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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.

BIPARTISAN STATE LEGISLATIVE VISIT

The California State Legislature's annual trip to Washington took place this week. Events began on Sunday evening and ran through Wednesday morning, and included were several roundtable discussions with California elected representatives from Congress and the State Legislature, meetings with Administration officials, and a number of social events. The events and the trip were coordinated by the California Foundation on the Environment and the Economy (CFEE) with assistance from various individuals and organizations, including the Institute.

At the White House on Monday, the legislators met with Vice President Al Gore, HUD Secretary Andrew Cuomo, Deputy Treasury Secretary Larry Summers, Political Affairs Director Minyon Moore, and Intergovernmental Affairs Director Mickey Ibarra. The legislators met with other Administration officials throughout the visit, including Pentagon leaders and HHS Secretary Donna Shalala.

HIGH -TECHNOLOGY ROUNDTABLE COVERS WIDE RANGE OF ISSUES

A High-Technology Roundtable was held as part of the California Bipartisan Delegation Legislative Meeting. The participants included Reps. Zoe Lofgren (San Jose) and Grace Napolitano (Norwalk), State Senator Liz Figueroa, and State Assemblymembers Dick Ackerman, Bill Campbell, and Mike Honda, as well as Cliff Jernigan of Advanced Micro Devices, Janet Lamkin of Bank of America, and Mary Beth Sullivan of the California Institute.

Three primary topic areas were discussed: taxes, Year 2000 liability, and encryption. Mr. Jernigan detailed the background on the R&D tax credit, 3-year semiconductor equipment depreciation, employer-assisted graduate education exclusion (section 127), and Internet taxes. There was a discussion of the federally-enacted legislation to impose a tax moratorium while the Internet Tax Commission studies the issue of whether and how to tax Internet commerce. On section 127 and the R&D tax credit, there was general agreement that, although both are considered meritorious, the cost of these provisions is the obstacle to enacting them on a permanent basis.

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The Year 2000 liability issue drew a great deal of interest from the group. There was a discussion on whether the current bills needed to be more narrowly focused to deal only with the industry's Y2K problems in order to prevent a veto from the President, or whether broader changes dealing with tort reform should be included.

On the subject of encryption, Rep. Lofgren, who has been a prime champion of the bill in the House, was optimistic that legislation would be acted on this year. Her bill, H.R. 850 (co-sponsored with Rep. Bob Goodlatte (VA), has over 250 co-sponsors in the House, including Rep. David Dreier (Covina), Chair of the Rules Committee, and most of the other members of that Committee. Rules will have a major role in consideration of the bill by the full House. Also, this year, the Senate has begun considering bills to ease export controls.

CALIFORNIA CONGRESSIONAL MEMBERS AND STATE LEGISLATORS HOLD ROUNDTABLE TO DISCUSS K-12 EDUCATION ISSUES

Members of the California Bipartisan Legislative Delegation met on Tuesday, May 4, for a roundtable conference on education. The key issues discussed during the meeting were current issues surrounding Title I Education Funding, gaining equity for California through funding formulas, an update on the mandated Social Security coverage for school district and local government employees, and current issues regarding teacher training.

Members of the House who attended the roundtable were Matthew Martinez (Monterey Park), Bob Matsui (Sacramento), Nancy Pelosi (San Francisco), Loretta Sanchez (Anaheim), and Lynn Woolsey (Petaluma). Also scheduled to participate were Reps. Buck McKeon (Santa Clarita) and Duke Cunningham (San Diego). From the California State Assembly, participants included Bill Campbell, Susan Davis, Sarah Reyes, Charlene Zettel and Pat Bates. Serving as resources for the roundtable were David Vienna representing CALPERS, Judy Michaels from the California Federation of Teachers and the California-DC Education Alliance, and Tim Ransdell of the California Institute. The panel also had the privilege of hearing from California State University Chancellor Charles Reed. Sunne McPeak, President and CEO of the Bay Area Council, facilitated the meeting.

The conversation regarding Title I and formula funding centered around the need to ensure that the 100% "special hold harmless" provision is not included in the next education appropriations bill, an issue which drew consensus from the participants, as well as various policy matters such as accountability, standards, and local control. On the Social Security topic, there was consensus that mandatory inclusion of California's public employees (most of whom are teachers) under the system would be detrimental to the state. Regarding the teacher shortage issue (California will need 250,000 to 300,000 new teachers over the coming 10 years, according to Dr. Reed), discussion centered around incentives to hire and retain teachers, reciprocity of credentials and standards across jurisdictions, and teacher salary levels. The disabled education topic was discussed briefly as well.

ROUNDTABLE DISCUSSION OF ENVIRONMENTAL ISSUES

On Tuesday morning a group of approximately fifteen elected officials from California met in a roundtable chaired by Environmental Defense Fund Senior Attorney Tom Graff. California air issues, water issues, electric restructuring, and parks funding were among the subjects discussed. Members on the agenda included Representatives Gary Condit, John Doolittle, Sam Farr, George Miller, Doug Ose, Ron Packard, George Radanovich, Senator Feinstein's Chief of Staff Mike McGill, State Senators Richard Alarcon, Jim Costa, Hilda Solis, and Assemblymembers Sam Aanestad, Keith Olberg, Kevin Shelley, and Helen Thomson. Other members attended including State Senators Wesley Chesbro and Betty Karnette, and Assemblymember George Nakano. Other roundtable participants were Michael Barr of Pillsbury, Madison & Sutro; Ralph Cavanagh, the Natural Resources Defense Council; David Hayes, Department of Interior; Cynthia Koehler,

Save San Francisco Bay Assoc.; Steve Ritchie, CalFed; and Vic Weisser, California Council for Environmental and Economic Balance.

Within air issues, MTBE related federal legislation and state action, diesel fuel standards, and Clean Air Act standards for Titles III and V were discussed. Among water issues, the CalFed process and funding were discussed, and an update on the Colorado River was given. There was an extended discussion on the necessity of more water storage in California. California has been receiving more than its share of Colorado River water, and roundtable participants discussed potential solutions to this situation. The electric restructuring discussion revealed a general sense from participants that the California restructuring, while not problem-free, was generally going well, and a concern that federal regulation allow California choices to be respected. Park funding mechanisms were also discussed, and a \$800 million-\$1 billion dollar park bond was reported as likely to be on the California 2000 ballot.

ELECTED OFFICIALS DISCUSS TRANSPORTATION MATTERS

Tuesday's transportation roundtable included scheduled participants Representatives Kuykendall, Lee, Filner, Millender-McDonald, Tauscher, State Senators Karnette and Murray, and Assemblymembers George Nakano, Patricia Bates, Mike Briggs, Lou Correa, and Keith Olberg. Other members in attendance were Assemblymembers Charlene Zettel, Dion Aroner, Bob Hertzberg, and Helen Thomson. The session was facilitated by Southern California Association of Governments Executive Director Mark Pisano, and David Kim from the Governor's DC Office also participated. The primary topics of discussion were the need for California goods movement infrastructure: airports and ports, and Transportation Equity Act for the 21st Century (TEA-21) funds.

The value of trade and transport through California's ports and airports was stressed. Projects funded through the Water Resources Development Act were detailed, as was the Harbor Fund fee structure. The upcoming ILWU (International Longshore and Warehouse Union) contract July 1 was of interest to participants. The Aviation trust fund, airport passenger fees and airport expansion were other topics of discussion.

Within the discussion of TEA-21, Mr. Pisano discussed the successful outcome of the prior year's roundtable rallying members together to push for TEA-21 funding, and the favorable result. Members discussed the need for flexibility of TEA-21 funding. The TEA-21 "corridors of national significance" were discussed, and found to be mainly north-south interstates that don't currently carry the majority of goods flow. In fact, the heaviest traveled route in terms of the flow of goods is between Los Angeles, Chicago, and New York. Members discussed how to work with other neighboring states along west-east routes to increase the recognition of these routes as among the nationally significant.

AUTOMATED CHILD SUPPORT ROUNDTABLE SESSION

On Tuesday afternoon Kimberley Miller, Deputy Director of Governor Davis' Washington office, facilitated a roundtable on California's Automated Child Support System. Representatives scheduled to participate included Representatives Bob Matsui, Xavier Becerra, California State Senator Adam Schiff, Assemblymembers Dion Aroner, Dick Ackerman, Gil Cedillo, and Charlene Zettel. Members exchanged updates of both federal and state actions, processes and timelines. California's historical approach to child support enforcement, recent efforts to unsuccessfully create a centralized system, and resulting fines were detailed. Implementation plans and hurdles within the state were also discussed, as were interactions between the State and Federal Administrations.

CALIFORNIANS MEET ON WORKFORCE INVESTMENT ACT

California legislators met on Tuesday to discuss the Workforce Investment Act. Attending the meeting from the California Legislature were State Assemblymembers Jim Battin, Abel Maldonado, Gloria Romero,

and Herb Wesson, and State Senators Patrick Johnson, and Hilda Solis. Also attending the event were Eric Johnson, Director, WIA Implementation Task Force from the Department of Labor, Employment and Training Administration; Maria Knieler, Member WIA Implementation Task Force; Mark Morin, Solicitor's Office, DOL; Alvin Collins, Director, Office of Family Assistance from the Department of Health and Human Services; Bob Shelbourne, Staff Assistant, Office of Family Assistance, Patricia McNeil, Assistant Secretary, Vocational and Adult Education from the Department of Education; Cynthia Brown, Policy Analyst, Vocational and Adult Education; and John Weintraub, Assistant to the Secretary, Vocational and Adult Education.

Acting as resources for this roundtable discussion were Sunne McPeak with the Bay Area Council; Robert T. Jones of the National Alliance for Business; Robert Knight from the National Association of Private Industry Councils; and, Jane Pine with Working for America Institute, AFL-CIO. The facilitator was Donald Vial, Chair of CFEE.

Among the major issues discussed during the roundtable were: policy issues and problems affecting the implementation of the Workforce Investment Act; how much flexibility is available to reconcile policy differences and priorities (for example, establishing eligibility standards for training providers under the new "voucher" system, i.e., curbing marketplace cream-skimming and undermining the unifying thrust of one-stop shopping centers.) Another topic was the working relationship in implementing federal accountability standards between the federal government and states such as California, where there has already been movement in the direction of requiring accountability.

HOUSE JUDICIARY REPORTS Y2K LIABILITY BILL

On Tuesday, May 4, by a vote of 15-14, the House Judiciary Committee reported H.R. 775, the Year 2000 liability bill, after accepting an amendment in the nature of a substitute offered by Rep. Bob Goodlatte (VA), and several other amendments to the bill. The Goodlatte substitute amendment, along with another substitute offered by Rep. Zoe Lofgren (San Jose), were pending when the Committee met for the second day of markup this week. See, [Bulletin, Vol. 6, No. 14 \(4/29/99\)](#). The Goodlatte substitute retains the 90 day cooling off period and proportional liability, and requires pleading material defects and state of mind with specificity, where relevant. It also retains a complete "reasonable efforts" defense in tort actions and caps punitive damages in tort actions to \$250,000 or three times the amount of compensatory damages, whichever is greater.

Before approving the Goodlatte substitute, the Committee considered several amendments. It approved by voice vote an amendment offered by Rep. Asa Hutchinson (AR) striking the provisions placing caps and restrictions on attorneys' fees and contingency agreements. The Hutchinson amendment was also amended by Rep. Mel Watt (NC) to clarify provisions regarding an attorney's duty of notice and disclosure to the client. The Committee defeated by voice vote an amendment by Rep. Jerry Nadler (NY) to strike the provisions regarding certification of class actions and removal of such actions to federal court, and defeated another Nadler amendment, by a vote of 4-13, that would have struck the provision requiring individual notification to each member of a class.

An amendment offered by Rep. Bobby Scott (VA) to delete the provisions limiting the liability of officers and directors was defeated by voice vote, as was another Scott amendment to make the individualized notice requirements in a class action suit voluntary, rather than mandatory. The Committee approved by voice vote two other Scott amendments clarifying provisions of the bill on staying discovery and dismissal without prejudice where the requisite specificity is not contained in the pleadings.

Before reporting the bill, the Committee defeated the Lofgren substitute by a vote of 9-15, and approved the Goodlatte substitute by a vote of 15-13, with one member voting present. The Committee expects the Rules Committee to consider H.R. 775, as amended, next Tuesday, and floor action in the House to follow on Wednesday, May 12.

NINTH CIRCUIT FINDS ENCRYPTION RESTRICTIONS UNCONSTITUTIONAL

The three-judge Ninth Circuit U.S. Appeals Court Thursday found that strict export limits on encryption technology violated a programmer's free speech rights to publish the source code he or she creates. The scope of the decision was limited to the case of University of Illinois professor Daniel Bernstein, though others will seek to broaden the ruling and the Commerce Department could appeal the case. Because the Supreme Court has not yet ruled on the matter, the ruling could be used to consider some encryption restrictions unconstitutional in the territory covered by the Ninth Circuit, which includes all of California.

H.R. 850, the Security and Freedom Through Encryption (SAFE) would clarify that it is legal for any person in the U.S. or any U.S. person in a foreign country to use or sell any form of encryption. It also prohibits the federal government from requiring a key recovery system to provide access to the system through a third-party. Finally, it allows the export of very strong, generally available, encryption technology after a one-time, 15-day technical review by the government. See, [Bulletin, Vol. 6, No. 6 \(2/25/99\)](#). California's information technology companies strongly support the bill because of the serious potential of undermining U.S. competitiveness vis-a-vis foreign manufacturers of encryption devices and software.

MTBE BILL CONSIDERED

Rep. Brian Bilbray's H.R. 11 proposes to amend the Clean Air Act to permit California's more stringent regulations for its cleaner burning reformulated gasoline to apply in the State, in lieu of existing federally mandated regulations include a two percent oxygen by weight requirement covering 70% of California's gasoline, so long as the State regulations continue to achieve equivalent or greater reductions in emissions of ozone-forming compounds and toxic air contaminants. The measure was the focus of a hearing today by the Health and Environment Subcommittee of the House Commerce Committee. Californians on the Subcommittee participating in the hearing were Reps. Brian Bilbray, Henry Waxman, Lois Capps, and Anna Eshoo. The Subcommittee heard testimony from Senator Dianne Feinstein (author of the Senate partner bill to this measure, as well as other MTBE legislation), Reps. Ellen Tauscher and Bob Franks (NJ) and City of Santa Monica Mayor Pam O'Conner. The Subcommittee also heard from US EPA Assistant Administrator Robert Perciasepe, and California EPA Secretary for Environmental Protection Winston Hickox. The final panel included Duane Bordvick, Vice President of Tosco Corporation; Robinson Oil President Thomas Robinson on behalf of the Society of Independent Gasoline Marketers of America, the National Association of Convenience Stores, and the California Independent Oil Marketers Association; Mark Beuhler, Director of Water Quality for the Metropolitan Water District of Southern California on behalf of the Association of California Water Agencies; Gregory King, Vice President and General Counsel of Valero Energy Corporation of San Antonio, and Eric Vaughn, President and CEO of the Renewable Fuels Association, the trade association for the ethanol industry.

In his opening statement, Rep. Bilbray noted how rare it is to obtain, as his bill has, the support of 52 of the 54 members of the California Congressional Delegation, and addressed the concern that has been raised about "opening up the Clean Air Act" by stating that California is addressed specifically in a separate section of the Act, and that his bill would only open up that section. Senator Feinstein expressed her ongoing support of the measure, and pointed to a number of "catch-22s" related to the legislation to be resolved: the desire by some not to open up the Act, a desire to not have a just California specific solution but a national solution, and the ethanol lobby's desire to ratchet up ethanol content requirements. Last night, legislation was introduced by Rep. Pallon (NJ) that would eliminate the 2% oxygenate requirement for the whole country and phase out MTBE over three years, and one of the other Congressional proposals circulating is to mandate a certain percentage of gasoline by weight be ethanol. When asked to address the issue of a national vs. state solution to the MTBE issue, Senator Feinstein said that she believes HR 11 should go forward and that this is likely to spur Senate side activity on the subject and that a result through the conference process may be a national solution. Rep. Tauscher stressed the severity of the MTBE related contamination in California as another reason to press ahead with California specific proposals now and then a national solution later.

Mr. Perciasepe was asked to discuss US EPA's position as to whether it has the legal authority to grant a waiver to California from the 2% oxygenate requirement. The Chairman Bilirakis (FL) made the argument that if indeed EPA had the authority to make the waiver, then the need for HR 11 would be circumvented, and "opening up" the Clean Air Act could be avoided. Mr. Perciasepe did not give a definitive answer to the inquiry, and said that EPA was still reviewing the request. The EPA's blue ribbon panel on the subject is due to give its final report in two months.

Mr. Hickox presented Governor Davis' support of HR 11, the merits of California reformulated gasoline, the Governor's Executive Order phasing out MTBE, and the Governor's request to the US EPA for a waiver of the federal oxygenate requirement. Mr. Beuhler testified that HR 11 is needed to make the Governor's plan work. In contrast, Mr. King testified that because HR 11 facilitates the ability of the Governor's plan to eliminate MTBE, Valero Energy Corporation is opposed to HR 11, and focused on the need to fix leaking tanks as the solution.

For further background on MTBE related federal action, *see, Bulletin, Vol. 6, Nos. 12 (4/15/99), 11 (4/1/99), 10 (3/25/99), & 4 (2/4/99).*

MEDAL OF HONOR MEMORIAL TO BE BUILT IN RIVERSIDE

On Tuesday, Rep. Ken Calvert introduced legislation to officially designate the Medal of Honor Memorial being built at Riverside National Cemetery as a National memorial. The entire 52 member California congressional delegation, along with the chairman and ranking minority member of the House Veterans' Affairs Committee, have signed on as original cosponsors of the legislation. Construction of the memorial will begin shortly, with the completion and dedication to occur on November 5 of this year.

MATHEWS ADDRESSES GOLDEN STATE ROUNDTABLE

Chris Mathews, Washington Bureau Chief for the San Francisco Examiner and host of National premier TV talk show "Hardball" spoke at a California State Society Golden State Roundtable Luncheon on Wednesday to an audience of approximate 90. The focus of his remarks was the upcoming presidential election, including an analysis of the current political landscape and players, along with some projections about factors between now and the election that may influence the outcome.

CAL-DC EDUCATION ALLIANCE BRIEFS CONGRESSIONAL STAFF

The California-DC: An Education Alliance held a briefing for California congressional staff on Tuesday regarding issues facing the K-12 education community this year, including the Title I formula and funding equity for the program, funding for IDEA (the Individuals with Disabilities Education Act) and mandatory coverage of state and local employees under the Social Security system.

The Title I formulas issues was briefed by Tim Ransdell of the California Institute and Judy Michaels, Chair of the Cal-DC Alliance. A major topic was the excessive "100% special hold harmless" provisions which have been attached as riders to appropriations bills for the last two years. The language prevents any shift of Title I funding to states with rapidly growing needs (such as California) unless there is growth in the overall funding for the program. (For a detailed written discussion of the topic, contact the Institute or see the web page at <http://www.calinst.org/pubs/title1-599.htm> .

The IDEA topic was discussed by Michael Hulsizer of the Cal-DC Alliance, who noted that the federal share of spending on the education of disabled students is between 8% and 11%. Judy Michaels briefed the staff on the mandatory coverage issue, describing the negative impact on the California teachers' and other state and local employees' future retirement benefits if Social Security coverage were mandated. California is one of only seven states whose public employees are largely outside the system.

For more information about the Alliance, see www.caldc.org .

CALIFORNIA HOUSING FINANCE AGENCY BRIEFS CONGRESSIONAL STAFF

The California Housing Finance Agency (CHFA) held a briefing for Congressional staff on Friday, April 30, regarding the state's shortage of affordable housing units. The briefing, cosponsored by the California Institute, was begun with comments from CHFA Executive Director Theresa Parker, and consisted of a presentation by Dick Schermerhorn, CHFA Director of Programs.

Mr. Schermerhorn explained the causal factors of the current situation, an explanation of how this current housing shortage differs from those past, and projections of the housing supply for the upcoming decades. Demand for housing in California is up - California contains 12% of the US population and is expected to grow by an additional 6 million people over the current 33 million in the next decade. Rate of production of housing is down: while in the late 1980s Californians built one new house for every 1.6 new workers, since 1995 the ratio is one new house for every 5.4 new workers. California contains 11 of the top 25 least affordable metro areas in the US, and the homeownership rate is 47th of the 50 states. Preservation of current public housing units is also a major challenge because many Section 8 project based subsidy contracts are expiring that building owners are choosing not to renew, but instead bring units into the competitive rental market. Federal subsidies are ending or coming up for renewal for more than 100,000 units in California this year.

He also outlined a number of federal legislative initiatives focused on the situation: H.R. 864/ S 459 (cosponsored so far by 44 California House members and both Senators) which would increase the Private Activity Bond Cap from \$50 to \$75 in 2000; HR 175 (cosponsored by 42 of the state's House members and both Senators) which would increase the Tax Credit Cap for Affordable Housing; HR 1336, Emergency Resident Protection Act of 1999 - which requires HUD to provide enhanced vouchers to elderly & disabled in "opt-out" projects and allows HUD to raise contract rents to market levels; and HR 425, Housing Preservation Matching Grant Act of 1999, which would authorize matching grants for state funds committed to preserving affordable housing.

Schermerhorn also discussed several State initiatives including: 1) California Debt limit Allocation Committee (CDLAC) at risk housing priority allocation - 1500 units of HUD assisted housing received allocation March 1999; 2) California Tax Credit Allocation Committee (CTCAC) Qualified Allocation Plan includes 10% for at risk units; 3) California Department of Housing & Community Development (HCD) reserves \$6 million from the state HOME allocation for preservation; and, 4) Statewide Preservation Working Group: forum for localities, state agencies, legislators and interested groups. CHFA is addressing the situation through \$100 million annually of tax exempt affordable rental housing, below market interest rate financing for special needs project, preferential financing for projects at risk of converting to market, and in its role as statewide administrator for HUD's Mark to Market program.

HOUSING OPT-OUTS

In related news, the House Committee on Banking and Financial Services on Tuesday held a hearing on HR 1336, and Chairman Jim Leach (Iowa) predicted that Congress and the Administration would work out a bipartisan solution to the problem of the displacement of elderly and disabled persons due to opt-outs. The opting out problem was a key topic during HUD Secretary Cuomo's remarks to the California State Legislative delegation meeting at the White House on Monday.

In addition, HUD announced last week that it is planning to act on an emergency basis to provide Section 8 subsidies which are closer to market value in strong housing markets such as San Francisco and Los Angeles.

BRIEFING REMINDERS:

Credit Unions' Money Transfer Initiative:

Friday, May 7, 10:30 a.m. - 1130 a.m.

2220 Rayburn House Office Building

California's and Texas' Credit Union Leagues and their umbrella counterpart have joined with and the countries of El Salvador, Guatemala and Mexico in a new pilot program, the International Remittance Network (IRnet), to help individuals in the United States transfer money to families in other countries in a safe and inexpensive manner. A staff briefing, under the auspices of the Congressional Hispanic Caucus and its Chair, Rep. Lucille Roybal-Allard, will describe the initiative. For more information, contact Angela Manso or Kate Emanuel with Rep. Roybal-Allard at 5-1766.

U.C. Global Climate Change Research

Monday, May 10, 10:30 a.m. - 12:00 noon

216 Hart Senate Office Building

Scientists from the University of California will brief staff on abrupt climate change, recent developments in climate modeling, the use of forests and soils to offset industrial greenhouse gas emissions, and recent measurements of emissions from China and India. For more information, contact Monique Kovacs at 202-296-8183 or mkovacs@ucsd.edu.