



THE CALIFORNIA INSTITUTE FOR FEDERAL POLICY RESEARCH

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California Capitol Hill Bulletin

Volume 10, Bulletin 28 – October 2, 2003

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 contributions from Sun Microsystems and IBM Corp.

HOUSE EDUCATION COMMITTEE MARKS UP CSBG LEGISLATION

The House Education and the Workforce Committee marked up H.R. 3030, which reauthorizes the Community Services Block Grant (CSBG) program, on Wednesday, October 1, 2003. CSBG provides federal grants to states to ameliorate the effects of poverty, and includes a requirement that 90 percent of the grants be passed from the states to local grantees, who then use the funds to run programs to assist individuals in finding and retaining employment, obtaining housing, and providing emergency food services.

H.R. 3030 continues current CSBG funding levels for all grants and discretionary programs through 2009. The bill requires states to reevaluate funding for the lowest-performing grantees, and report to the Secretary of the U.S. Department of Health and Human Services the reasons why underperforming local agencies should continue receive funding. In addition, the bill requires Individual Community Action Agencies (CAAs) to determine each center's goals for the following year. Finally, the bill keeps in place current-law protections that allow faith-based organizations to make employment decisions based on religion.

At the markup, Rep. Lynn Woolsey (Petaluma) offered an amendment to strike the latter protections and add religion to the individual preferences that CSBG recipients cannot discriminate against. In essence, the Woolsey-Van Hollen amendment would have prohibited faith-based organizations from hiring discrimination based on religious reasons. That amendment failed on a 22-24 roll call vote. Among other amendments offered at the mark-up, Chairman John A. Boehner (Ohio) amendment prohibited discriminatory treatment of CSBG beneficiaries on the basis of religion and kept current-law provisions that allow faith-based organizations to base their hiring decisions on religion. The Boehner amendment passed by voice vote.

H.R. 3030 was reported out of the committee on a 28-20 roll call vote.

For more information about this markup hearing, please visit House Education and the Workforce Committee's website at: <http://edworkforce.house.gov/markups/108th/fc/mufc.htm> .

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BERMAN CO-INTRODUCES FOREIGN AGRICULTURE WORKERS REFORM

Rep. Howard Berman (Valley Village) joined Rep. Chris Cannon (UT) on September 23 in introducing a bill to reform the H-2A visa laws governing foreign agriculture workers. The bill, H.R. 3142, represents a compromise reached after many years between the United Farm Workers of America and representatives of the agricultural industry.

Rep. Berman has been a major proponent for improving the working conditions of immigrant farmworkers for many years. On introduction of the bill, he stated: "This important legislation addresses the harsh reality that the farm workers who plant and harvest the produce that feeds America are the most poorly paid and poorly treated workers in the United States. . . . Under the provisions of this bill, the growers will have a legalized workforce and they should compete for labor the way other industries do, by improving working conditions and wages to attract and hold an adequate supply of workers."

H.R. 3142 would allow foreign farmworkers to establish temporary legal residency in the United States, if they can demonstrate that they worked 100 or more days in 12 consecutive months during the 18-month period prior to August 31, 2003. After establishing temporary residency, the worker would be able to work, travel abroad and return to the United States. Workers would be admitted to the U.S. for the duration of the initial job, not to exceed 10 months, but may stay for additional seasonal jobs for up to three years continuously. After achieving temporary residency status, farmworkers would become eligible for permanent resident status if they worked at least 360 days in agriculture jobs during the six year period ending August 31, 2009, and met other farmwork requirements.

Under the bill, employers would be freed from many of the administrative filing requirements under previous H-2A programs. An application and job offer filed with the Department of Labor would be automatically approved, if the requirements of the program were met and the application had no apparent deficiencies. Employers would also have to file a job offer with a local job service office.

Employers of H-2A workers would be required to provide workers' compensation, housing or a housing allowance, reimbursement for in-bound and return transportation costs, and guaranteed employment for at least three-quarters of the period of employment. Employers would also be required to pay their H-2A workers at least the minimum wage, or its equivalent.

In addition, foreign workers would be granted a limited private right of action against an employer to enforce the housing, transportation, and wage requirements, among other things.

Senator Larry Craig (ID) has introduced a companion bill in the Senate, S. 1645, of which Sen. Barbara Boxer is a co-sponsor.

Further information on the bill can be obtained from the Congressman's website at: www.house.gov/judiciary .

CALIFORNIA INSTITUTE FORMULA GRANT BRIEFING EXAMINES FEDERAL DISABLED EDUCATION PROGRAMS

The California Institute's Hill briefing on September 30 discussed its latest federal formula report on the Individuals with Disabilities Education Act (IDEA). The new report explores the mechanics of IDEA formulas that determine funding levels for California and other states while analyzing state-by-state effects of formula-change scenarios. The report, released as Congress continues work on reauthorization of disabled education programs, is the latest in a series of publications on the working of federal formula grants and California's performance. The report reveals that although California's share of disabled education funds has grown slightly since 1997, the state has been preempted from receiving a greater share due to its lower than average free and appropriate public education (FAPE) guarantee threshold.

After giving audience members a brief overview of federal formula programs, Tim Ransdell, Executive Director of the Institute and author of the publication, went on to discuss the IDEA funding structure, noting that IDEA is comprised of three formula programs, the largest being the Grants to States program. Out of a total \$8.3 billion appropriation in 2002, Grants to States was budgeted \$7.5 billion. In the following year, California received \$933 million out of a total \$8.9 billion in federal disabled education Grants to States, that's roughly 10.5 percent of program funds, according to the report. Before the formula was amended to include poverty and population factors in 1997, California's share of total program funds was 9.9 percent.

States removed language in 1997 that allowed self-identification of the number of disabled children, prohibiting states from "gaming the system" to their favor. The prior system was replaced with a formula based 85 percent on state population age 3-21 and 15 percent on persons in poverty within the same age range. However new Grants to States formula language remains somewhat contingent on a State's subjective count of disabled children. Whereas most states provide free and appropriate public education (FAPE) to disabled children between 3 and 21 years of age, California is currently one of two states that limits FAPE to disabled children up to 18 years of age. If the threshold for services were to be increased to 21 years, California's FAPE share would increase from 11 percent to 12.8 percent, and it's future share of funds would also increase, according to Mr. Ransdell.

Using simulations to predict future allocations to California, Mr. Ransdell predicts that the state will receive about 10.6 percent of program funds in 2004 if either House or Senate Labor appropriations bill are adopted. Of the reauthorization bills pending enactment, the House bill does little to change the existing formula structure, while the Senate bill locks a state's maximum disabled-child count at the current rate, thereby rewarding states who have overidentified disabled children.

The federal formula grant series was developed at the request of the California congressional delegation and is produced by the Public Policy Institute of California in collaboration with the California Institute for Federal Policy Research. The project's reports are available on the web at: <http://www.ppic.org/main/publications.asp?i=172> .

SENATE COMMITTEE HEARS TESTIMONY ABOUT P2P NETWORKS

On Tuesday, September 30, 2003, the Permanent Investigations Subcommittee of the Senate Governmental Affairs Committee held a hearing to examine the issues surrounding filesharing on Peer-to-Peer (P2P) networks. Titled "Privacy and Piracy: The Paradox of Illegal File Sharing on Peer-to-Peer Networks and the Impact of Technology on the Entertainment Industry", the hearing centered on the effects of downloading music, movies, and other digital media on the entertainment sector and the retail industry.

Subcommittee members heard testimony from three panels consisting of the following witnesses: Senator Barbara Boxer; Mr. Mitch Bainwool, Chairman and CEO, Recording Industry Association of America (RIAA); Mr. Jack Valenti, President and CEO, Motion Picture Association of America (MPAA); LL Cool J, Recording Artist; Mr. Mike Negra, President, Mikes Video, Inc.; Mr. Alan Morris, Executive Director, Sharman Networks, Ltd.(Parent Co. of KaZaa); Mr. Derek Broes, Executive Vice President, Altnet; Mr. Chris Gladwin, Founder and Chief Operating Officer, FullAudio Corporation; Ms. Lorraine Sullivan, Recipient of an RIAA subpoena/lawsuit; Chuck D, Recording Artist; Mr. Jonathan D. Moreno, Director, Center for Biomedical Ethics, University of Virginia; and Mr. James DeLong, Senior Fellow and Director, Center for the Study of Digital Property, The Progress & Freedom Foundation.

Senator Norm Coleman (MN), Chairman of the Subcommittee, welcomed the panelists and voiced his concerns about the scope and the impact of a copyright holder's ability to issue subpoenas and the extent to which the privacy of technology users is intruded upon. Senator Boxer took a somewhat

different approach to address the issues before the Subcommittee. In her testimony, she made four points: 1) the downloading of copyrighted works is theft; 2) filesharing of copyrighted works is not a victimless crime, but rather results in substantial loss of jobs and profit; 3) filesharing poses a threat to privacy, particularly when users' sensitive files are inadvertently made available for download; and 4) one of the harmful consequences of filesharing is the exposure and access of children to pornography, including child pornography.

Members of the first panel agreed with Senator Boxer in their testimony and emphasized the magnitude of the profit and job loss as a result of filesharing activities that involve copyrighted material. Mr. Bainwool noted that an estimated 99 percent of audio files shared on the internet are protected by copyright, a fact that he associated with the decline of the recording industry from a \$40 billion industry in 2000 to a \$32 billion industry in 2002. Similarly, Mr. Valenti testified that the movie industry, which by itself accounts for 5 percent of the nation's economic output and creates jobs at 3 times that of all other industries, has experienced some attrition of jobs as a result of illegal filesharing. In addition to the recording and movie industries, retail outfits also saw their profits take a dive after an upsurge of activity on filesharing networks. Mr. Negra, labeling downloading of copyrighted material "online shoplifting", expressed strong support for RIAA's recent litigation efforts against "egregious" offenders, and noted that as a result of copyright enforcement his music store has experienced an upward growth in profit.

Those testifying as part of the second panel, argued otherwise. Namely, Mr. Morris addressed RIAA's litigation; he asserted that such legal efforts against the individuals as well as technology providers on the grounds of protecting copyright serve as a smokescreen for the industry's larger challenge of moving beyond the outdated business model that is being rejected by the marketplace. He joined Mr. Broes in calling on the music and movie industries to embrace the currents of the changing marketplace and to write filesharing technology into their new business plan, which could lead not only to the recapture of lost market share but also to its potential growth, according to Mr. Morris.

The third panel offered academic angle on the issues at hand. Mr. Moreno testified on the application of social ethics to the issues at hand, while Mr. DeLong offered views on private and public responses to the P2P technology.

For more information about the hearing, please visit the Senate Governmental Affairs Committee's website at: <http://govt-aff.senate.gov> .

NEW STUDY WARNS OF SIGNIFICANT COSTS OF TERRORIST ATTACK IN SOUTHERN CALIFORNIA

The total potential disruption cost of a terrorist attack on the Alameda Corridor East would be \$4.1 billion for a 10-day duration, and if such an attack disrupts the corridor for 60 days the cost would jump to \$24.8 billion, reports a new study released on September 11, 2003. Commissioned and published by the Los Angeles Economic Development Corporation (LAEDC) in conjunction with the Orange North-American Trade Rail Access Corridor (OnTrac) Joint Powers Authority, and titled "National Economic Significance of Rail Capacity and Homeland Security on the Alameda Corridor East", the study focused on the impact of the terrorist attack on Southern California's transportation infrastructure, in particular the freight rail network.

The study found that disruption to the Alameda Corridor East, which together with the region's two ports handle more than one-third of total U.S. waterborne container traffic, would not only have significantly negative economic effects on the region but would also have a detrimental impact on a significant percentage of the nation's goods and overall economy. Domestic trade in California in the year 2000 was \$293.6 billion, while domestic trade between the state and the rest of the nation was \$337 billion in the same year.

The study calls for an allocation of Homeland Security Act (HSA) funding for the enhancement of such strategic rail projects as the Alameda Corridor East, though it recognizes that strategic rail corridors are not an institutionalized part of the federal or state transportation funding cycles. As an alternative to HSA funding, the study suggests the use of Customs revenue, container fees, a pollution credit/toll/bond on goods movement, and/or the utilization of all of these measures.

For more information about this study, please visit LAEDC's website at: <http://www.laedc.org/data/index.shtml> .

GOLDEN STATE ROUNDTABLE HOSTS LUNCHEON PANEL ON RECALL

The Golden State Roundtable, an arm of the California State Society, held a lunch on Tuesday, October 1 to hear three distinguished Californians talk about the recall. The panelists were: Bill Press, former Chair of the California Democratic Party and co-host of CNN's Crossfire; Dan Lundgren, former California Attorney General and Member of Congress, who ran against Gov. Gray Davis in 1998; and Bruce Cain, Director of the Institute of Governmental Studies and Professor of Political Science at U.C. Berkeley. Tim Ransdell of the California Institute moderated.

Mr. Press spoke forcefully against the recall, and the initiative process as a whole, arguing that it was not democracy and the voice of the masses, but rather the "voice of the millionaires." He called for the total repeal of the recall and initiative processes. He argued that neither was good for California, or the country, and pointed to the recent recall movements taking shape in Alabama and Nevada. During the question and answer session, he stressed that the turnout in October 7th's vote to recall Governor Davis would be critical to the outcome of the race.

Mr. Lundgren, on the other hand, supported the recall process in extreme circumstances, and voiced his opinion that the Davis recall was such a circumstance. He bemoaned the corrupted "pay for play" attitude that he believes permeates Sacramento politics and stated that Gov. Davis dissembled when it came to informing the people of California about the size of the budget deficit. Mr. Lundgren has endorsed Arnold Schwarzenegger for Governor, and announced his own intention to run for the 3rd Congressional District seat being vacated by Rep. Doug Ose.

Professor Cain opined that he believes that Gov. Davis will be recalled and the Republican Schwarzenegger will win the gubernatorial bid. In support he cited the tactical complexity of having the recall and the vote to replace the Governor on the same ballot, the fragile Democratic coalition he sees in California politics, and that in Schwarzenegger the Republicans have found a moderate on social issues, such as abortion and gun control, and a conservative on economic issues. He believes those three reasons combined pose a significant threat to California Democrats. However, he too stressed that the demographics and number of the voters who turnout on October 7th will be critical.

CALIFORNIA DEMOCRATS CALL FOR FERC TO ORDER REFUNDS

Led by Rep. Anna Eshoo (Atherton), all 32 members of the California Democratic Delegation sent a letter on September 30 to the Federal Energy Regulatory Commission (FERC). The letter to Chair Pat Wood urged FERC to expedite its determination of remaining issues in the case, so that refunds "can flow quickly to California consumers."

The letter argues that the Commission has had "a poor record in defending the interests of consumers. It failed for months to impose an effective price mitigation plan, it refused to order the renegotiation of unjust and unreasonable long term contracts, and it has thus far short-changed consumers in the refund proceedings. With the refund proceeding on the verge of conclusion (indeed, we expected a final order before the end of August), there's still an opportunity to set things right," states the letter.

The members urge FERC to address the market power and manipulation cases and issues in a single, consolidated public proceeding; grant California parties status in the Commission's separate, secret investigations; apply the market-wide refund methodology to transactions during the May through October 2000 period; make refund available for the short-term energy purchases made by California; and rule promptly on the outstanding issues so that the refunds can be released to California customers.

WORST CONGESTED CITIES LOCATED IN CALIFORNIA ACCORDING TO TEXAS REPORT

California holds the top two worst congested areas in the nation according to the annual Texas Transportation Institute's (TTI), 2003 Urban Mobility Report. The report also found evidence of gridlock improvements due to investment in public transit and other congestion relief strategies.

Out of 75 urban areas studied, Los Angeles and the San Francisco-Oakland Bay area were identified as the top two congested regions in the country. Los Angeles motorists are reported to have lost 90 hours in traffic in 2001 while Bay Area drivers wasted 68 hours. San Jose was ranked seventh among gridlocked cities, with its drivers losing 60 hours per year behind the wheel, according to the report. The cities of San Bernardino and San Diego were not far behind, ranking 13th and 18th respectively, according to the Institute's travel time index.

The report measures congestion delays, wasted fuel and lost productivity, while also factoring the number of hours saved by congestion mitigation policies such as public transit solutions. Overall, the report found congestion responsible for 5.7 billion gallons of wasted fuel, and 3.5 billion hours of lost productivity resulting in a cost of \$69.5 billion.

On the other hand, the report concludes that the equivalent of one billion hours of travel time was spared in 2001 due to the existence of public transit. Another piece of good news included in the report is the positive impact of technology on reduced congestion. The deployment of road related congestion relief operations saved Los Angeles drivers 28 million hours in traffic time, according to the report.

The report is sponsored by Texas A&M University. TTI is an official research agency for the Texas Department of Transportation and the Texas Railroad Commission. It conducts research for all levels of the public sector and is the largest university-affiliated transportation research agency in the United States. For more information or to view a copy of the report visit the Texas Transportation Institute website at: <http://tti.tamu.edu/> .

COUNTY POPULATION BY RACE AND ETHNICITY DATA RELEASED

For the first time since the 2000 Census, the U.S. Census Bureau issued county population estimates by age, sex, race, and Hispanic origin on September 18, 2003. The data released indicates that counties are becoming more racially and ethnically diverse, which mirrors the trend that has been observed nationally and in individual states. The findings are based on administrative records collected for the nation's 3,141 counties with a minimum population of 100,000 as of July 1, 2002.

The estimates show Los Angeles County as the county with the largest populations of American Indians and Alaska natives (156,000), Asians (1.3 million), and Hispanics (4.5 million) in the nation. San Diego County had the second-largest population of American Indians in the state with a population of 28,305, and Orange had the third-largest American Indian population of 25,970. Santa Clara had the second-largest Asian population in the state (473,550), while Orange County had the second-largest Hispanic population (937,727) and San Diego had the third-largest (826,418). In addition, Los Angeles County also had the largest numerical increase in Asian and Hispanic populations, with the former increasing by 47,000, and the latter by 300,000.

Cook County in Illinois had the largest population of Blacks (1.4 million), while Hawaiian Honolulu County had the largest population of Native Hawaiians and other Pacific Islanders (179,000). In California, the county with the largest African-American population was Los Angeles (985,409), followed by Alameda County with a population of 216,510; Los Angeles also had the largest population identified in the category of Native Hawaiian and other Pacific Islander in the state with 32,253, and was trailed by San Diego county with population of 15,494.

Los Angeles County also leads the nation with respect to populations of children under the age of 18 and people age 65 and over. The data show that Los Angeles County was the county with the largest population of children (2.7 million) and also had the largest population (955,000), and the largest numerical increase of 29,000, of people of 65 and over.

For more information about this data, please visit U.S. Census Bureau website at:

<http://www.census.gov> .

CENSUS STATISTICS ON INCOME AND POVERTY RELEASED

On September 26, 2003, the U.S. Census Bureau released its annual Current Population Reports on income and poverty in the U.S. The data indicates that the nation's official poverty rate rose from 11.7 percent in 2001 to 12.1 percent in 2002, or 34.6 million people. The national child poverty rate has remained unchanged. Similarly, the number of people just above the poverty threshold remained unchanged at 12.5 million, although the number of people in severe poverty increased from 13.4 million in 2001 to 14.1 million in 2002. According to the official measure, the Midwest was the only region to have an increase in its poverty rate, from 9.4 percent in 2001 to 10.3 percent in 2002, as the poverty rates in the Northeast (10.9 percent), South (13.8 percent), and West (12.4 percent) did not change.

At the same time, the median household income declined 1.1 percent, from \$42,900 in 2001 down to \$42,400 in 2002. The Census data also shows that women's median earnings (those who worked full-time, year-round) experienced a 1.8 percent growth, while men's median earnings increased 1.4 percent, reaching the ratio of female-to-male earnings of 77 percent, an all-time high. The South has the lowest median household income. There were no significant changes in poverty and income rates in California.

For more information about this data, please visit the U.S. Census Bureau website at:

<http://www.census.gov>

CENSUS STATISTICS ON HEALTH INSURANCE COVERAGE RELEASED

According to a new U.S. Census Bureau Report, titled "Health Insurance Coverage in the United States: 2002" and released on September 30, 2003, California has the largest number of people without health insurance of any state in the nation. California ranked sixth on the list of the states with the highest percentage of the uninsured (18.2 percent), or 6.4 million people. The 2002 figures for the state represent a decrease from the 19.5 percent of uninsured in California in 2001.

In the rest of the nation, the number of people with health insurance rose by 1.5 million to 242.4 million in 2002. At the same time, the number of uninsured increased by 2.4 million, up to 43.6 million in 2002, or 15.2 percent of the total U.S. population. The proportion of insured children did not change in 2002, remaining at 64.8 million (88.4 percent of all children); the number of children without health insurance also remained unchanged at 8.5 million (or 11.6 percent nationwide). Nearly a quarter of all children (23.9 percent) were covered by Medicaid.

For more information about this data, please visit the U.S. Census Bureau website at:

<http://www.census.gov> .