



**THE CALIFORNIA INSTITUTE FOR FEDERAL POLICY RESEARCH**  
419 New Jersey Avenue, SE, Washington, D.C. 20003 202-546-3700  
Fax: 202-546-2390 E-mail: [randsdell@calinst.org](mailto:randsdell@calinst.org) Web: <http://www.calinst.org>

# 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.*

## **APPROPRIATIONS ACTION POSTPONED TO DECEMBER 5**

On Monday, November 13, Congress passed H.J. Res 125, a 16th continuing resolution which extends federal funding through December 5. A post-election budget session was scheduled to begin on November 14 but was postponed three weeks due largely to the current electoral uncertainties.

With President Clinton's signing last week of the Foreign Operations bill, as well as Congressional passage this week of the DC funding measure, four appropriations bills will remain to be enacted when Congress reconvenes next month. These include FY 2001 appropriations for Labor-HHS-Education (the largest of the 13 bills), Commerce-Justice-State, Treasury-Postal, and Legislative Branch. The measures could be handled as a single omnibus package, separate bills, or a combination thereof, and other matters such as tax or health provisions could be added as well.

The outstanding bills contain a variety of California priorities, such as funding for the State Criminal Alien Assistance Program (SCAAP) under the Commerce-Justice-State bill. SCAAP funding in the current bill is set at \$565 million, which is below last year's level, and many Californians would like to see the level rise in a final package.

Likewise, a compromise which had been worked out in the Labor-HHS-Education bill included extra funding for California and other growing states which have been harmed by the so-called "100% hold harmless" on federal Title I education dollars. Earlier this week, however, House Majority Whip Tom Delay reportedly stated that all of the \$4.4 billion in increased funding for the Labor-HHS-Education bill, which were added as a compromise prior to the election and more than half of which had been slated for education accounts, is now "off the table." This week, California Superintendent of Public Instruction Delaine Eastin wrote to the California Congressional Delegation seeking assistance in restoring education funds, stating and noting that, "Last year alone, California received almost \$40 million less in Title I funds than it should have due to the 100 percent hold harmless requirement" on Title I. The entire, bipartisan 52-member California Congressional delegation has recently written in support of funding for both SCAAP and the 100 percent hold harmless fix.

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For the California Institute's detailed examination of various FY 2001 appropriations measures from a California perspective, go to <http://www.calinst.org/publications.htm> .

With substantive legislative action put off until the December 4 reconvening, both parties this week also postponed decisions regarding committee leadership, committee assignments and other organizing matters until either December or January.

### **PRESIDENT SIGNS MEXICAN SEWAGE CLEANUP BILL**

President Clinton last week signed the Tijuana River Valley Estuary and Beach Sewage Cleanup Act of 2000, sponsored by Reps. Brian Bilbray (Imperial Beach) and Bob Filner (San Diego). The "Bajagua" legislation, as it is known, requires the State Department to negotiate with Mexico to establish a secondary sewage treatment facility in Mexico to treat up to 50 million gallons of effluent a day. Establishing the treatment "ponds" in Mexico will allow for twice as much effluent to be treated as would be possible across the border in the U.S.

The new law also requires the Administrator of the Environmental Protection Agency to develop a comprehensive plan with stakeholder involvement to address the transborder sanitation problems in the border region.

The flow of untreated sewage across the Mexican border into the San Diego area has been a continuing problem for the region. Reps. Filner and Bilbray have worked for years to correct the problem.

### **CONGRESS SENDS PRESIDENT FOREIGN SALES CORPORATION TAX FIX BUT EU ARGUES IT'S NOT GOOD ENOUGH**

In an attempt to avoid a possible trade war with the European Union, the House passed H.R. 4986, reforming the Foreign Sales Corporation tax law to bring it into line with a World Trade Organization ruling against the United States. The vote, taken on November 14, was 316-72. The WTO ruled that United States tax treatment of foreign sales corporations that are offshore subsidiaries of U.S. companies constituted an illegal subsidy for about 6,000 companies. The new provision would satisfy the ruling by spreading the tax exemption for income earned abroad over ten years, at a cost of \$4.5 billion. See, [Bulletin, Vol. 7, No. 34 \(11/2/00\)](#).

The measure may not be good enough to stave off up to \$4 billion in tariffs on U.S. exports, however, European Union officials apparently think the new provisions continue to violate the WTO. According to Reuters news service, they are expected to ask the WTO on Friday for permission to impose tariffs on U.S. exports.

### **FERC HOLDS HEARINGS IN D.C. AND SAN DIEGO ON ELECTRICITY PLAN**

At the request of members of the California Congressional Delegation and others, the Federal Energy Regulatory Commission held a Public Conference in San Diego on Tuesday November 14. FERC heard testimony from government officials and private citizens. Among the public officials scheduled to speak were Rep. Bob Filner (San Diego), Governor Gray Davis, State Senator Steve Peace (El Cajon), San Diego Board of Supervisors Chair Dianne Jacob, San Diego City Councilman George Stevens, Escondido Mayor Lori Pfeiler, California Public Utility Commission President Loretta Lynch, and State Energy Commission Chair William Keese. Others testifying included staff representatives for Senator Barbara Boxer, Rep. Duncan Hunter (San Diego) and Rep.-Elect Susan Davis (San Diego); and various representatives of businesses, consumers, public interest groups, and other public entities.

As reported in last week's [Bulletin \(Vol 7, No. 35 - 11/8/00\)](#), FERC also held a hearing in Washington on Thursday, November 9, regarding its report and order on the California power market.

Governor Davis urged that FERC “order refunds to consumers who have been and continue to be gouged by merchant generators and market marauders. And second, FERC should put in place hard price and bid caps that will protect consumers until such time as the marketplace becomes competitive.” The Governor also testified that, “Wall Street reports indicate that energy producers and marketers took up to \$6 billion in profits from California ratepayers in just the 3rd quarter alone this year. Energy prices at 12 midnight on September 2nd of this year were \$105 per megawatt hour, four times the price just one year earlier. Under your proposed ‘soft cap’ of \$150 per megawatt, the price will be 6 times as high.” Governor Davis criticized a provision in FERC’s proposed order which would prohibit the Cal ISO from imposing any future wholesale price caps. He countered arguments that wholesale price caps would dampen interest in building new generation capacity, noting “During the time wholesale prices caps were in place in California in 1999 and 2000, 16 new applications for power plants were filed with the California Energy Commission representing nearly 9000 megawatts of power. That’s clear evidence that it is not necessary to subject consumers to an unrestrained marketplace with even higher prices in order to stimulate the development of new generation.”

Governor Davis concluded his remarks by sharply criticizing the FERC plan: “Your proposed solution to our energy crisis does nothing to lower prices for California consumers. Quite to the contrary, it is designed to bring our economy and our consumers to their knees. Understand this: if that is your solution, I predict you will spark a ratepayer revolt. In my opinion, the consumers of California will flock to the ballot box and strip you of your authority to deregulate our electricity market.”

State Senator Peace stressed California through legislative act or the initiative process could possible take control and authority away from FERC. He also expressed concern that long-term contracts entered into now be for energy with inflated prices, given the current supply-demand relationship of the electricity market. He commented that if market problems are not resolved, a ballot initiative is likely in 2002.

Rep. Filner criticized FERC for failing to find that market manipulation by generators led to this summer’s exorbitant energy prices, stating, “I agree with FERC’s finding that the energy market in California is ‘seriously flawed’ but those flaws were exploited by the wholesale energy producers and they must be held responsible.” He spoke in support of his legislation to give FERC authority to issue refunds, and to roll back and cap prices.

Senator Dianne Feinstein submitted written remarks, and she again recommended a wholesale price cap. She added that an alternative could be to impose cost-based rates for energy generators in lieu of the market rates that now exist. She also noted that some generators have been demanding that California utilities buy long-term (5-7 year) contracts in order to obtain even moderate rates. She suggested that “FERC set up criteria to ensure that energy generators offer reasonable rates directly to energy distributors and/or the power exchange. If these criteria are not met, than the result would be a strict region-wide wholesale price cap. A second consequence could be a customer rebate for energy delivered before as well as after October 2, 2000.” Senator Feinstein acknowledged that FERC believes it lacks statutory authority to require retroactive rebates prior to October 2, and she offered to assist in ensuring any needed Congressional authorization to do so.

Representatives of California utilities testified at the November 9 hearing as well. Southern California Edison Senior Vice President for Regulatory Policy and Affairs John Fielder testified that, “Having found that the California markets are seriously flawed and that prices are unjust and unreasonable, the Commission now has two obligations. First, FERC has the obligation to ensure that only just and reasonable prices are charged. Second, it must correct the harm imposed on customers to the full extent permitted by law. The Commission’s proposed order falls short on both counts.” Instead of soft price caps, Fielder said, FERC should adopt cost-based caps. William L. Reed, vice president and chief regulatory officer for Sempra Energy, urge FERC to act quickly and be more aggressive in

revamping the state's electricity market. He urged retroactive refunds for the high prices charged this summer by power suppliers, supported the economic dispatch of generating plants, and suggested consolidation of ISO and power exchange functions.

The FERC report and order are available at <http://www.ferc.fed.us/electric/bulkpower.htm> .

### **JUDGE RULES EBAY NOT LIABLE FOR PIRATED MUSIC**

San Francisco Superior Court Judge Stuart Pollack rules this week that online auctioneer eBay Inc. is not liable for allowing its users to auction off pirated copies of audio recordings. The suit alleged that eBay was violating California's Business and Professions Code by allowing its users to list for auction pirated CDs and cassette tapes. The Judge ruled that the federal Communications Decency Act pre-empted the state statute and granted eBay, as an "interactive service provider," immunity from liability for information provided by a third-party user. The ruling stated: "Plaintiff's attempt to impose responsibility on eBay as the seller of items auctioned over its service is no different from the unsuccessful attempts that have been made to hold computer service providers liable as distributors rather than publishers of defamatory or pornographic materials."

The suit is unlike others brought by the recording industry against Napster and other music-sharing companies, because it did not charge eBay with copyright violations. eBay officials have stated that the company regularly takes down postings when it receives complaints that they violate copyright or trademark rights.

### **PRESIDENT SIGNS LAKE TAHOE RESTORATION BILL**

President Clinton, on Monday, November 13, signed into law a bill to establish a \$900 million federal-state-local partnership to preserve Lake Tahoe from continued environmental deterioration. The bill was sponsored in the Senate by Sens. Dianne Feinstein and Barbara Boxer, and in the House by Reps. John Doolittle (Roseville) and Robert Matsui (Sacramento).

The bill commits the federal government to appropriating \$300 million over 10 years, with California and Nevada providing an equal share and the remaining funds being raised locally from governments and businesses.

Under the law, the U.S. Forest Service will develop an annual priority list of environmental restoration projects, with \$200 million in federal funds authorized over 10 years to implement these projects. An additional \$100 million is authorized over ten years as payments to local governments for erosion control activities.

### **OLDER CALIFORNIANS: DEMOGRAPHIC AND ECONOMIC TRENDS**

*Graying in the Golden State: Demographic and Economic Trends of Older Californians*, a report released recently by the Public Policy Institute of California, indicates California will experience tremendous growth in its population of retirement age residents. The report indicates that by 2030 one in every three Californians will be over 50 years of age and the proportion of those over 65 will have increased from 11% in 1998 to 17%. Contributing to this growth will be a large number of baby boomers entering retirement age over the next decades and lower mortality rates.

The report also reveals that while older Californians today have substantially lower incomes than other age groups in the state -- with one in ten living in poverty, many of these older Californians derive the majority of their income (more than 70%) from Social Security. The report also found that only 35% of the baby boomers believe the Social Security system will provide the benefits they should receive when they retire. While the report indicates little confidence in the future of the Social Security System among

baby boomers it also indicates only half of all jobs in California offer pension plans and retirement benefits, a level substantially lower than the rest of the nation.

The report concludes that an aging California equals an increased need by state and local governments to provide services for this population as well as the expected increased population of children in the state. The report can be viewed in its entirety at <http://www.ppic.org> under Publications, California Counts.

## **THE STATUS OF WOMEN IN CALIFORNIA**

On Wednesday, November 15, The Institute for Women's Policy Research released a report entitled *The Status of Women in the States*. Released by an independent, non-partisan research organization every two years since 1996, the report outlines the differences among states and provides each state with a letter grade with regard to several indicators of the status of women, including: political participation, employment and earnings, economic autonomy, reproductive rights, and health and well-being.

In the Political Participation Index, California ranked number 3 of 51 among the 50 states and the District of Columbia. However in this index, while California ranked 1st and 2nd in the Women's Institutional Resources and Women in Elected Office categories, respectively, the state ranked 50th and 49th in Women's Voter Registration and Women's Voter Turnout respectively. Overall, California ranked 6th and received a B+ grade in reproductive rights though it ranked 31st in Health and Well-being receiving a C grade.

In the Employment and Earning Index, California ranked 9<sup>th</sup> nationally with a B grade. Under this indicator the state ranked 6th in Ratio of Women's to Men's earnings but ranked 39th in Women's Labor Force Participation. In the Economic Autonomy Index, California ranked 20th with a B- grade, with low rankings of 47th and 37th in Percent of Health Insurance Among Non-elderly Women and Percent of Women Above Poverty.

Overall, according to the report no one state received either straight A's or failing grades and most states received C grades. Each state's rankings and the entire report can be viewed at the Institute for Women's Policy Research website <http://www.iwpr.org> .

## **INTERIOR DEPARTMENT UNVEILS PLAN FOR YOSEMITE VALLEY RESTORATION**

Department of Interior Secretary Bruce Babbitt unveiled the Final Yosemite Valley Plan/Supplemental Environmental Impact Statement on Tuesday November 14 at Yosemite National Park. The plan, which is based on the goals of the 1980 General Management Plan, was developed for the following stated purposes: to restore, protect, and enhance the natural and cultural resources of Yosemite Valley; to provide opportunities for high quality resource-based visitor experiences; to reduce traffic congestion; and to provide effective park operations.

The final plan was modified from a draft plan which was released in March 2000 and subject to public comment. During the public comment period from March 28 until July 14 the National Park Service held 14 formal public meetings throughout California as well as four public meetings in other U.S. cities. The final draft is based on an analysis of these public comments as well as guidelines of the National Environment Policy Act.

The plan is expected to be implemented after the National Park Service's Pacific West Regional Director signs a Record of Decision in December. It is expected the plan will be phased in over a 10 to 15 year period. For more information on the Final Yosemite Valley Plan please visit the park's website at <http://www.nps.gov/yose/planning.htm> .

## **HUNTERS POINT NAVAL SHIPYARD AGREEMENT SIGNED**

The City of San Francisco and the Department of Defense recently signed a Memorandum of Agreement for the clean-up and transfer of Hunters Point Naval Shipyard to the city. The shipyard, which has been closed since 1974, was designated in 1989 as a federal Superfund site and added to the National Priorities List of worst contaminated sites in the nation. In 1991 Congress passed legislation sponsored by Rep. Nancy Pelosi (San Francisco), under which the Navy would convey the Shipyard to the city to allow for revitalization and in 1997 San Francisco completed a Redevelopment plan for the Shipyard.

The Memorandum of Agreement includes a schedule of transfer of property to the City on a parcel by parcel basis and a revised schedule for clean-up of remaining parcels. The first parcel of usable land, an 88-acre hillside tract known as Parcel A, is scheduled to be handed over to San Francisco as early as February 2001 and will be used for housing. The remaining parcels will be transferred to the city between September 2001 and fall of 2004. The San Francisco redevelopment plan includes the creation of 1,800 housing units, commercial property, community and cultural facilities and more than 100 acres of open space.