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## California Capitol Hill Bulletin

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*To expand communications between Washington and California, the California Institute provides periodic faxed bulletins regarding current activity on Capitol Hill which directly impacts our state. Bulletins are published weekly during sessions of Congress, and occasionally during other periods. The e-mail edition is made possible in part by in kind donations from Sun Microsystems and Qualcomm, Inc.*

### **WATER DEVELOPMENT MEASURE MOVES WITH SACRAMENTO FLOOD PROVISIONS INCLUDED**

The House Transportation and Infrastructure Committee reported out H.R. 1480, the Water Resources Development Act (WRDA) on Thursday, April 22, following a heated markup by the Water Resources and Environment Subcommittee on Wednesday. Of particular interest to California are the provisions in the \$4.2 billion water projects bill concerning flood control and water supply in the Sacramento area. On Wednesday, the subcommittee chairman's mark, offered by Rep. Sherwood Boehlert (NY), contained a compromise worked out between Reps. John Doolittle (Rocklin), Bob Matsui (Sacramento), Richard Pombo (Tracy), Wally Herger (Marysville), and Doug Ose (West Sacramento) on improving flood control on the Sacramento and American Rivers. The agreement would provide for increasing the height of the Folsom Dam by six and a half feet, add and widen flood gates, and raise and strengthen levees on the rivers. The new construction, costing about \$345 million, would raise Sacramento's flood protection from a 77 year level to about 150 years. The compromise, however, also contained provisions concerning water supply in California that would have increased water deliveries to Placer, El Dorado, San Joaquin, and Sacramento counties by constructing diversions from the American and Sacramento rivers. The estimated cost was about \$288 million, with 65 percent of the cost of equipment financed by the U.S. government. The provisions also would have allowed suppliers in the four counties to divert up to 200,000 acre-feet of water annually, and provide a 40 year, interest-free loan, to extend the Folsom South Canal.

At the subcommittee markup, Rep. Ellen Tauscher (Pleasanton) objected strongly to the provisions, claiming that they would force the diversion of 200,000 acre-feet annually and seriously undermine CALFED's ability to come up with a comprehensive water management plan for the state. Chairman Boehlert attempted to accommodate Rep. Tauscher's concerns by offering an amendment stripping the bill of the water rights provisions and clarifying that nothing in the bill was to affect water rights in California. The Boehlert amendment also required that all appropriate environmental assessments and feasibility studies must be done before the project is approved. Tauscher, nevertheless,

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continued to oppose the construction provisions, arguing that under California law any new construction automatically granted junior rights to prior water rights' holders.

Boehlert's amendment passed by a recorded vote of 20-16. Mrs. Tauscher then offered an amendment to strip the water project provisions, but retain the Sacramento flood control provisions. Her amendment was defeated 16-20.

At the full Committee markup on Thursday, Rep. Tauscher continued to object to the diversion provisions and submitted a letter from Gov. Gray Davis asking the committee to refrain from acting on the provisions until CALFED makes its recommendations on this phase of its charter. Ms. Tauscher, however, withdrew an amendment, stating that she did not want to begin a partisan dispute. Rep. James Oberstar (MN), ranking member of the Committee, however, offered an amendment that would have retained only the flood control measures for Sacramento. His amendment was defeated 31-40. Subsequently, the committee reported the bill by a vote of 49-24. Rep. Bud Shuster (PA), Chairman of the full committee, stated he expected the bill to come to the House floor as early as next week.

### **BRIEFING ON MEDICAL PRIVACY AND MEDICAL RESEARCH**

On Tuesday, April 20, the California Institute co-sponsored an overview and discussion of medical privacy and confidentiality and the need to balance those important concerns with the equally important needs of medical research. The issue is currently under consideration in Congress, which may act this year to set privacy standards or may cede that role to the Department of Health and Human Services.

Mark Smith, President and CEO of the California Health Care Foundation (CHCF), described the Foundation, its work in the field, an overview of the federal policy issues related to medical privacy, and stakeholder perspectives. Mr. Smith described the extensive data creation and exchange created by even the simplest of medical consultations. A basic doctor-patient conversation combined with a chest X-ray and a prescription, for example, sets off dozens of exchanges of data with health plans and other players. Adrienne Hahn of Consumers Union (CU) outlined the interests of CU regarding the issue. Sam Karp of the California Health Care Foundation summarized joint CHCF/CU activities regarding privacy as well as findings from a recent conference on medical privacy. Laurie Michel, Senior Director and Counsel for Government Affairs for Merck, discussed the need of the medical research community for access to records and data in order to perform what she termed "observational" (usually retrospective analysis) research, as opposed to "interventional" research, such as clinical trials with human subjects.

The event then turned to a "point/counterpoint" session where presenters Heidi Wagner of Genentech and Janlori Goldman of the Health Privacy Project at Georgetown University discussed perspectives on three key points where opinion sharply divides in the current legislative debate: authorization/informed consent; federal pre-emption of state law regarding confidentiality of medical information; and research uses of medical/health information.

Regarding authorization, an important issue is whether patient authorization should be omitted when data is non-identifying, i.e. does not indicate the identity of the patient. Further, the need for authorization may be less for retrospective or observational research than for ongoing clinical trials. A bill introduced by Senators Patrick Leahy (VT) and Edward Kennedy (MA) would extend the institutional review board (IRB) system currently in place for federal projects to research conducted by private entities. Another bill, to be introduced by Senator Robert Bennett (UT), is expected to treat non-identifying information as outside the scope of regulation.

The Institute would like to express our thanks to the office of Rep. Ed. Royce for their assistance securing the room for this briefing.

### **BRIEFINGS NEXT WEEK: SPACE TRANSPORTATION AND HOUSING**

The California Institute will cosponsor two upcoming briefings with California-based organizations. On Tuesday, April 27, the Institute will cosponsor a briefing on commercial space activity with the California

Space Transportation Alliance, the California Spaceport Authority, at 10:00 a.m. on Tuesday in 2226 Rayburn House Office Building. For more information, contact Janice Bellucci Dunn at (805) 349-2633 or by e-mail at [jmbellucci@aol.com](mailto:jmbellucci@aol.com) or Patti at (805) 349-2633.

A second briefing will be a Congressional staff luncheon at noon on Friday, April 30, and will cover certain housing issues, including the low-income housing tax credit and the private activity bond cap, in conjunction with the California Housing Finance Agency. For more information or to RSVP, contact Debbie or Karen at 916-322-0249 or [ddemello@chfa.ca.gov](mailto:ddemello@chfa.ca.gov).

## **HOUSE PASSES EARTHQUAKE HAZARDS REDUCTION AUTHORIZATION**

On Wednesday the House nearly unanimously passed H.R. 1184 to authorize \$470 million over the next five years for federal earthquake preparedness efforts. The bill includes authorization for 2000 and 2001 for a multi-agency venture including the Federal Emergency Management Agency, the U.S. Geological Survey, the National Science Foundation and the National Institute of Standards and Technology. The bill also authorizes \$171 million to update the U.S.G.S. seismic monitoring system, used for earthquake warning and mitigation, and \$82 million for a new Network for Earthquake Engineering Simulation at NSF to connect earthquake engineering research facilities and expand earthquake testing facilities.

## **SUBCOMMITTEES REVIEW CHINA-WTO ACCESSION**

The International Relations' Subcommittees on Asia and the Pacific and International Economic Policy and Trade held a joint hearing on Wednesday, April 21 to review the state of U.S.-China relations following the U.S. visit of Chinese Premier Zhu Rongji and the status of negotiations on China's accession to the World Trade Organization (WTO). Asia-Pacific Chair Doug Bereuter (NE) opined that he thought good progress had been made on the negotiations and felt confident that a final agreement can be reached before the end of the year. He also believes that granting China permanent Normal Trade Relations (NTR) status is also possible, but called on the Administration to commit to pushing for it.

The Subcommittees heard from Stanley Roth, Assistant Secretary for East Asian and Pacific Affairs at the State Department. He testified that the Administration was pleased with the status of the negotiations and assured members that a final agreement was not reached during the Premier's visit only because there were too many areas left to resolve. He stressed that U.S. negotiators are currently back in China continuing negotiations and he, too, was optimistic that a deal would be reached soon.

In response to concerns from members that granting permanent NTR to China would leave Congress without a role in Chinese relations, Sec. Roth stated that the Administration would continue to listen to Congress' concerns. During questioning, Rep. Howard Berman (Valley Village) stressed that an intellectual property agreement should not be dropped from the negotiations at the last minute, as has been done with other agreements like the Uruguay Round of GATT and NAFTA. Rep. Brad Sherman (Sherman Oaks) reiterated this admonishment.

The subcommittees also heard from: Robert Kapp, President, U.S.-China Business Council; Sandra Kristoff, Sr. Vice Pres., New York Life; and Nicholas Giordano, International Trade Counsel for the National Pork Producers Council. Complete copies of the testimony can be obtained from the Committee's website at: <http://www.house.gov/judiciary>.

## **SENATE JUDICIARY COMMITTEE HOLDS HEARING ON INTERNET PRIVACY**

The Senate Judiciary Committee, chaired by Sen. Orrin Hatch (Utah), held a hearing on privacy issues with regard to the Internet on Wednesday, April 21. The purpose of the hearing was two-fold. First, it was intended to educate the public and the members of the Committee on the nature of the privacy issues surrounding consumer use of the Internet, and steps the industry is taking to address them. And second, it allowed the committee to begin a dialogue with those interested in the privacy issue, in order to develop policy that takes into account both private and public interests.

Testifying before the committee were: Katherine Borsechnik, Senior Vice President of Networks, America Online, Inc.; Michael Sheridan, Vice President for Strategic Businesses, Novell, Inc.; Irving Wladawsky-Berger, General Manager - Internet Division, IBM; Jerry Berman, Executive Director, Center for Democracy and Technology; Russell Bodoff, Senior Vice President and Chief Operating Officer, BBB Online; and Greg Fischbach, Chairman and CEO, Acclaim Entertainment, Inc.

All members of the panel agreed that the Internet is too young and evolving for the government to impose sound regulations at this point. They believe self-imposed regulations are the best way to proceed for the time being. Many of the panelists pointed to the establishment of groups, such as the Online Privacy Alliance (OPA), and BBB Online, that are dedicated to promoting privacy online. The panelists also talked about larger companies setting the standard of privacy for new and expanding Internet companies. Irving Wladawsky-Berger, of IBM said, "IBM understands that consumers will continue to embrace the Internet, and the electronic marketplace it makes possible, only to the degree that they trust those who use the technology to respect the privacy of their personal information...We strive to lead by example via our own policies and behaviors." Many members on the panel agreed that it is the responsibility of the larger companies to develop standards for others to follow, and only if the standards are not followed would it be appropriate for the government to should step in and set basic boundaries.

Senator Diane Feinstein had two areas that primarily concerned her: the Privacy issue -- i.e., giving out personal information over the Internet and then having that information brought into the public arena without consent; and the Information issue -- undesirable people, such as pedophiles, or terrorists, getting access to or transmitting information that is not in the public's interest. The panelists agreed that these were important areas, however, they stated that with continued policing by the private sector eventually they would weed out these problem areas.

### **VINTNERS ADDRESS LUNCHEON, WINE EXPORTS UP**

Vintners from The Wine Institute addressed the guests at this week's Golden State Roundtable luncheon. Wine Institute Vice President Bobby Koch reported United States wine exports, 90 percent from California, jumped 26 percent over the previous year to \$537 million in 1998, a 448 percent increase from export sales of \$98 million a decade ago. Mr. Koch attributed this increase to the large 1997 harvest, which allowed vintners to support the growing overseas demand. Another reason for this increase is the continued opening and expansion of global markets to California wine makers. The United Kingdom was the largest U.S. wine export market with \$143 million in sales last year, a 32 percent jump over 1997. Exports to Japan surged 134 percent to \$93 million, and Canada was third with \$91 million in sales. However, even with these promising figures, the United States only holds a 3 percent share of the world export market. Mr. Koch pointed out that continued tariffs and distribution regulations limit American access to wine markets in many parts of the world and the Wine Institute continues to work to bring down these barriers. Mr. John DeLuca, President and CEO of the Wine Institute, introduced several of the California vintners who attended the lunch and asked them to relate anecdotes on how their families first became involved in California's wine industry.

### **HOMELESS HOUSING BILL REPORTED BY SUBCOMMITTEE**

The House Banking Committee's Housing and Community Opportunity Subcommittee, chaired by Rep. Rick Lazio (NY), marked up H.R. 1073, the Stewart B. McKinney Homeless Assistance Act on Thursday, April 15. The bill is designed to consolidate homeless housing programs into a block grant for states in order to allow greater flexibility and efficiency. There were five proposed amendments. The manager's amendment proposed by Rep. Lazio and Rep. Barney Frank (Massachusetts), agreed upon during a previous hearing, was passed without opposition. A revised Manager's Amendment proposed by Rep. Barbara Lee (Oakland) was also passed without opposition. It provides that qualified community groups may receive grants if the eligible municipality, county, or other grantee does not apply for a grant, but only after a 120-day consultation period with the non-applying entity. An amendment proposed by Rep. Frank, to increase

the funding from \$1.02 billion to \$1.4 billion was defeated 10-11. The bill was reported favorably to the full committee.

## **EDUCATION AND THE WORKFORCE HOLDS PRELIMINARY HEARING ON TITLE I**

The House Committee on Education and the Workforce met on April 14 for a preliminary hearing on Title I. Four panelists testified before the committee: Dr. Alan L. Ginsburg, Director of Planning and Evaluation Service, Office of the Under Secretary, U.S. Department of Education; Dr. Maris Vinovskis, Senior Research Scientist, Center for Political Studies, University of Michigan; Dr. Michael D. Casserly, Executive Director, Council of Great City Schools; and Dr. Diane Ravitch.

Dr. Ginsburg reported on two recent reports mandated by Congress to advise on evaluation design and interpretation of Title I's effectiveness: *Promising Results, Continuing Challenges: The Final Report of the National Assessment of Title I*; and *Measured Progress: The Report of the Independent Review Panel on the Evaluation of Federal Education Legislation*. Dr. Ginsburg stated that the Title I program was working well since it had been reauthorized in 1992, however there were still deficiencies in the program that needed to be addressed. Dr. Ginsburg pointed out the need to have indicators on assessing Title I programs placed directly into new legislation.

Dr. Diane Ravitch supported making Title I funds "portable," which she indicated meant that instead of the funds going to particular school district, they would follow a particular child from school to school as needed. Rep. Matthew Martinez (Monterey Park) took issue with this idea, believing it would undermine Title I and could be likened to the voucher proposal. Dr. Ravitch clarified that she did not support voucher programs, and that making Title I funds "portable" would help make sure children were receiving the funds they qualified for.

This hearing is the first of several on the Title I program, aimed at beginning a dialogue on the issue. With the understanding of Committee Chairman William Goodling (PA), no specific policy numbers were discussed. This week, the ESEA review continued with an examination of education technology.

## **TEA-21 IMPLEMENTATION OVERVIEW**

On Thursday April 15, the Senate Environment and Public Works Subcommittee on Transportation and Infrastructure held the first of several hearings on the implementation of the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) by the Department of Transportation. The purpose of this hearing was a general overview of TEA-21 implementation. Chairman George Voinovich (OH) and other subcommittee members heard testimony from administration witnesses including Kenneth Wykle, Administrator of the Federal Highway Administration, Gordon Linton, Administrator of the Federal Transit Administration, and Dr. Ricardo Martinez, Administrator of the National Highway Traffic Safety Administration. Monrovia Mayor Robert T. Bartlett, representing the National League of Cities, was one of four local government representatives in the second panel; others included the National Conference of State Legislators, National Association of Counties, and the U.S. Conference of Mayors. A third panel included representatives from the Surface Transportation Policy Project and the American Highway Users Alliance.

Chairman Voinovich noted that the Administration proposed in its budget submission to reopen TEA-21, but he did not intend to do so, nor does he think anyone else on the committee will. He also expressed concern about a recent federal court case that could make highway projects across the country ineligible for federal funds, overturning an EPA rule that allowed projects to move forward even if a state's transportation plan subsequently failed to meet clean air goals.

Administration witnesses described their approach to TEA-21 implementation, including streamlining funds to the state, a strong focus on safety, and outreach for input on implementation. Administrator Wykle said that the Administration had not yet decided on a strategy in response to the recent court decision, and was still weighing the risks and benefits associated with it.

The representatives of State and Local government groups stated that they too were generally pleased with TEA-21, and encouraged maximizing direct flow of TEA-21 monies to local governments. Mayor Bartlett, a past president of the Southern California Association of Governments (SCAG), discussed the SCAG Magnetic Levitation project in Southern California as a success of TEA-21. He also discussed equity funding as a concern, and lower appropriations resulting in incomplete funding reaching local governments.

Further subcommittee hearings on TEA-21 implementation will occur on April 29<sup>th</sup>, and May 20<sup>th</sup>. There is a TEA-21 summary on the Institute's web site, <http://www.calinst.org>.

## **ELECTRICITY COMPETITION DISCUSSED**

California began formal competition within the electricity industry on March 31, 1998, and has served as a test case for the nation as a whole. While several bills were introduced in the 105<sup>th</sup> Congress on the issues of federal electricity deregulation, no action was taken. In addition to legislation that has been introduced in the 106th Congress, the President announced a plan for National Electricity Deregulation on March 25, 1999.

The House Commerce Committee's Subcommittee on Energy and Power heard from witnesses on the subject at a hearing on Thursday, April 22. Federal Energy Regulatory Commission (FERC) Chairman James Hoecker described competition in wholesale power markets as growing in response to both the Energy Policy Act of 1992 and FERC's efforts to remove barriers to competition and let markets determine the price of wholesale power. He sought Federal legislation to do three things: 1) bring all transmission facilities in the lower 48 states within the Commission's open access transmission rules; 2) clarify the Commission's authority to promote regional management of the transmission grid through regional transmission organizations (RTOs); and, 3) establish a program to protect bulk power reliability. In addition, the Committee heard from a number of other witnesses representing energy related organizations and businesses on the topics of reliability and transmission in competitive electric markets. Further information is available from the committee's website: <http://www.house.gov/commerce>.

## **FORMER MILITARY BASE PROPERTIES COULD BE TRANSFERRED FREE OF CHARGE**

On Wednesday, the Clinton Administration stated its intention to seek from Congress the authority to transfer former base property to local communities at no cost if they use it for job-generating economic development. Defense Secretary William Cohen said that the new policy of no-cost Economic Development Conveyances (EDC) would minimize the need for time-consuming property appraisals and negotiations, thereby speeding property transfer and reuse, and reducing DoD's costs to maintain and operate the excess property. Cohen announced last month that DoD was organizing a base reuse "Red Team" composed of senior military and DoD civilian officials to tackle remaining problems and develop plans to implement the anticipated new EDC authority.

## **PENTAGON RELEASES BASE REUSE REPORT**

In conjunction with the above announcement, the Department of Defense released a report entitled "*Economic Renewal: Community Reuse of Former Military Bases*," which is available on the web at <http://www.defenselink.mil/pubs/reuse042199.html> and which attempts to paint a rosy picture of the prospects for communities in which closing facilities are housed. The report cites 27 case studies they title "success stories" of successful base re-use ventures, including seven in California: Alameda Naval Air Station/Naval Aviation Depot (1,000+ employees), Castle Air Force Base in Merced (2,150 employees), Fort Ord in Monterey (1,100 jobs), Mare Island Naval Shipyard in Vallejo (1,000 jobs), Mather Air Force Base in Sacramento (2,300 jobs), Norton Air Force Base in San Bernardino (2,225 jobs), and the Sacramento Army Depot (2,500 jobs). In none of these cases, of course, do the job figures near the numbers of the active base employees before closure.