



THE CALIFORNIA INSTITUTE FOR FEDERAL POLICY RESEARCH

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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 contributions from Sun Microsystems and IBM Corp.

SCHWARZENEGGER TO VISIT WASHINGTON, MEET WITH BIPARTISAN CALIFORNIA DELEGATION

On Wednesday, October 29, 2003, California Governor-elect Arnold Schwarzenegger is expected to travel to Washington, DC and hold a meeting with the California's bipartisan Congressional delegation. The trip, organized by Rep. David Dreier (San Dimas), who chairs the Governor-elect's transition committee and also serves as Chair of the California Republican Congressional Delegation.

While a number of issues may be discussed, including the relationship between the federal and state government and high-priority federal programs such as SCAAP (the State Criminal Alien Assistance Program), the meeting may primarily serve as an opportunity for the Congressional delegation to meet the state's incoming leader and lay a solid foundation for future collaborative ventures. On a number of occasions, Schwarzenegger has noted the significant gap between the amount of federal taxes paid by Californians and the amount of federal spending in the state.

The Governor-elect has received a number of policy suggestions and recommendations to add to whatever federal agenda may be ultimately developed. In a letter, Reps. George Miller (Martinez) and Zoe Lofgren (San Jose) praised a variety of federal programs, including SCAAP, welfare, child care, and a variety of education programs, as well as health, energy, water and transportation issues. In another letter, Assembly Speaker Herb J. Wesson Jr. suggested SCAAP, homeland security formulas, transportation, special education, Medicaid, and relief from federal penalties.

For information regarding the balance of payments (taxes versus spending) between California and the federal government, see <http://www.calinst.org/pubs/balrpt02.htm>.

HOUSE CLEARS \$10 MILLION MISSIONS PRESERVATION BILL

The House of Representatives unanimously approved a bill on October 20 that will award \$10 million to preserve and repair California's historic Mission buildings. The California Missions Preservation Act,

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sponsored by 48 of California's 53 member Congressional delegation, would provide funds for the restoration of 21 mission sites located throughout the state.

Accommodating some 5 million visitors annually, missions are the most frequented historic tourist attractions in the state. Missions bore a significant role in California's early development, with the oldest site in San Diego constructed over 300 years ago.

Funds authorized in the House bill are to be dispersed over 5 years and are contingent on state matches and contributions from private donors. The California Missions Foundation is conducting fundraising activities for Missions preservation and is appealing to the state to match the federal funds with Proposition 40 support (March 2002).

Senator Barbara Boxer, sponsor of identical legislation in the Senate, in a floor statement praised House passage of the Missions bill and recommitted herself to the bill's advancement in the Senate. "I am already working to persuade my colleagues that they should follow suit and help save these irreplaceable treasures," said Senator Boxer.

For more information on mission preservation activities, visit the California Missions Foundation website at: <http://missionsofcalifornia.org/>.

HOMELAND SECURITY COMMITTEE CONSIDERS FIRST RESPONDERS BILL

On Tuesday, October 21, the House Select Committee on Homeland Security held another hearing on H.R. 3266, the *Faster and Smarter Funding for First Responders Act of 2003*, introduced by Rep. Christopher Cox (Newport Beach), the full committee's Chairman. The Committee heard from the following witnesses: Connecticut Governor John G. Rowland, who also serves as a member of the State and Local Officials Senior Advisory Committee of the Homeland Security Advisory Council to the President; New York City Police Commissioner Raymond W. Kelly; John D. Cohen, President and CEO of PSComm and Special Advisor to the Massachusetts Secretary of Public Safety on Homeland Security; Ray Nelson, Executive Director of the Kentucky Office for Security Coordination; and Scott Behunin, Vice-chair of the National Emergency Management Association Homeland Security Committee and Director of the Utah Division of Emergency Services and Homeland Security.

In his opening remarks, Chairman Cox stressed that local communities are not receiving their homeland security funds fast enough. He said: "First responders acknowledge that the Federal Government has significantly increased its allocation of homeland security funds, but they continue to complain that they are not getting their share. In July, Orange County Assistant Sheriff George Jaramillo testified before this committee that Orange County had only collected \$875,000 of its 12 million dollar federal grant. Just last week, Mayor James Garner of the US Conference of Mayors testified that 90% of cities have not received their share of funds from the states. It is our duty to ensure that federal funds get to our first responders more quickly." Chairman Cox also cited the fact that "under the present system, in 2003, California, New York, and Texas received approximately five dollars per capita in homeland security funding, compared to twenty-nine dollars per capita for North Dakota and thirty-five dollars per capita for Wyoming. . . . Our country needs a new formula for distributing funds based on rigorous authoritative risk assessments that match threat with vulnerability — the core mission of the Department of Homeland Security."

Governor Rowland, in his testimony, argued that the states should have oversight of the federal monies and be seen as the "pass-through" to local governments, in order to ensure that federal funds are spent on necessary equipment and programs. He also objected to the 25 percent match of federal funds by city and local governments, noting that in some instances it would make ability to pay a prerequisite for obtaining federal funding to increase homeland security. Finally, he expressed concern over the bill's provisions calling for regional preparedness and response to security issues. Although acknowledging the

importance of coordinating with nearby governments, he was concerned that working across state boundaries would cause confusion and may present opportunities for some to just make a grab for more federal dollars.

NYPD Commissioner Kelly outlined the extent of the security measures that New York City has taken since the September 11th, 2001 attacks, and their successful efforts in thwarting other attacks. He testified that the Police Department alone spends about \$200 million a year in operational expenses for counter terrorism. It has also identified \$261 million in training needs, equipment and supplies directly related to counter terrorism, and asked the federal government for that funding. To date, Commissioner Kelly testified the Department has only received about \$60 million. Noting that the flow of money is now picking up, he still stressed the need for it to reach local governments as soon as possible. He also strongly supported allocating funds based on terrorist threat, vulnerability, and consequences. He stated that "New York, which received the most high threat funds, ranked 49th in the formula grants. California, which received the second most high threat funds, ranked 50th. Texas, which received the third most high threat funds, ranked 48th. "The result," he stated, "is virtually a complete mismatch between the funding provided . . . and the need." Commissioner Kelly also supported the idea of providing grants directly to regional consortiums, as provided for in Chairman Cox's bill.

Testimony of all the witnesses may be obtained from the Committee's website at:

<http://www.hsc.house.gov> . For details regarding a similar Homeland Security Committee hearing held the week before, see *Bulletin, Vol. 10, No. 30 (10/17/2003)*.

HOUSE APPROVES HIGHER EDUCATION BILLS

Two higher education measures were approved by the House on October 22, 2003 on voice votes, completing graduate education and international and foreign language programs work in the chamber. Both bills, H.R. 3076, the Graduate Opportunities in Higher Education Act, and H.R. 3077, the International Studies in Higher Education Act, received bipartisan support and will now move to the Senate where no action has been taken yet.

H.R. 3076 authorizes federal support for three graduate fellowship programs and strongly encourages training of prospective elementary and high school teachers. It also provides federal assistance to adult student learners and military personnel, and is aimed at promoting diversity.

H.R. 3077 addresses the study of foreign languages, area studies, trade competitiveness and international expertise; all Title VI provisions under the Higher Education Act. The bill forms a new advisory panel of international studies experts to provide curriculum recommendations to Congress in response to changing national security needs and the shifting international climate of the post 9/11 era. Critics argue that such a new body would encroach upon a university's academic freedom. Language in the bill, however, limits the board's scope to advisory powers, prohibiting the authority to dictate curriculum. A foreign language study to identify strategically important languages is also included in the bill.

The bills, along with various other pieces of federal reauthorization legislation, are expected to be folded into one comprehensive reauthorization package as Congress continues to gear up for the renewal of the Higher Education Act.

For more information on these bills, visit the House Education and Workforce Committee website at <http://edworkforce.house.gov> .

BIPARTISAN CALIFORNIA DELEGATION MEMBERS URGES FEDERAL FUNDING FOR THE PROMISE INITIATIVE

Twenty three House members of the bipartisan California Congressional Delegation, led by Reps. Lucille Roybal-Allard (Los Angeles) and Howard "Buck" McKeon (Santa Clarita), sent a letter to Secretary of Education Rod Paige urging him to provide federal funding for the Pursuing Regional Opportunities for Mentoring, Innovation and Success for English Learning, otherwise known as the Promise Initiative. Senators Dianne Feinstein and Barbara Boxer sent a similar letter in support of the Initiative on September 26, 2003.

The Promise Initiative is a collaborative effort that involves Los Angeles, Orange, Riverside, San Bernardino, and San Diego Counties working together to help English language learners (ELLs) reach high levels of language proficiency and academic achievement. These five Southern California counties serve 3.5 million K-12 students, which includes 65 percent of California's and 30 percent of the nation's ELL students. The letter argues that school districts in Southern California, with some of the highest concentrations of English language learners in the nation, have been hindered in achieving some of the mandates laid out in the recent No Child Left Behind Act (NCLB) due to their inability to tap into Title I and Title III funding streams. The latter funds are currently targeted to local school districts.

For more information about the letter, contact Victor Castillo in Rep. Roybal-Allard's office at (202) 225-1766 or James Bergeron in Rep. Buck McKeon's office at (202) 225-1956.

HOUSE JUDICIARY PANEL CONSIDERS RESTRUCTURING OF THE 9TH CIRCUIT

On October 21, 2003, the Courts, the Internet and Intellectual Property Subcommittee of House Judiciary Committee held a hearing on the issue of reorganizing the 9th U.S. Judicial Circuit. Subcommittee members considered H.R. 2723, the "Ninth Circuit Court of Appeals Judgeship and Reorganization Act of 2003", which would divide the existing 9th Circuit into two, creating a new 12th Circuit, and would provide for the appointment of additional federal Circuit Court judges.

Currently, the 9th Circuit is the largest Court of Appeals in the federal system, with 48 sitting judges, and jurisdiction over 9 states and 2 territories, including California. California accounts for two thirds of all appeals filed within the 9th Circuit.

Subcommittee Chair Lamar S. Smith (TX) was joined by Ranking Member Howard Berman (Valley Village) and Rep. Maxine Waters (Los Angeles) in welcoming a panel of witnesses. In their opening statements, both Reps. Berman and Waters expressed opposition to H.R. 2723. In particular, Rep. Berman stated that it was a combination of the increase in judicial vacancies and immigration appeals that contributed to recent delays, rather than other reasons cited by the proponents of the 9th Circuit division.

Those appearing before the Subcommittee were: The Honorable Mary M. Schroeder, Chief Judge, U.S. Court of Appeals for the Ninth Circuit; The Honorable Diarmuid F. O'Scannlain, Judge, U.S. Court of Appeals for the Ninth Circuit; The Honorable Alex Kozinski, Judge, U.S. Court of Appeals for the Ninth Circuit; and Mr. Arthur D. Hellman, Professor of Law, University of Pittsburgh School of Law.

Pointing to past circuit divisions, and in particular the latest split in 1980 when the old Fifth Circuit divided to create a new Eleventh Circuit, Judge Schroeder argued that court restructures usually have the full support of a substantial majority of the affected judges. She asserted further that a large majority of the 9th Circuit judges oppose the division on the ground that it serves no useful purpose related to the administration of the federal courts of the west. In addition, Judge Schroeder testified that the 9th Circuit court has demonstrated increased efficiency in its handling of a growing caseload. She said the proposed legislation would divide the 9th Circuit into two unbalanced circuits further adding to, rather than diminishing, the inefficiencies of the court. Similarly, Judge Kozinski suggested that H.R. 2723 does not achieve the main objective of administering justice to the best ability of the court. In fact, he said that

division should only take place when there is demonstrated proof that a circuit is not functioning effectively and there is a consensus among the bench, bar, and public that division is an appropriate remedy. Citing the Court's recent experience with the Recall case, Judge Kozinski argued that a large 9th Circuit Court works well and efficiently, contrary to contentions put forth by the proponents of the bill. Mr. Hellman agreed with Judge Kozinski that majority agreement among the sitting circuit judges about the need to divide the court should be one of the key underlying considerations. He noted that potential benefits of H.R. 2723 include increased opportunities for the judges to sit with each other, a reduction in travel, and the prospect of a more broadly participatory Circuit Judicial Conference. Nevertheless, he suggested that Congress should accept the conclusion of the Judicial Conference that the 9th Circuit needs 7 additional appellate judgeships, and should move forward by simply adding the 7 judgeships.

Judge O'Scannlain, on the other hand, testified that restructuring the court is the best way to address the administrative difficulties. He suggested that the sheer magnitude of the court and its responsibilities negatively affect all aspects of its business, including its clarity, celerity and collegiality. In his testimony, Judge O'Scannlain noted the support for the 9th Circuit division by eight of his colleagues, including several judges from California.

For more information about this hearing, please visit Subcommittee on Courts, the Internet, and Intellectual Property website at: <http://www.house.gov/judiciary/courts.htm> .

KLAMATH BASIN SOLUTIONS SUGGESTED IN NEW FEDERAL REPORT

The National Research Council released a new study on Tuesday, October 22, 2003 recommending the removal of up to three dams, restoration of wetlands and a series of other measures to restore threatened fish and prevent conflicts among farmers, environmentalists, Indian tribes, and the current Administration in the Klamath Basin. The Klamath River watershed spreads from the Cascade Mountains of Oregon south into the northern woods of California. The study is entitled: *Endangered and Threatened Fishes in the Klamath River Basin-- Causes of Decline and Strategies for Recovery*.

In particular, the Council called for studies on removing Iron Gate Dam and Dwinnell Dam in Siskiyou County to improve passage of coho salmon, which is designated as a threatened species, and asserted that the greatest threat to the fish comes from warm water in tributaries, not flows in the main Klamath River. It also suggested a three-year moratorium on hatchery release in order to determine if such efforts would help wild fish rebound. The report commended the Administration for creation of a water bank to provide more water for fish by paying farmers not to irrigate, and suggested that similar voluntary programs would work better than the mandates spelled out in the Endangered Species Act. Among its other major findings, the report makes the following suggestions:

- A six to eight year closure of one of the hatcheries, since fish hatcheries on the Klamath and Trinity rivers are displacing wild salmon with hatched ones, possibly hurting the entire population;
- Restoration of streamside trees and brush destroyed by grazing, logging and road construction;
- Reducing grazing, agriculture, groundwater pumping and other activities that are warming the water and reducing flows in the Shasta and Scott rivers, two key tributaries for salmon in the state; and
- Removing Chiloquin Dam on the Sprague River to restore sucker access to spawning areas and experimentally injecting oxygen into Upper Klamath Lake to give fish a refuge when algae die off using oxygen in the water.

The report placed the cost of implementing its recommendations over a 5-year period at \$25-35 million, excluding administrative costs and the cost of major projects such as the suggested removal of several dams. The report notes in conclusion that the implementation costs are relatively high in comparison to past expenditures on research and remediation in the Klamath Basin, but warned that costs

of further deterioration of sucker and coho populations, along with crisis management and disruption of human activities may be far more costly.

The study was requested by Department of the Interior Secretary Gale Norton. Rep. Mike Thompson (St. Helena), who has long supported efforts to speed salmon restoration in the Klamath, hailed the report for finding that "immediate restoration is needed."

To view a full copy of the report, please visit the National Research Council website at: <http://national-academies.org> .

HARDBALL'S CHRIS MATTHEWS OFFERS CALIFORNIA RECALL INSIGHTS

MSNBC commentator and *Hardball* TV show host Chris Matthews discussed the California recall and its future impact on national politics at the October 21st California State Society Golden State Roundtable luncheon.

Mr. Matthews put Arnold Schwarzenegger's gubernatorial election victory down to the sheer might of Schwarzenegger's celebrity status. He also viewed the successful recall effort as an angry anti-establishment reaction by California voters. He went on to say that the California election captured the present national mood, predicting a stronger show of public support for candidates who promote themselves as Washington outsiders in the upcoming Presidential elections.

Mr. Matthews also remarked on a number of California political giants such as Jerry Brown, Willy Brown, Phil Bronstein and Nancy Reagan. In passing, he said that he expected Jerry Brown to run for Attorney General of California.

Before anchoring *Hardball*, Mr. Matthews worked for 13 years as Washington Bureau Chief for The San Francisco Examiner and two years as a national columnist for The San Francisco Chronicle. He spent 15 years in politics and government, as a speechwriter for President Jimmy Carter, a staffer for Senators Frank Moss (Utah) and Edmund Muskie (Maine), and a top aide for House Speaker Thomas P. "Tip" O'Neill, Jr.

CALIFORNIA HAS MOST OF THE NATION'S MOST EXPENSIVE HOUSING MARKETS; HOUSING AFFORDABILITY CONTINUES DECLINE

Six out of ten cities on the list of the most expensive housing markets are located in California, according to the new survey. The annual Home Price Comparison Index, released Wednesday, October 22, 2003, suggests that though most homeowners are aware that location plays a determining role in how much acreage they can purchase for a particular price, they do not know the extent of the affordability gap. According to Coldwell Banker, which issued the report, the price of a typical house - 2,200-square-feet, with 4 bedrooms and 2½ bathrooms, a family room, and a two-car garage varies by more than a \$1 million depending on its geographical location.

The most expensive housing market in the nation is in La Jolla, with average sale prices at \$1.4 million, while Palo Alto follows as the second city with average sale prices at \$1.2 million. Trailing Greenwich, Connecticut, which placed third on the list, Beverly Hills and San Francisco follow in fourth and fifth places with average sale values at \$1 million and \$971,750 respectively. Newport Beach placed eighth (\$916,000) and Manhattan Beach rounded off the list as the tenth most expensive housing market in the nation with average prices of \$904,500. In comparison, the Midwest accounted for most of the cities listed as the having the lowest average prices, though Binghamton, New York topped the list with an average sale price of \$121,400. Killeen, Texas trailed as the second least expensive housing market with an average price of \$127,175. The least expensive housing markets list identified in the index did not include any California cities. The index looked at similar houses in 317 markets in the United States

and 25 markets in Canada. The national average this year is \$318,172, an increase of 9 percent from an average value listed in 2002.

For more information about this index, please visit Coldwell Banker website at:

<http://www.coldwellbanker.com/homepage.html> .

For extensive home sales and price information with a California focus, visit the California Association of Realtors (CAR), at <http://www.car.org> . A recent CAR release noted that California's "Housing Affordability Index" -- a measure of the ability of state residents to buy a home in the state -- declined considerably in August, and that the "affordability gap" between U.S. and California continues to rise as well. The minimum household income needed to purchase a median-priced home at \$404,870 in California in August was \$93,490 (assuming a typical 30-year mortgage at 5.66 percent and a 20 percent downpayment). The minimum household income needed to purchase a median-priced home was up from \$82,150 in August 2002, when the median price of a home was \$334,270 and the prevailing interest rate was 6.38 percent. The minimum household income needed to purchase a median-priced home at \$177,500 in the U.S. in August was \$40,990. (CAR found that, at 60 percent, the High Desert was the most affordable region in the state, followed by Sacramento at 39 percent. The Santa Barbara Region was the least affordable region in the state at 14 percent, followed by the Northern Wine Country Region at 15 percent.)

STATE'S MANUFACTURING SECTOR DOING BETTER IN THIRD QUARTER

According to the new survey of 234 purchasing managers released by the Chapman University on Tuesday, October 14, 2003, California's manufacturing sector showed strong improvement, headed by the high-tech industry, during the third quarter ended September 30. The University's quarterly index of factory activity increased to 63.3, up from a 47.5 showing in the second quarter. The manufacturing sector Purchasing Manager's Index (PMI), compiled by the Institute for Supply Management, also demonstrated that manufacturing expanded in September; the PMI was 53.7 percent in September, only a bit lower than the 54.7 percent scored in August. A value above 50 indicates growth, while a value below 50 signifies contraction. The high-tech industry showed an even better improvement; the Chapman University survey's index for high-technology rose to 71.3, up from 43.4 in the second quarter. National manufacturing indicators are similarly positive, with industrial production and U.S. exports on the rise.

The survey also demonstrated that manufacturing employment was rising, albeit slowly. California gained 3,500 manufacturing jobs in September, the first increase since April 2002. The number of managers surveyed that said that they had added positions in the third quarter increased 9 percentage points, from 19 percent in the previous quarter to 28 percent in the third quarter.