTEE DISCUSSES AMERICA'S ROLE IN CLEAN ENERGY

On August 6, 2009 the Senate Environment and Public Works Committee, chaired by Sen. Barbara Boxer, held a hearing on climate change and America's role in clean energy. Witnesses included: the Honorable Jon Wellinghoff, Chairman of the Federal Energy Regulatory Commission; the Honorable David B. Sandalow, Assistant Secretary for Policy and International Affairs at the United States Department of Energy; and the Honorable Tom Strickland, Assistant Secretary for Fish, Wildlife, and Parks for the United States Department of the Interior. Testimony focused on how to ensure that America leads the clean energy transformation while addressing the threats posed by climate change.

Witnesses discussed issues such as renewable energy technologies, including wave- or hydrokinetic energy, demand response technologies, investment in smart grid, the role of nuclear and carbon capture and sequestration, the financial and economic costs of meeting climate challenges, and the proposed House climate legislation, H.R. 2454. DOE Assistant Secretary Sandalow stressed the importance of "transforming our energy economy (through) comprehensive energy legislation to drive sustained American investment over a period of decades."

More information can be found at: http://epw.senate.gov/ .

CLIMATE: SENATE FINANCE EXPLORES ALLOWANCE AND REVENUE DISTRIBUTION IN CLIMATE CHANGE LEGISLATION

On August 4, 2009, the Senate Finance Committee held a hearing titled "Climate Change Legislation: Allowance and Revenue Distribution," to explore and consider various methods for distributing emission allowances. Witnesses included: John Stephenson - Director of Environmental Protection Issues, Natural Resources and Environment Team, Government Accountability Office;

Dallas Burtraw - Senior Fellow, Resources for the Future; and Alan D. Viard, Resident Scholar, American Enterprise Institute.

Witnesses and members discussed how allowances should be allocated, what portion of the allowances should be sold in an auction and the extent to which proceeds from the sale of allowances should be returned to rate paying consumers. They also talked about how to use the allowance revenue to lessen the impact of climate legislation on consumers and businesses, suggesting a range of options including: cutting marginal rates, capital gains rates, or payroll taxes; compensating consumers through rebates or fixed payments per capita; or allocating the money to low-income Americans through already established aid programs. According to Chairman Max Baucus (MT), many expect that the allowances will have a cash value, and that the government should auction all of the allowances. Others argue that the government should allocate only a portion of the allowances to regulated trade-exposed industries so the effects of putting a price on carbon will be lessened.

The climate legislation passed by the House (H.R. 2454) last month would allocate 85 percent of emissions allowances. Forty percent would go to local power distribution companies (advocates of this allocation scheme suggest that the companies will pass the benefits on to consumers). Fifteen percent would be allocated to trade-exposed industries. Many, including witnesses at the Finance Committee's July 8, 2009 hearing on the subject, have suggested that trade-exposed industries will be hurt because they compete in a global market place in which countries that are not subject to a carbon regime will have a competitive advantage. The bill would allocate the remaining allowances to a range of stakeholders including states.

More information about the hearing and witness testimony can be found at: http://finance.senate.gov/ .

ECONOMY: ECONOMIC ROUNDTABLE HIGHLIGHTS EMPLOYMENT, HOUSING AND WELFARE IMPACTS OF THE RECESSION ON CALIFORNIA AND LOS ANGELES COUNTY

According to "Ebbing Tides in the Golden State: Impacts of the 2008 Recession on California and Los Angeles County," unemployment is projected to peak at 12.2 percent in Los Angeles County and 11.7 percent in California, and personal income in California (in constant dollars) is projected to decline 17.6 percent at the trough of the recession from the peak in 2007. The report, authored by Daniel Flaming and others, and released in June 2009 by the Economic Roundtable, explores a range of unemployment, overall economic well-being, housing and poverty issues, including who is hit hardest by the growing job losses caused by the current recession. The report also found that:

- Under-employment is projected to peak at 18 percent in LA and just over 17 percent in California.

- Unemployment rates for workers without a high school diploma are 53 and 100 percent higher, respectively, than overall unemployment rates. There will be 19 percent unemployment and 26 percent under-employment among workers in LA who do not have a high school diploma, and 23 percent unemployment and 32 percent under-employment in California.

- Unemployment rates for African Americans and Latinos are 57 percent and 14 percent higher, respectively, than overall unemployment rates in both Los Angeles County and California. There will be 19 percent unemployment and 24 percent under-employment among African Americans in Los Angeles County, with corresponding rates of 18 and 24 percent in California. There will be 14 percent unemployment and 18 percent under-employment among Latinos in LA, with corresponding rates of 13 percent and 18 percent in California.

- Annual taxable sales (in constant dollars) are projected to decline 18 percent from the 2006 level in Los Angeles County and 17 percent in California.

- Bankruptcy filings have increased 206 percent in LA and 240 percent in California since 2006, and further increases appear likely.

The report identifies a series of actions to help save jobs and assist unemployed workers, including: encouraging participation in education and training programs; making land use, economic and educational development decisions that increase sustainable employment and earnings; preserve a stable and competitive environment for key industries; intervene in measured ways to avert decline in key industries; use government purchasing power to support growth in key local industries; and prioritize infrastructure improvements to help key industries.

The full text, including all recommendations, is available at: http://www.economicrt.org .

ENVIRONMENT: ENVIRONMENT CALIFORNIA HIGHLIGHTS CALIFORNIA'S LEADING SOLAR CITIES

An Environment California report indicates that at the beginning of 2009, California had approximately 50,000 solar roofs, totaling more than 500 megawatts of solar power capacity Those numbers suggest that if California's solar market experiences a similar rate of growth over the coming ten years -- approximately 45-50% of compound annual growth -- the state will be on track to meet its million solar roofs goal by the start of 2017, as long as the solar industry is able to achieve greater economies of scale. The report suggests that due to increased experience from a growing market, the price of solar power should drop by half, creating "grid parity" for the solar photovoltaic market. Grid parity means that the cost of investing in a solar system would be on par with the cost of purchasing retail electricity. The data, which came from the California Public Utilities Commission, puts San Diego in the top solar spot with 2,262 solar roofs. Los Angeles, San Francisco and San Jose follow with 1,388, 1,350 and 1,333 respectively. Fresno, Bakersfield, Clovis, Santa Rosa, Sacramento and Berkeley also make the list.

The full text is available at: http://www.environmentcalifornia.org .

AGRICULTURE: CENTRAL VALLEY IS LOSING ITS CHILL, FRUIT TO FOLLOW

Using chilling models, scientists and researchers consistently projected climatic conditions by the middle to end of the 21st century that will no longer support some of the main tree crops currently grown in California. These findings were described in a report released in July 2009, "Climatic Changes Lead to Declining Winter Chill for Fruit and Nut Trees in California during 1950-2099," authored by Eike Luedeling, and Minghua Zhang, of the University of California, Davis, and Evan H. Girvetz of the University of Washington. The authors found that the tree crop industry in California will likely need to develop agricultural adaptation measures (e.g. low-chill varieties and dormancy-breaking chemicals) to cope with these projected changes, and found that for some crops, production may eventually be impossible.

Winter chills are essential to the flowering of orchards. The study found that the number of winter chilling hours has declined as much as 30% since 1950 throughout much of the Central Valley. The projections indicate that only 4% of the Central Valley is currently suitable for high-chill fruits, like apples, and that by the end of the century, “areas where safe winter chill exists for growing walnuts, pistachios, peaches, apricots, plums and cherries are likely to almost completely disappear.”

The article can be found at: http://www.plosone.org .

HEALTH: CALPIRG FINDS RISING CALIFORNIA HEALTH CARE COSTS CAN BE CUT BY STREAMLINING BILLING

In a July 2009 report, "Cutting Red Tape in Health Care: How Streamlining Billing Can Reduce California's Health Care Costs," the CALPIRG (California Public Interest Research Group) Education

Fund suggested that complicated billing practices and administrative systems result in grossly inefficient communication between physicians, hospitals and insurers and lead to higher-cost care for patients. They argue that by streamlining key processes -- such as insurance billing and payment and physician credentialing at hospitals- providers and payers in California could collectively save hundreds of millions of dollars annually and help lower the cost of health care.

The findings indicate that in California doctors' offices, billing and insurance-related costs account for more than half of all administrative spending, and 14 percent of total office revenues. Insurers share the burden of inefficient administrative processes. In California, 21 percent of private insurer health care spending goes to billing and insurance-related costs instead of direct patient care -- roughly equivalent to $9 billion, or 5.4 percent of total yearly health care spending statewide.

To address the challenges, CALPIRG suggests that the state can help fix its broken health care system and save consumers money by actively encouraging the formation of a health information network to be operated on a non-profit basis, and funded and governed by participating health care entities.

The full text is available at: http://www.calpirg.org .

AGRICULTURE: PACIFIC INSTITUTE FINDS AN UNCERTAIN FUTURE FOR CALIFORNIA AGRICULTURE

According to a July 2009 Pacific Institute report, "Sustaining California Agriculture in an Uncertain Future," California's agriculture future is increasingly uncertain due to competition over limited water resources and increasing climate variability. The report concludes with a series of political, legal, and economic initiatives, it argues would promote more productive, and ultimately more sustainable, water management in California.

Report recommendations include:

- Implementing California Assembly Bill 1404 -- which aims to promote coordinated water use measurement and reporting, in a timely manner.
- Using satellite and other technology to improve data collection and analysis, particularly for annual assessments of crop area and evapotranspiration.
- Designing and implementing comprehensive local groundwater monitoring and management programs statewide.
- Requiring the state to evaluate the measurement needs for accurately monitoring return flows.
- Implementing a statewide system of data monitoring and data exchange, especially for water use and quality, available to all users.
- Expanding Federal funding for conservation programs, especially the Environmental Quality Incentives Program.
- Providing State and county governments property tax exemptions for farmers that upgrade to more efficient irrigation systems.
- Expanding State and federal governments efforts to finance district-wide improvements that provide water to farmers when needed, such as lining and automating canals and distribution systems.
- Expanding California's water rights system to include groundwater and the potential impacts of climate change.

More information can be found at: http://www.pacinst.org .

EVENT: RAND TO HOLD BRIEFING ON DISPARITIES FACED BY BOYS AND MEN OF COLOR IN CALIFORNIA

On Monday, August 10, 2009 at 1:00 pm in Room 268 of the U.S. Capitol Visitor Center (Congressional Meeting Room North), RAND will host a briefing on its recent report titled: "Reparable

Harm: Assessing and Addressing Disparities Faced by Boys and Men of Color in California". Rebecca Kilburn, a co-author of the report, will present its findings and lead a discussion. [Note Change From Previously Sent Invitation: Ms. Kilburn is substituting for Lisa Davis, who is unable to attend.]

According to the study, there is little disagreement that racial and ethnic disparities exist and have persisted over time. For policy-makers to close the gaps, they need a common understanding of where the biggest challenges are, and how to address them. The report assessment compares how well African-American and Latino boys are faring relative to their white peers on a number of outcome indicators in the areas of health, education, public safety, and socioeconomic characteristics. The study finds the following:

- There are large disparities for boys and men of color in California (and in some cases nationwide) that vary across the four broad outcome domains.
- Within each domain, some outcome indicators show substantially more disadvantage than others.
- The areas of greatest disparities are somewhat different for Latino versus African-American boys.
- The disparities are not immutable - a portfolio of approaches at the policy, community, and individual levels can complement and strengthen each other, reducing relative disadvantage.

Refreshments will be served. Register online at www.rand.org or contact Carmen Ferro at carmen_ferro@rand.org or 703-413-1100 ext. 5320.

Environment: Lawmakers Face Less Support for Urgent Action, Greater Partisan Divide in Climate Debate

On July 29, 2009, the Public Policy Institute of California (PPIC) released another survey in their series on Californians and the environment. Generally, the results indicate that most Californians favor state policies to curb global warming, but support for urgent action on climate change has slipped and a partisan divide on the issue has widened. Most residents (66%) support the 2006 California law (AB 32) that requires greenhouse gas emissions to be reduced to 1990 levels by 2020, but support has declined 7 points from July 2008 (73%) and 12 points from 2007 (78%). The decline is sharpest among Republicans (57% in 2008, 43% today).

The following are some of the survey's findings:

- Californians are nearly as likely today (61%) as they were last year (64%) to say the effects of global warming are already occurring, and they are more likely to say so than adults nationwide (53%), according to a March Gallup poll.
- 76 percent of residents and majorities across party lines think the government should regulate greenhouse gas emissions from power plants, cars, and factories.
- More Californians support a cap and trade program to curb emissions than oppose it (49% support, 40% oppose).
- Californians are more in favor of taxing companies for their emissions (56% support, 35% oppose).
- More Californians support expanding oil drilling off the coast than oppose it (51% favor, 43% oppose), the same as last year (51% favor, 45% oppose).
- Twenty-three percent of Californians describe regional air pollution as a big problem, an 11-point drop since last year (34%) and the smallest percentage since PPIC began asking the question in June 2000.
- Last year, 66 percent of Californians said the federal government was not doing enough to address global warming, compared to 48 percent today. Opinions of state and local government action to address warming have changed less dramatically.

More information and the full report can be found at: http://www.ppic.org/ .

IMMIGRATION: FEWER IMMIGRANTS CHOOSE CALIFORNIA AS A DESTINATION

A report released by the Public Policy Institute of California on July 22, 2009 has found that California is becoming a less popular destination for immigrants. The report, *New Patterns of Immigrant Settlement in California*, was authored by Sara Bohn, a research fellow at PPIC. According to the report, a shift that began in the late 1990s and has accelerated this decade, has shown that new arrivals to the United States have increasingly chosen to live in states with little history of immigration. California's immigrant population is still the largest in the nation and continues to increase, but that growth has slowed, PPIC found. The percentage of immigrants choosing to live in the state fell by seven points between 1990 and 2007, from 33 percent of the nation's immigrants in 1990 to 26 percent in 2007, according to the U.S. Census data analyzed in the study. While California's working-age immigrant population grew 9.5 percent per year from 1980-1990, it increased by just 4.4 percent annually from 1990-2000, and just 2 percent annually from 2000-2007.

This trend is mirrored within the state, the study shows, with immigrants increasingly likely to settle outside traditional immigrant enclaves. Although Los Angeles is home to far more immigrants than any other county in California, its immigrant population grew by just 1.8 percent per year between 1990 and 2007, compared to 11.9 percent growth per year in Riverside County and 9.9 percent in Kern County.

These demographic shifts have policy implications at the federal, state, and local level, according to the authors, because many communities are confronting issues of integrating immigrants for the first time. Immigrants have traditionally chosen to live near others from their home countries. But these cultural ties, while still powerful, have waned in importance for Latinos and Asians, who make up 70 percent of new immigrants.

The report's key findings include:

- Latino immigrants are much less likely to move to California now than in 1990.
- Immigrants employed in construction, manufacturing, and some service industries are less likely to choose to live in California than they were in 1990.
- New immigrants to California have higher levels of education on average than in 2000 or 1990.
- Wages and jobs play a strong role in where Latinos and Asians decide to locate. There is no evidence that the generosity of welfare programs affects their choices.
- Alameda, San Bernardino, Riverside, Kern, and Sacramento Counties have been the fastest-growing immigrant populations since 1990.
- Immigrants' migration patterns increasingly mirror the patterns of native-born residents. Some researchers have found that in the recent past, native-born residents tended to move out when immigrants moved in, but the PPIC analysis finds this is not the case for California.

The full report is available at: www.ppic.org

REPORT: CALIFORNIANS WANT IT ALL, BUT DON'T WANT TO PAY THE BILL, SAYS LITTLE HOOVER COMMISSION

A study released by the Little Hoover Commission in June 2009, *Bond Spending: Expanding and Enhancing Oversight,* found that since 2006 Californians have added more than $54 billion to the state credit card in the form of seven statewide general obligation bond measures. In 2006, California voters said yes to five bond measures for transportation improvements, K-12 and higher education facilities, affordable housing, levee improvements and natural resource protection. Despite this, however, the report finds that many voters are unaware that someday the debt from all this bond-financed spending will need to be repaid. In one survey of California voters, the report shows, some two-thirds of respondents admitted they knew very little or nothing about how the state pays for bond measures.

For 2008-09, debt service is around 4 percent of the total budget -- a four-fold increase since the 1980s. The report finds that Californians continue to commit more to debt without revenue increases, limiting the choices that future generations and future lawmakers can make about spending priorities. The 2008-09 economic meltdown has compounded the situation. In May 2009, voters said no to lengthening the time frame for a tax increase enacted by lawmakers in February 2009 and they said no to borrowing from the lottery or special funds for mental health and children's programs to close the budget gap.

The study assesses whether efforts to bolster accountability and transparency in bond spending -- particularly for the five bond measures enacted in 2006 -- are adequate or if more is required to ensure bond money is spent efficiently and effectively. It also looks at additional opportunities to improve oversight through the Legislature or by government entities outside the administration. The report assesses models for allocating bond money in transportation and education and whether these models should be replicated for natural resources bonds. Finally, it reviews the current process for getting bond measures enacted on the statewide ballot and options to improve clarity for voters.

The full report can be found at: http://www.lhc.ca.gov/studies/197/report197.pdf .