RESOURCES: HOUSE NATURAL RESOURCES MARKS UP CALIFORNIA WATER BILL

On Thursday, February 16, 2012, the House Natural Resources Committee marked up H.R. 1837, the "San Joaquin Valley Water Reliability Act," introduced by Reps. Devin Nunes (Tulare), Kevin McCarthy (Bakersfield), and Jeff Denham (Modesto). The bill was reported out by a vote of 26-17.

Sponsors of the bill argued that it is essential to correct the severe water problems, and resulting unemployment in the Central Valley’s agriculture industry, created by federal regulations and environmental lawsuits, as well as by the recent drought. The lawsuit regarding the Delta smelt, which led to the diversion of billions of gallons of water away from San Joaquin Valley farmers, has been cited as one of the most obvious reasons why the legislation is needed.

The bill would significantly restructure California water law. Among other provisions, it would substantially amend the 1992 Central Valley Project Improvement Act (CVPIA) and supersede the application of both the Endangered Species Act and California state law. It would also repeal the San Joaquin River Restoration Settlement Act and preempt the application of California state law; and it would supersede the current Bay-Delta Conservation Plan efforts and reinstate the 1994 Bay-Delta Accord.

During the markup, Rep. Tom McClintock (Elk Grove), Chair of the Water and Power Subcommittee, offered an amendment in the nature of a substitute. Provisions included in the amendment were to allay fears that the bill would adversely affect Northern California property rights and senior water rights holders.

Opponents, led by Rep. John Garamendi (Walnut Grove), argued that the bill would strip the state’s constitutional right to control state water, and result in costly lawsuits and severe environmental damage.

Numerous amendments were offered to the bill by the opponents, which were defeated by the Committee. Rep. Garamendi, the author of most of the amendments, allowed that he offered the amendments to expound on the significant and unintended consequences of the bill. Rep. McClintock.
joined by Rep. Denham in many instances, defended the bill against those attacks.

Senate consideration of the bill is not expected, as Senators Dianne Feinstein and Barbara Boxer sent a letter to the Committee opposing the bill.


**HEALTH: HOUSE ENERGY & COMMERCE ASSESS MDUFA REAUTHORIZATION**

On February 15, 2012, the House Energy & Commerce Subcommittee on Health held a hearing on “Reauthorization of MDUFA: What It Means for Jobs, Innovation and Patients.” Witnesses included: Dr. Jeffrey Shuren, Director, Center for Devices and Radiological Health (CDRH), Food and Drug Administration (FDA); David Perez, President and Chief Executive Officer, Terumo BCT; Elisabeth M. George, Vice President, Global Government Affairs, Regulations and Standards, Philips Healthcare; Ralph Hall, J.D., Distinguished Professor and Practitioner, University of Minnesota Law School; and Lisa Swirsky, Senior Policy Analyst, Consumers Union.

The hearing focused on the reauthorization of the Medical Device User Fee Amendments of 2007 (MDUFA). Under that Act, FDA is authorized to collect user fees from applicants for medical device approval in order to speed up regulatory efficiency and approval. The law, and FDA’s authority to collect the fees, will expire on September 30, 2012 without congressional reauthorization.

The proposed MDUFA agreement reached between FDA and the industry earlier this month will provide $595 million in user fees – more than double the current user fee level of $287 million. It is also expected to provide greater predictability, consistency and transparency in FDA’s premarket review process. With the new authorization, FDA is expected to hire 240 full-time review process employees, including 140 reviewers specifically for devices, over 5 years. The increased user fees will pay for additional training for device reviewers and information technology upgrades to improve the review process. With these new resources, FDA has agreed to measure review time in “calendar days,” not “FDA days,” which is expected to provide increased predictability. Additionally, under the proposed agreement, FDA and industry will communicate more often, and earlier in the review process, providing greater feedback to manufacturers as the approval process goes forward.

Issues discussed at the hearing included:
- delays in FDA approvals and inconsistencies in the approval process, despite increases in user fees
- the product approval time goals and process standards established under the agreement
- the pre-submission interaction and guidance that FDA will provide
- the increase in development of devices overseas and the effect on U.S. competitiveness
- comparison of the European Union system and the U.S. system and whether moving towards the EU system would be beneficial
- broadening FDAs advisory panel membership and limiting conflict of interests among members
- the status of development of unique device identifiers (UDIs), called for under the 2007 FDA authorization.

For the testimony of the witnesses, go to: http://energycommerce.house.gov.

**ECONOMY: SENATE HELP SUBCOMMITTEE HOLDS HEARING ON PUBLIC AND PRIVATE PARTNERSHIPS AT THE REGIONAL LEVEL**


Witnesses included: Andrew Sherrill, Director, U.S. Government Accountability Office; Sandy Harmsen, Director, San Bernardino County Workforce Investment Board, San Bernardino, CA; and James Watson, President and CEO, CMTC, Torrence, CA.

Mr. Sherrill's testimony focused on drawing examples of excellence from 14 selected public-private initiatives, which were nominated by one of any five federal agencies or by national workforce and economic development experts from 20 organizations. Of the 14 initiatives, two are located in California – the Technical Employment Training program and the Manufacturing Sector Layoff Aversion and Business Assistance Initiative, both in San Bernardino. Mr. Sherrill cited common factors that each of the 14 initiatives found to facilitate and sustain collaboration – “(1) a focus on urgent, common needs; (2) leadership; (3) the use of leveraged resources; (4) employer-responsive services; (5) minimizing administrative burden; and (6) results that motivated the partners to continue their collaboration.”

Ms. Harmsen described San Bernardino County's struggles with layoffs and the closure of small businesses since 2008. She then detailed the County's efforts through its Workforce Investment Board and Workforce Development Department. One successful initiative was the County's free "Business Survival Workshops," which were meant to assess businesses' "strengths and weaknesses in sales, business processes, customer service, and employee performance and productivity." The initial workshops served over 400 businesses while another 70 served more than "1,100 employers to keep their doors open and avoid staff reductions." Through the workshops, the County "learned that employers needed intensive business process improvement services that would increase revenue and prevent layoffs," and addressed the need to "give struggling companies a boost" by providing mainly process improvement training as well as job training reimbursements, layoff aversion funds, and other services.

Mr. Watson discussed critical factors that CMTC learned while acting as a layoff aversion specialist for San Bernardino’s Workforce Investment Board. Among those findings were the importance of having:
- a systematic process to assess at risk companies and provide technical assistance directed at a company’s specific weaknesses;
- program for documenting and verifying results; and
- developing a scalable and repeatable program that could be used in many businesses.

For more information, see: http://www.help.senate.gov.
AGRICULTURE: SENATE COMMITTEE HOLDS HEARING ON 2012 FARM BILL

The Senate Agriculture, Nutrition and Forestry Committee held a hearing titled “Energy and Economic Growth for Rural America” on February 15, 2012. The hearing focused on policies that make investments in jobs and opportunities for farmers and rural businesses through new markets, entrepreneurship, regional strategies and energy innovation.

Witnesses included: The Honorable Tom Vilsack, Secretary, United States Department of Agriculture; Mathias J. McCauley, Director of Regional Planning & Community Development, Northwest Michigan Council of Governments, Traverse City, MI; Dr. Florine P. Raitano, Immediate Past President, Rural Community Assistance Corp., Dillon, CO; Mark Rembert, Executive Director, Energize Clinton County (and Wilmington-Clinton County Chamber of Commerce), Wilmington, OH; and Charles Fluharty, President and CEO/Research Professor, Rural Policy Research Institute/Truman School of Public Affairs, Columbia, OH; Steve Flick, Chairman of the Board, Show Me Energy Coop, Centerview, MO; Lee Edwards, President and CEO, Virent, Inc., Madison, WI; Bennie Hutchins, Energy Program Coordinator, Ag Energy Resources, LLC, Brookhaven, MS; and William Greving, Sorghum Farmer, Greving Farms, Inc., Prairie View, KS.

Secretary Vilsak began his testimony by emphasizing "a vibrant American economy depends on a prosperous rural America." He went on to call renewable energy "an important source of jobs and economic growth in rural communities across the country, while biofuels and biomass offer exciting new opportunities for entrepreneurs and, in particular, for American agricultural producers." Specifically, he testified that the U.S. could produce as much as a billion dry tons of biomass annually for energy production by the year 2050. "Without impacting other farm and forestry products," he said, "that would be enough to displace approximately 30 percent of our country's present petroleum consumption." Although it will take considerable work to get this energy to market, he testified on activities, such as loan guarantees, that the USDA's Rural Energy for America Program is undertaking now. He also highlighted USDA research programs and efforts to "support rural communities that are building durable, multi-county coalitions that foster economic development on a regional scale."

The Secretary recommended three main changes for the upcoming Farm bill. First, he suggested that the Committee focus on streamlining USDA's authorities and programs, eliminating overlapping authorities and goals. Second, he proposed the legislation also focus on flexibility for the way USDA and its Rural Development department support regional development efforts. Finally, he noted that the population of farmers is aging, and that the Farm bill should use all policy tools possible to encourage new entrants to the profession as well as the direct passing of farmland from one producer to another.

For more information, see: http://www.ag.senate.gov/hearings/energy-and-economic-growth-for-rural-america.

EDUCATION: HOUSE COMMITTEE HOLDS HEARING ON BILLS TO AMEND ESEA

On Thursday February 16, 2012, the House Committee on Education and the Workforce held a hearing to review H.R. 3989, the "Student Success Act", and H.R. 3990, the "Encouraging Innovation and Effective Teachers Act."

The two bills were introduced by Chairman John Kline (MN) on February 9, 2012 after the Committee held a series of 11 hearings last fall on reauthorization of the Elementary and Secondary Education Act (ESEA), also referred to as No Child Left Behind (NCLB). According to the Committee, H.R. 3989 and H.R. 3990 "are designed to enhance school accountability, improve flexibility, and support more effective teachers in the classroom," significantly changing the current law.
Witnesses included: Ms. Delia Pompa, Senior Vice President of Programs, National Council of La Raza, Washington, D.C.; Dr. Robert Balfanz Co-Director, Everyone Graduates Center, School of Education, Johns Hopkins University, Baltimore, MD; and Mr. Jimmy Cunningham, Superintendent of Schools, Hampton School District, Hampton, AR.

Topics discussed included:
- Preservation in statute of state and local jurisdictions’ rights to innovate in education;
- Reduction of the Federal role in education policy and planning, while increasing the Federal role in incentivizing leadership in state and local education entities;
- High school graduation rates by state since 2002, as an example of why federal interaction in education is still necessary;
- Elimination of NCLB's federally defined 100% proficiency target (Adequate Yearly Progress);
- Determinations, disaggregation, and reporting on the performance of all schools by overall student performance and subgroup population performance;
- Computer adaptive testing, which would be allowed under the new legislative proposals;
- Achievement gaps between minorities, English language learners, students with disabilities, and students on free/reduced price lunch compared to their Caucasian or more affluent counterparts;
- The absence in current law and in H.R. 3989 of "high bar" standards, instead mandating only that states align standards and apply them to all schools and students in the state;
- The extent to which H.R. 3989 addresses the complicated nature of Adequate Yearly Progress by reducing accountability altogether;
- Possible advancement to, and consequences of, a national curriculum;
- Teacher pay for performance systems, including a model that uses various concrete methods as well as observations by superiors to measure teachers on effectiveness and results (50/50 split for increased pay);


**IMMIGRATION: HOUSE JUDICIARY EXAMINES IMMIGRATION BENEFITS FRAUD**

On Wednesday, February 15, 2012, the House Judiciary Subcommittee on Immigration Policy and Enforcement held a hearing entitled "Safeguarding the Integrity of the Immigration Benefits Adjudication Process."


In his opening remarks, Chairman Lamar Smith (TX) pointed out the value attributed to U.S. immigration benefits, whether in the form of H1-B visas, permanent residence for relatives of U.S. citizens, employment authorization documents, or naturalization. As a result, some will engage in fraud to receive those benefits.

He cited a 2006 Government Accountability Office (GAO) report that found immigration officers interviewed felt management didn’t emphasize fraud control, but instead focused on “production goals, designed to reduce the backlog of applications, almost exclusively.” He also cited a 2006 Department of Homeland Security (DHS) Office of Inspector General that “reported on a lack of incentives for USCIS personnel to combat fraud, as opposed to simply rubber-stamping applications to get gold stars for improved productivity.” And again, in 2010, he noted the IG reported “that the mindset of quantity over quality has not ended at USCIS. In fact, according to the report, nearly 25
percent of immigration service officers who responded to the IG survey ‘have been pressured to approve questionable applications’.”

In his testimony, Director Mayorkas detailed several steps that CIS has taken to decrease the incidents of fraud, including:

- increasing the number of officers, analysts, and staff in the Fraud Detection and National Security Directorate (FDNS) to more than 780, an approximately 25 percent increase over the prior two years, and allocating new FDNS positions in field offices and service centers to strengthen coordination and collaboration with front-line employees;

- launching the Validation Instrument for Business Enterprises (VIBE), a Web-based tool that uses commercially available information to validate the business operations of companies and organizations looking to employ foreign workers;

- issuing a newly designed, more secure naturalization certificate to reduce fraud, as well as a newly designed, more secure Employment Authorization Document, and a more secure permanent resident card (the “Green Card”); and

- expanding the Secure Mail initiative, in partnership with the U.S. Postal Service to enable delivery confirmation for secure immigration documents (Permanent Resident Cards, employment-authorization documents, and travel documents), and further strengthened the E-Verify program’s anti-fraud capabilities.

To obtain the testimony of all the witnesses, go to: http://judiciary.house.gov.

**BUDGET: INSTITUTE REPORT ON OBAMA ADMINISTRATION’S FY13 BUDGET AVAILABLE**


The Budget proposes FY 2013 spending of $3.8 trillion, an increase from the $3.79 trillion expected in FY12, and calls for deficit reduction of $4 trillion over 10 years, including the $1 trillion agreed on in the August debt limit law (PL 112-25). That includes about $1.5 trillion in tax revenue increases from eliminating the Bush Administration tax cuts on individuals earning over $250,000 a year, and corporate tax increases. Other savings would come from a number of sources, including changes to federal pension benefits, and reductions in farm subsidies. The Budget also saves $850 billion by capping spending on the wars in Iraq and Afghanistan; about $200 billion of that savings, however, would be shifted to increases in infrastructure projects. The Budget calls for $476 billion over six years for transportation projects. About $360 billion in additional savings would come from Medicare and Medicaid, primarily in cuts to provider payments. New spending includes $141 billion for research and development over all, increasing nondefense research by 5 percent above the FY12 level.