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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.

DELEGATION CIRCULATING FEMA INSURANCE RULE LETTER

The California Congressional Delegation, led by Reps. Jerry Lewis (Redlands) and Sam Farr (Monterey), is circulating a letter opposing a new attempt to impose an earthquake insurance rule on public buildings. As of Thursday, May 3, the letter had garnered the signatures of 43 of the 52 California members. The letter calls on Chair of the VA-HUD Appropriations Subcommittee James Walsh (NY) to once again prevent FEMA from promulgating an insurance regulation until such time as that Agency provides Congress with an acceptable, comprehensive insurance study. Specifically, the letter asks Chairman Walsh to raise his concerns with FEMA Director Joseph Allbaugh when he testifies before the Subcommittee. The letter also strongly supports directing funds to various predisaster mitigation activities which, the letter states, have proven to be a judicious use of public dollars in the wake of the Seattle earthquake.

In 1999-2000, the bipartisan congressional delegation, in a coordinated effort with the Governor and many state and local California officials, was successful in turning back an effort by FEMA to impose harsh natural disaster insurance requirements on public buildings. All 51 members of the delegation (one vacancy) wrote a letter to then FEMA Director James Lee Witt opposing the rule in 1999, and in 2000 Senators Dianne Feinstein and Barbara Boxer and Reps. Lewis and Farr, chairs of the House delegation, reiterated the delegation's opposition in a second letter.

Unfortunately, the Bush Administration recently resurrected the potential of the public buildings insurance rule again in its budget blueprint. California representatives have consistently argued that it is highly unlikely that earthquake insurance would be available in California, and even if so, it would be exorbitantly expensive.

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Members who have not yet signed the 2001 letter should contact either Dave LesStrang (Rep. Lewis) at x55861 or Pam Barry (Rep. Farr) at x52861.

LEWIS/THOMPSON EARTHQUAKE MITIGATION BILL GARNERS 37 CA COSPONSORS

The Earthquake Loss Reduction Act of 2001, introduced this week by Reps. Jerry Lewis (Redlands) and Mike Thompson (St. Helena), was cosponsored by 38 other members of the California delegation (and two non-Californians) at the time of its introduction. The bill will help ensure that California hospitals, and other entities, can remain in business after a major earthquake, as required by state law.

One of the major provisions in the bill is the authorization of a $1 billion Loss Reduction Trust fund to provide matching grants to local governments, public and private hospitals, and institutions of higher education. *See*, *Bulletin, Vol. 8, No. 13 (4/27/01)*. Under mandated state law requirements on retrofitting, California's hospitals estimate it will cost about $24 billion to upgrade state hospitals to make them earthquake safe.

Senator Dianne Feinstein has already introduced similar legislation (S. 424) in the Senate. Other members wishing to cosponsor the bill should call either Dave LesStrang in Rep. Lewis' office (x55861) or Jennifer Pharaoh in Rep. Thompson's office (x53311).

PUBLIC POLICY INSTITUTE OF CALIFORNIA BRIEFS DELEGATION ON TRADE

On Friday, April 27, the California Institute joined the Public Policy Institute of California (PPIC) in sponsoring a briefing on a recently released PPIC report on trade.
The report, entitled *California's Vested Interest in U.S. Trade Liberalization Initiatives*, was authored by Jon D. Haveman, an economist in the Bureau of Economics at the Federal Trade Commission, who also conducted the briefing.

Mr. Haveman reiterated the significant and growing importance of international trade to producers in California. But he also pointed out that because California ships very little to South America, the Free Trade Area of the Americas (FTAA) agreement will not provide as much benefit to California producers as will the Asia-Pacific Economic Cooperation (APEC) Forum, because of the concentration of California exports to Pacific Rim countries.

In keeping with this, Haveman concluded that California benefits more than the rest of the nation from liberalization initiatives, because they are occurring in countries, such as APEC countries, where California has a significant export stake and in commodities that California exports. The current liberalization agenda provides relief from 90 percent of the tariff barriers faced by California exports, according to Mr. Haveman's findings.

Haveman also found that California producers are more likely to export than other U.S. producers, and that its exports are disproportionately clustered in the high technology sector. Also, California's exports are more likely than the rest of the nation's to go to Asia, especially Japan.

The report can be obtained through PPIC's website at: http://www.ppic.org .

BILL WOULD REDUCE TAX LIABILITY WHEN STOCK OPTIONS EXERCISED

Rep. Zoe Lofgren (San Jose) has introduced legislation to provide tax relief to high-tech employees who exercised stock options before the recent downturn in the market and were faced with high tax liability even though the price of the stock then dropped dramatically. The bill would require that the actual sale of the stock be taxed, rather than the exercise of the stock options, and would remove stock options from the alternative minimum tax (AMT).

Individuals who exercised stock options in 2000 have complained that because of the AMT they are now faced with tax bills, for paper profits to which they never had access, that exceed their annual income. The Lofgren bill is designed to eliminate this "taxation of phantom income" by taxing the stock profit, if any, on its actual sale, not when the option is exercised.

Ten other California members have joined Rep. Lofgren as cosponsors. Other members interested in cosponsoring should contact John Flannery in Rep. Lofgren's office at x5-3072.

PPIC AND CI SPONSOR RACE AND ETHNICITY BRIEFING

The Public Policy Institute of California (PPIC) and the California Institute, in conjunction with the Population Resource Center, sponsored sponsoring a congressional briefing on race and ethnicity issues in California on Monday, April 30. The briefing, conducted by PPIC, was based on its recently released survey, *A Portrait of Race and Ethnicity in California: An Assessment of Social and Economic Well-Being*. The briefing was presented by Belinda Reyes, Research Fellow at PPIC, who was responsible for devising and compiling the detailed sourcebook of information. It identifies and compares different racial and ethnic groups in the state and examines the overall condition of each.

The report examines demographic changes in the state as well as changes in geographic distribution of ethnic groups. The report also compares how the different ethnic groups are faring in areas such as education, health, labor market outcomes, economic status, crime and political participation. For instance, Ms. Reyes pointed out that even though Latinos and African-Americans have roughly the same access to health care (20 percent), the mortality rate for African-Americans continues to be substantially higher. Other examples of the statistics contained in the sourcebook include: that between 1970 and 1998, the Hispanic population doubled in every California county except Sierra; and Hispanics – both immigrant and U.S.-born – have lower high school and college completion rates than Asians, whites, or African Americans.

To review the Race and Ethnicity Sourcebook please visit the PPIC website at: http://www.ppic.org or contact PPIC at 415-291-4400.

DREIER/LOFGREN/HONDA INTRODUCE LEGISLATION TO EASE EXPORT CONTROLS

Reps. David Dreier (Covina), Zoe Lofgren (San Jose) and Mike Honda (San Jose) introduced legislation on Wednesday, May 3 to ease outdated export control restrictions on the U.S. computer industry. Rep. Jeff Flake (AZ) joined them as an original cosponsor.

The bill will eliminate the use of the MTOPS (millions of theoretical operations per second) measurement in determining the eligibility of high performance computers for export. The industry has argued, since the MTOPS measurement was instituted in 1998, that it is arbitrary and has not kept pace with the rapid growth rate of high speed computers.

Sens. Bob Bennett (R-UT) and harry Reid (D-NV) have introduced similar legislation in the Senate. Also, Sen. Phil Gramm's Export Administration Act reauthorization bill would eliminate MTOPS as the measurement of high performance.

For more information on the bill, or to cosponsor, contact either Rep. Dreier's office (x5-2305) or Rep. Lofgren's office (x5-3072).

BERMAN/ROHRABACHER INTRODUCE SATELLITE EXPORT BILL

Reps. Howard Berman (Valley Village) and Dana Rohrabacher (Huntington Beach) have introduced a bill to return authority for commercial satellite export licenses to the Commerce Department.

In 1998, jurisdiction over satellite exports was shifted from Commerce to the State Department. Since then, satellite manufacturers have argued that delays in obtaining export licenses, even to close U.S. allies, have significantly harmed their global competitiveness. Four of the nation's six largest manufacturers are located in California. According to the Satellite Industry Association, the U.S. share of the global market for communications satellites has plummeted from a ten-year average of about 75 percent before the transfer to the State Department to about 45 percent after, according to the members' Dear Colleague letter.

The bill protects against the transfer of sensitive technology to non-friendly nations by requiring that the Departments of Defense and State, in addition to Commerce, address any national security or foreign policy concerns before agreeing to the export. The legislation also requires Department of Defense monitoring for launches of U.S. satellites in countries other than NATO or major non-NATO allies, mandatory State Department licenses for post-crash investigations, and mandatory intelligence community review of export license applications to verify the legitimacy of the end-user.

For more information on the bill or to cosponsor, please contact Doug Campbell with Rep. Berman at x5-4695.

HOUSE ENERGY CHAIRMAN UNVEILS ELECTRICITY EMERGENCY ACT OF 2001; MARKUP PLANNED FOR NEXT WEEK

On Tuesday, May 1, and Thursday, May 3, the House Energy & Commerce Subcommittee on Energy and Air Quality held a hearing to discuss the subcommittee leadership's bill to respond to the California electricity crisis. Subcommittee Chairman Joe Barton (TX) described key elements of his "Electricity Emergency Act of 2001" as seeking to reduce demand, increase supply, and encourage a west-wide transmission authority. He also noted that it would permit modification of FERC hydro licenses for boosting output and relax certain rules to allow natural gas power plants to operate if requested by western governors and approved by EPA. Regarding the transmission infrastructure, Chairman Barton noted that the bill instructs the federal government to construct the new "Path 15" transmission line through the central portion of California. It also requires a report to Congress on transmission constraints and orders transmission lines sold to the state to conform to certain guidelines.

Energy and Air Quality Subcommittee Ranking Minority Member Richard Boucher (VA) expressed concern that the bill does not go far enough because it only mitigates wholesale electricity prices when they are above "just and reasonable" levels during a power emergency, not during other periods. He said that the FERC has an absolute mandate to ensure that prices are just and reasonable, at all times, and that protection should not be conditioned on whether or not a state joins an RTO. In addition, he criticized provisions of the current bill which would give DOE sole authority to site power lines on federal lands. Boucher stated his intention to develop an alternative bill which "provides the wholesale price protection that the FERC has so far failed to provide."

Full Committee Chairman Billy Tauzin (LA) called the situation in California a direct result of the failure to build power plants, and of the state's heavy reliance on its neighbors for its electricity needs, compounded by other factors. He urged that making the most of existing generation, and encouraging existing plants to operate are key. Tauzin said that the Administration and Congress are working hard to help California.

Full Committee Ranking Member John Dingell (MI) argued that FERC is shirking its responsibilities by not remedying the unjust and unreasonable wholesale rates. He complained that a number of witnesses were invited too late to provide testimony, noting that while Reliant Energy was given ample time, Governor Gray Davis was invited too late.

Rep. Chris Cox (Newport Beach) commented that any policy which condones blackouts as an acceptable byproduct of the energy crisis should be dismissed out of hand. He noted that a 3-day $1 million silicon chip run could be scrapped if electricity is suspended during the process, and he noted a similar problem at a heart valve manufacturing facility. He emphasized the importance of enforcing laws against price gouging, but he added bills for electricity sold in recent months need to be paid to keep the market operating as it should.

Rep. Henry Waxman (Los Angeles) argued that the Chairman's proposed bill would do more harm than good. He said that FERC could act to fix the state's problem right now, but that Congress will need to step in where FERC won't. He added that the bill impedes California's efforts to acquire transmission lines, undermines its efforts to restrict demand, and creates loopholes in environmental, endangered species and clean air laws. He specifically criticized the extent to which provisions of the bill would open federal lands to transmission line siting.

Rep. Mary Bono (Palm Springs) spoke in support of the Committee bill and also of increasing LIHEAP (Low Income Home Energy Assistance Program) funding to aid those affected by summer shortages in the West. She also spoke in support of recent FERC refund orders and encouraged the Commission "to explore whether or not additional reimbursements would be in order."

Rep Anna Eshoo (Atherton) commented that much attention has been focused on FERC refund orders issued for February and March but that they dealt only with transactions which occurred during stage 3 alerts, or during 2% of the time that overcharges have been alleged. In addition, she suggested that, rather than having FERC to allow overcharges and then order refunds, it would preferable to set lower rates at the outset.

In testimony, FERC Chairman Hebert characterized the role of FERC in the California power crisis as encouraging new supply and load reduction, incenting stronger transmission infrastructure, and promoting a regional transmission authority for the Western region. He commented that the FERC plan incents efficient generation by setting the market price by the price of the least efficient generating facility used each day. Hebert was generally supportive of the Committee bill, though he did express concern with reductions in Commission authority over determining just and reasonable rates. He also disagreed with a provision requiring that electricity generators or gas suppliers be guaranteed a payment, preferring instead that FERC have discretion to approve sales on a case-by-case basis if the seller is willing to accept a riskier venture.

FERC Commissioner Linda Breathitt also expressed general support for the Committee bill, and lauded the proposed Path 15 electricity transmission line upgrade through Central California. She added, however, that she would also like to see upgrades to the infrastructure for transporting natural gas, and she believes that the Commission should have siting authority for new transmission infrastructure. She strongly expressed her opinion that California must be an integral part of a western regional transmission authority.

FERC Commissioner William Massey, who has consistently dissented from his two other colleagues by supporting wholesale price caps, began his testimony by criticizing the bill's omission of such caps. He urged Congress to act to mitigate prices for California and the rest of the West because FERC will not do so. Massey expressed support for the bill's demand responsiveness section, as well as for the bill's provisions calling for transmission capacity planning and improvements to Path 15. He urged that transmission bottlenecks be remedied in the least costly manner and that FERC be granted authority to site new transmission facilities in a manner similar to the eminent domain authority it holds for natural gas transmission lines. Massey also supported a west-wide RTO, urging that Congress grant FERC authority to require such organizations nationwide, and he also recommended that Congress pass legislation that would lead to the promulgation of mandatory reliability standards.

During questioning, Commissioner Massey argued that stage 1, 2 and 3 emergencies represented only 2%-3% of power usage in 2000, and the FERC proposal to control prices during such emergencies would thus do little to mitigate high power prices. He argued that price caps, on the other hand, would actually incent bidders to not withhold electricity in to bid up prices and would thereby increase generation.

Prepared witness testimony is available on the committee's website, at http://energycommerce.house.gov/107/hearings/05012001Hearing201/hearing.htm .

PRESIDENT CALLS FOR CONSERVATION AT CALIFORNIA'S FEDERAL FACILITIES

On Thursday, May 3, President George W. Bush ordered federal facilities to conserve energy to help the state cope with its deep and worsening power crisis. Military bases reportedly use 1% of California's electricity, and other federal facilities may represent nearly another 1%. Bush will ask federal facilities to reduce power consumption by 10%. Among the conservation measures are expected to be shutting down computers and escalators, reducing lighting, and increasing air conditioning thermostat settings to 78 degrees during stage 2 alerts. Energy Secretary Spencer Abraham, who was en route to the state for meetings to be held on Friday, May 4, indicated that federal facilities represent 1.8% to 2% of the state's total consumption, and he estimated that California faces as many as 30-35 days of blackouts this summer. Federal facilities are to develop conservation plans within 30 days. State officials urged that federal facilities shoot for a 20% reduction, and asked that consumption be reduced region-wide, not just in California.

The Bush Administration, via an energy task force headed by Vice President Dick Cheney, is also expected to urge tax incentives, including support for oil and gas well production, biomass and wind energy, nuclear plants and solar heating.

CALIFORNIA OFFICIALS TESTIFY ON HOUSE ENERGY PROPOSAL

During a hearing to discuss of the Electricity Emergency Act of 2001 on Thursday, May 3, several California officials testified before the House Subcommittee on Energy and Air Quality.

William Keese, Chairman of the California Energy Commission, highlighted some of California's progress to date, including Governor Davis' $800 million energy conservation plan. He testified that in March, California consumers reduced their energy usage by 3,000 megawatts, representing a 9.2% savings and exceeding the state's eight percent savings in February. He also noted that the state has approved another baseload power plant, construction has begun on another, and the state has approved six peaker plants under an expedited process, with four others are under review. Keese stated that California was already making progress in many of the areas proposed in the bill, and he recommended against federally mandating a West-wide RTO.

California Air Resources Board Executive Officer Michael Kenny testified that "air quality laws are not interfering with California's ability to bring new generation on line and run existing power plants at maximum capacity." He added that existing state and federal rules and laws already provide adequate flexibility to maximize output, and that, therefore, "the air quality-related sections of the legislation are unnecessary."

Ambassador Richard Sklar, Senior Advisor and Chairman of Governor Davis' Generation Implementation Task Force, provided an update on the state's conservation, generation and stabilization efforts, and he asked the Committee to consider adding wholesale price mitigation measures to its bill. He criticized the bill's provisions regarding contracts with qualifying facilities (QFs), as well as changes proposed to existing environmental regulations.

Witness testimony is available at http://energycommerce.house.gov/107/hearings/05032001Hearing204/hearing.htm .

SENATE BACKS MAJOR BOOST IN DISABLED EDUCATION FUNDING; CALIFORNIA SHARE OF FUNDS COULD RISE

During floor consideration of legislation to reauthorize federal elementary and secondary education programs on Thursday, May 3, the Senate approved a sweeping increase in spending for special education. The amendment, sponsored by Sens. Chuck Hagel (NE) and Tom Harkin (IA), requires an increase of $2.5 billion per year for the Individuals with Disabilities Education Act (IDEA). The amendment to S.1 appears to mandate appropriation of $180 billion in IDEA spending over the next 10 years -- $120 billion than currently slated -- though it was not clear how the budgetary implications would be handled. The amendment was adopted by voice vote.

It is widely believed that Congress intended that the federal government pay for 40% of the costs of serving disabled students. In practice, the federal share has actually amounted to more like 10% - 15%. The Hegel-Harkin amendment is expected to increase that share to the full 40% level by 2007.

California has traditionally received roughly 10% of federal IDEA funding (which has grown to roughly $6 billion nationwide), but the state's share has begun to increase in recent years. In 1997, Californians successfully sought a change in IDEA's formula to begin basing funds on objective census population counts rather than on state-reported counts, which had been manipulated and inflated by some states. The formula change did not take effect in the year it was passed, but ever since IDEA state grant funding passed the $5 billion threshold last year, California's share of funds began to increase. If the Senate proposal is ultimately enacted, California's share of IDEA receipts will rise nearer the 12.5% mark that its appropriate given the size of the state's current population.

Also approved by the Senate Thursday, by a vote of 79 to 21, was an amendment by Sens. Christopher Dodd (CT) and Susan Collins (ME) to seek full funding for the Title I education for the disadvantaged program. Funding for Title I currently covers services for roughly one-third of eligible students. Unlike the proposed IDEA measure, the Title I increase apparently would be subject to annual appropriations. The Senate will resume consideration of ESEA funding on Friday, May 4, but will hold votes until the morning of Tuesday, May 8. Also on May 8, the Senate will vote on the budget resolution conference report, which may or may not include funding for these education changes.

The House Committee on Education and the Workforce is currently marking up its version of the Elementary and Secondary Act reauthorization, known as H.R.1, the No Child Left Behind bill. The committee is operating in a largely bipartisan fashion through the amendment process. On a 27-20 vote on May 2, the Committee approved an amendment by Ranking Minority Member George Miller (Vallejo) to delete private school voucher provisions from the House package. On largely party-line votes, the Committee rejected amendments to increase school construction and renovation funding and to reduce class sizes. It also defeated challenges to the President's plan for annual student testing in reading and mathematics.

HOUSE HUMAN RESOURCES SUBCOMMITTEE HOLDS TANF HEARING

The House Ways and Means Human Resources Subcommittee chaired by Rep. Wally Herger (Marysville) held the third in a series of hearings on Temporary Assistance to Needy Families (TANF) on Thursday, April 26. As TANF is scheduled for reauthorization in 2002, the subcommittee has been exploring various issues related to TANF and examining both its successes and failures.

This most recent hearing focused on "Rainy Day" and other special TANF funds. In addition to the basic TANF block grant the Personal Responsibility and Work Opportunity Reconciliation Act of

1996 included several separate funds to assist states with special needs. A Federal contingency, the "rainy day" grant fund, and supplemental grants for fast growing or relatively poor states were authorized in the act through the end of FY 2001. The hearing explored rainy day and other special funds and changes that would permit States to save more for their own future needs.

The following witnesses provided testimony at the hearing: Mr. Paul Posner, Managing Director Strategic Issues, U.S. General Accounting Office; Mr. Joel Potts, TANF Policy Administrator, Ohio Department of Job and Family Services; Mr. Harry J. Holzer, Professor of Public Policy ,Georgetown University and Visiting Fellow, Urban Institute; and Ms. Elaine Ryan, Acting Executive Director, American Public Human Services Association.

Mr. Posner of the GAO discussed states' plans for operating their welfare programs in the event of an economic downturn. He indicated his office originally reported on this in 1998 and that GAO was requested by Congress to revisit the 10 states reported on in 1998, including California. Mr. Posner indicated the following findings based on the GAO's examination of those states: the impact of economic cycles on TANF caseloads is uncertain; state budget processes have an impact on TANF programs; states cite disincentives to save; states have few incentives to create state-funded welfare reserves; and the design of federal contingency mechanisms is complex and restrictive.

Other witnesses argued that the contingency fund should be reauthorized with some adjustments made to provide more flexibility to states. The complete testimony of each witness can be obtained by visiting the subcommittee's website at http://waysandmeans.house.gov.

Congressional Support For Pilot Treatment Plant to Remove Chromium 6 From Tainted Groundwater

Half of the California Delegation led by Rep. Adam. B. Schiff have signed a letter urging House appropriators to include $3 million in federal funding for a study to determine the most effective technology for removing chromium 6 from drinking water and to develop a model treatment plant in Glendale. The $3 million in federal funding would supplement $6 million in state and local funds.

The funds are being sought through the "State and Tribal Assistance Grant" program administered by the Environmental Protection Agency. The construction of the treatment plant could be completed in approximately 48 months using the technologies determined most effective by a study to be conducted by Utah State University, the University of Colorado and UCLA. The City of Glendale is the lead agency for this collaborative effort because of the high level of public concern over chromium 6 in that city.

BAEF Report on Regional Impact of Energy Crisis

The Bay Area Economic Forum recently released a report entitled *The Bay Area - A Knowledge Economy Needs Power* on the state's energy crisis. The report examines events and policy decisions that led to the current power situation and analyzes specific implications of the crisis on the Bay Area economy. The report also recommends policies for resolution of the energy crisis.

The report finds that supply-demand imbalance is at the root of California's energy crisis. It indicates that half of the increase in wholesale power prices is attributable to increased cost in producing power and the other half is due to flaws in deregulation. In terms of the economic impact on the Bay Area, the report estimates that a 50% increase in commercial and industrial rates will cost businesses over $500 million in lost output per year and 15,000 jobs over three years.

The report makes the following recommendations: an aggressive program to construct new generating capacity and expand short term supply; aggressive conservation measures; consumption management through progressive real-time, time of use and market based rate structures; streamlined permitting and a reformed regulatory environment to reduce uncertainty; and expedited action to address gas and electrical transmission bottlenecks.

The report ultimately recommends that the flawed deregulation system be fixed and not abandoned. The report can be viewed in its entirety at http://www.bayeconfor.org .

FINDINGS OF ROUNDTABLE ON CALIFORNIA'S EXPERIENCE WITH INNOVATIONS IN PUBLIC FINANCE

The National Center for Innovations in Public Finance, through the University of Southern California School of Policy Planning and Development recently released a summary of findings and recommendations from the Roundtable Discussion of California's Experience with Innovations in Public Finance, held December 13, 2000. The program, hosted by USC, was sponsored by a grant from the U.S. Department of Transportation.

Participating in the Roundtable were 75 experts from government, academia and business organizations within California and throughout the country. Some of the topics included the following: an assessment of the state of the State; defining roles and responsibilities in public-private partnerships including governmental roles in public- private partnerships; and selecting tools to guide capital investment strategy. The Center is led by Daniel V. Flanigan, a past California Institute Board member.

The Roundtable findings and recommendations can be viewed in their entirety at http://www.usc.edu/sacto/roundtable.html .