

October 5, 2009

Tapped Out



Budget & taxes **5**
Schwarzenegger presses for tax system overhaul

Politics & leadership **7**
White House meddling in state races

Governors **9**
Jindal urges GOP to support health care reform

Bird's eye view **2**

Hot issues **10**

Once around the statehouse lightly **12**

The next issue of Capitol Journal will be available on October 12th.

Top Story

CALIFORNIA is immersed in an historic struggle to overhaul its outdated water supply and delivery system. But the Golden State is far from the only one with major water problems.

SNCJ Spotlight

Governors take on key water issues

When CALIFORNIA lawmakers returned from their Labor Day break last month, they did so knowing they faced a quandary equal to any of the state's legendary budget conflicts: honoring Gov. Arnold Schwarzenegger's (R) long-standing quest to completely overhaul the state's archaic water supply and delivery system. But trying to resolve such a massive issue in barely a week of legislative time proved to be far too much to ask. Although lawmakers worked right up to the session's waning moments on a hefty package of bills that would have drastically changed the way the state manages

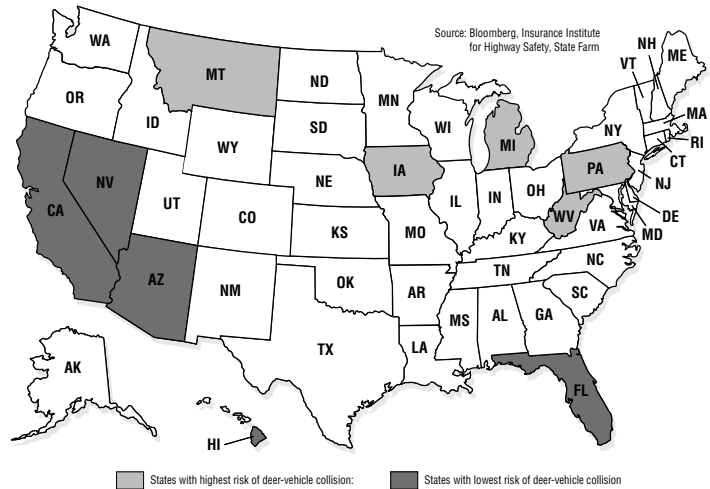
its water, the measures fell short, leaving the governor, lawmakers and reform advocates on all sides high and dry.

It was a bitter setback for Schwarzenegger, who has struggled to push a water reform package through the Golden State Legislature for each of the last two years. The governor was clearly annoyed with lawmakers' inability to get a deal done, at one point threatening to veto every bill sent to him until the water issue was resolved. But even with such prodding, no deal was forthcoming.

Lawmakers almost gave Schwarzenegger what he wanted: a comprehensive package that includes new dams, more mandatory statewide urban conservation, monitored groundwater measurement and a new "peripheral canal" to carry water from water-rich Northern CALIFORNIA around the environmentally-distressed Sacramento-San Joaquin Delta to drier climates in the central and southern parts of the state. Republicans have long sought the new dams, while Dems have traditionally balked at the price tag to build them. Regional differences have also been in play, with Northern CALIFORNIA lawmakers of both parties opposing the new canal that their central- and south-state colleagues so desperately want.

The canal has been a particularly hot topic since a 2007 federal court ruling drastically reduced water shipments through the Delta in order to protect endangered fish species. That decision cut off a significant portion of the water Central Valley farmers traditionally have received for irrigation, forcing the fallowing of hundreds of thousands of acres of farmland. It has also spurred calls from some members of Congress that represent those districts to call for the repeal of the federal Endangered Species Act, the law that led to the water restrictions.

Bird's eye view



Deer-vehicle collisions up in many states

Collisions between motor vehicles and deer cause more than \$1 billion in damage nationwide each year, according to the Insurance Institute for Highway Safety. State Farm, the country's leading auto insurer, estimates that 2.4 million deer-vehicle collisions occurred in the United States in the two year period between July 1, 2007 and June 30, 2009, an 18 percent increase from five years earlier, which wildlife specialists attribute to urban sprawl and limits on hunting. NEBRASKA and NEW JERSEY saw the largest increase, 54 percent apiece. But for the third year in a row, WEST VIRGINIA topped State Farm's list of states where such collisions are most likely. By the insurer's calculations, the chances of any one Mountain State vehicle striking a deer in the next 12 months is 1 in 39. HAWAII remains the state with the lowest odds of a deer-vehicle collision: 1 in 9,931.





“We’ll find the resources necessary to do this,” Nixon said. “This lake will be cleaner when I am done than it was when I started.”

States’ ongoing struggle to maintain adequate and clean water supplies was also on COLORADO Gov. Bill Ritter’s (D) mind last week. Ritter told attendees at a regional conference that western states need to better factor water availability into their land use planning if the region wants to continue to grow. He noted that 19 states and 30 million people across the West rely on getting at least some of their water from COLORADO rivers, making it imperative that state governments work more closely with each other and their own local governments to ensure water is available before new development projects are approved.

“You have to engage towns, cities and communities to consider how they grow. Water use planning and land use planning have got to go together,” Ritter said. (NATIONAL PUBLIC RADIO, GAINESVILLE TIMES, KANSAS CITY STAR, DENVER POST, ATLANTA JOURNAL CONSTITUTION, STATE NET)

— *Compiled by RICH EHISEN*

Budget & taxes

SCHWARZENEGGER PRESSES FOR TAX SYSTEM OVERHAUL: Late last year, CALIFORNIA Gov. Arnold Schwarzenegger (R) created a bipartisan commission to come up with ways to modernize the state’s revenue system. The 14-member 21st Century Commission on the Economy, appointed jointly by Schwarzenegger and Democratic legislative leaders, delivered its final recommendations last week. But while the governor embraced the proposals, state lawmakers were decidedly less enthusiastic.

Schwarzenegger has never made any bones about the Golden State revenue system’s need for reform.

“The boom-and-bust economic cycles the current tax system depends on has turned our state budgeting system into an unpredictable roller coaster ride that brings windfalls one year and painful deficits the next,” he said in a Sept. 29 statement.

And the state’s top Democrats seemed to believe the commission was the right way to go when the governor established it by executive order back in October 2008.

“California’s tax system is antiquated and long overdue for an overhaul,” then-Senate President pro Tempore Don Perata (D) said at the time. “This commission will examine how to best capture revenue in CALIFORNIA’s dynamic economy and put the state’s finances on the stable and sound footing needed to remain a global leader.”

Assembly Speaker Karen Bass (D), likewise, said, “This Commission will provide recommendations to help get vital programs like education, firefighting and



children’s health care off the budget roller coaster,” adding, “I applaud Governor Schwarzenegger for helping make this Commission a reality...”

Among the more significant recommendations the commission came up with were reducing the number of personal income tax brackets from six to two — a rate of 2.75 percent for single filers earning up to \$28,000 or joint filers earning up to \$56,000, and a 6.5 percent rate for those earning more — and replacing the sales tax and corporate tax with a business net receipts tax that would be levied on virtually every type of free enterprise, including legal services and consulting. The new business tax would be capped at 4 percent of net receipts. The commission also proposed raising the target for the state’s Rainy Day Reserve Fund from 5 percent of revenues to 12.5 percent and imposing restrictions on what that money could be used for.

Schwarzenegger liked those ideas. At a news conference following the commission’s presentation of a 415-page report and draft legislation to him and the Legislature last Tuesday, he declared that if lawmakers approved it, “I would sign it immediately.” And he called a special session to give them that opportunity.

But the Democratic majority doesn’t appear inclined to do so, at least not in the plan’s current form. They say it would potentially hurt CALIFORNIA’s businesses and job market while benefiting the very rich. They point out, for instance, that although all Californians’ income taxes would go down under the plan, those making \$1 million or more per year would pay \$109,000 less, while those earning less than \$50,000 would save only \$3.

“This report coddles CEOs and millionaires while kicking CALIFORNIA families to the curb,” said Assemblywoman Noreen Evans (D), chairwoman of the Assembly budget committee.

But not even all 14 members of the commission endorsed the plan. And some thought it could set a dangerous precedent.

“This is playing out to an audience of revenue-starved states,” said one, University of CONNECTICUT law professor Richard Pomp. “If CALIFORNIA thinks it has found the Holy Grail, other states will follow. But the emperor has no clothes.”

Schwarzenegger, however, was undeterred by the naysayers.

“People are scared of new things,” he said, adding that he hoped he could “challenge the legislative leaders to be courageous...to think outside the box.” (LOS ANGELES TIMES, GOV.CA.GOV, COTCE.CA.GOV)

BUDGETS IN BRIEF: State tax revenues in the second quarter were down 17 percent from a year earlier due to rising unemployment and reduced spending, according to Census Bureau figures released last week. That decline is the steepest

Upcoming stories

Here are some of the topics you will see covered in upcoming issues of the State Net Capitol Journal:

- Pay to play
- National education standards
- Budget updates

In PENNSYLVANIA, Gov. Ed Rendell (D) agreed that the Obama team hadn't handled the Paterson issue well, although he believes the White House is doing the right thing in trying to shape the outcome of state races.

"The president is the head of the party, and he has a right to express his opinion," he said. "The only thing I would have done differently is not let it become known. This can't be helpful to the governor."

Democratic leaders in Congress, meanwhile, say the Obama White House is far more assertive than most in trying to shape the political field.

"I talk to Rahm all the time," said U.S. Rep. Chris Van Hollen (D-MARYLAND), head of the Democratic Congressional Campaign Committee.

But Emanuel said the administration is being selective in determining which contests to become involved in.

"The goal is not to be more involved or less involved," he said last week. "It is to produce a specific objective in specific situations."

"The only thing I would have done differently is not let it become known. This can't be helpful to the governor."

In MASSACHUSETTS, that objective is ensuring the state Legislature works quickly to resolve the issue of whether Gov. Deval Patrick (D) will be granted the authority to appoint a replacement for the late U.S. Sen.

Edward M. Kennedy, a vote that could be crucial in passing a health plan in the Senate.

In PENNSYLVANIA, the goal is supporting U.S. Sen. Arlen Specter, a Republican-turned-Democrat, in next year's Democratic primary, in fulfillment of a promise Democrats made to Specter earlier this year when he decided to switch parties.

And in NEW YORK, one goal — some say the only one — is discouraging former New York City mayor and 2008 Republican presidential candidate Rudolph Giuliani, from entering the governor's race.

"The only reason they are doing this in NEW YORK," said Rove, "is to try to strangle a potential opponent in 2012."

But some believe the administration's efforts to advance its agenda could backfire.

"The Democratic Party under Barack Obama did not come into office because of political calculation; it got there because of audacity," said U.S. Rep. Joe Sestak (D-PENNSYLVANIA), a potential challenger to Specter. "To be seen like you are selecting winners and losers in a party boss way will breed some resentment, and in a longer term it won't bode well." (NEW YORK TIMES)

POLITICS IN BRIEF: IOWA appears likely to retain its first-in-the-nation caucuses in the GOP's 2012 presidential primary calendar, according to members of a Republican National Committee panel looking at how to avoid the frontloading that occurred in 2008 as states sought more clout in the nominating process (QUAD-CITY TIMES [DAVENPORT]).

— *Compiled by KOREY CLARK*

Governors

JINDAL URGES GOP TO SUPPORT HEALTH CARE REFORM:

JLOUISIANA Gov. Bobby Jindal (R) urged his fellow Republicans last week to shift to offering health care solutions instead of just rejecting Democratic proposals to overhaul the national health care system. “I think now is the perfect time to pivot and to say, not only here’s what we’re against, and not only here’s how we’re going to contrast ourselves, but here’s what we’re for,” Jindal said.

Jindal said his party has for years been slow to take up a strong position on health care, leaving it to become a Democratic issue “to our peril and the nation’s peril.”

“I think now is the perfect time to pivot and to say, not only here’s what we’re against, but here’s what we’re for”

He urged Congressional Republicans to work with the White House to find middle ground where the two sides can work on a compromise deal. Jindal identified several areas where that could occur, including coverage of pre-existing conditions, insurance access across state lines and between jobs, funding for electronic

medical records, malpractice reform, Medicare and Medicaid reform, and expanding health savings accounts and insurance purchasing pools.

Jindal noted that compromise will likely anger each party’s base, but feels the potential gains are worth that risk. “I think it’s better policy, it’s better politics to have more than 51 votes, more than 60 votes for bipartisan health care proposals that are meaningful, that drive down the cost of health care and that resonate with what the American people want,” he said. (POLITICO)

PAWLENTY FURTHER PAVES WAY FOR WHITE HOUSE BID:

MINNESOTA Gov. Tim Pawlenty (R) filed paperwork last week with federal regulators to form his Freedom First PAC, a national fundraising committee to aid GOP candidates in upcoming elections. Most observers believe the PAC will also lay the groundwork for Pawlenty to seek the GOP presidential nomination in 2012. Speculation about a possible Pawlenty White House run has been rampant since he announced earlier this year that he would not seek a third term as the Gopher State governor. Since then, Pawlenty has fueled that speculation by traveling extensively around the country to speak to Republican organizations in swing states such as OHIO and FLORIDA. (ASSOCIATED PRESS, WALL STREET JOURNAL)

GOVERNORS IN BRIEF: WASHINGTON

Gov. Christine Gregoire (D) released a report that detailed what she called the business case for Boeing to place a long-anticipated second 787 production line in the Evergreen state. **WASHINGTON** is one of several states competing for the second assembly line. Boeing officials said



they still see the state’s workers’ compensation and unemployment insurance costs as being too high. **SOUTH CAROLINA, NORTH CAROLINA, KANSAS, TEXAS** and **CALIFORNIA** are also seeking the new plant (SPOKESMAN-REVIEW [SPOKANE]). • **VIRGINIA** Gov. Timothy M. Kaine (D) said he has not yet received a petition seeking clemency for convicted Beltway sniper John Allen Muhammad and has seen no evidence that would suggest the convicted killer should receive a stay of execution. Muhammad, whose three-week rampage in 2002 resulted in 10 deaths, is scheduled to be executed Nov. 10 (RICHMOND TIMES-DISPATCH). • **INDIANA** Gov. Mitch Daniels (R) told attendees at an industrial energy conference last week that the nation’s pursuit of “green jobs” and alternative fuels could increase energy costs without improving the environment. He called Congressionally-proposed caps on carbon emissions “rockheaded” (INDIANAPOLIS STAR).

Upcoming elections

10/1/2009 - 10/22/2009

10/06/2009

Florida Special Election

Senate District 8

Rhode Island Special Primary

House District 10

10/13/2009

Arkansas Special Primary

Senate District 4

Oklahoma Special Election

House District 55

Tennessee Special Election

House District 62

10/15/2009

Tennessee Special Primary

Senate District 31

— Compiled by RICH EHISEN

Hot issues

B **USINESS:** Environmental officials in **CALIFORNIA** adopt regulations (CA 19534 2009) that will by 2014 ban the sale of products like paint thinners and solvents that contain more than 3 percent of their weight in volatile organic compounds. Air fresheners could contain just 20 percent of the compounds by 2012. In addition, reformulated products could not emit large volumes of gases that contribute to global warming (DAILY BREEZE [LOS ANGELES]).

CRIME & PUNISHMENT: The **INDIANA** Court of Appeals rules that Hoosier State police do not need a warrant to collect a DNA sample from felony suspects. The court ruled that taking the sample requires only reasonable suspicion, not probable cause, and therefore no warrant is necessary (INDIANAPOLIS STAR). • **VIRGINIA** Gov. Tim Kaine (D) issues Executive Order 92, which requires the Old Dominion to preserve rape kits even if the victim does not immediately pursue criminal charges. The order requires the state Division of Consolidated Laboratory Services to accept and store the Physical Evidence Recovery Kits gathered by health care providers and hold onto them for up to 120 days (RICHMOND TIMES-DISPATCH).

EDUCATION: Education officials in **SOUTH DAKOTA** drop a proposal that would have allowed high school students to graduate without taking physical education, health or fine arts classes. A vote on a final plan will take place in November (ARGUS LEADER [SIOUX FALLS]).

ENVIRONMENT: The **CALIFORNIA** Air Resources Board (CARB) adopts new rules that will allow logging companies that use clear-cutting practices to participate in the state's impending cap-and-trade emissions reduction program when it goes into effect in 2011. The previous protocol barred such companies from being in the program. The new rules also do away with a requirement that logging companies provide a property easement where no future development could go forward (LOS ANGELES TIMES, CALIFORNIA AIR RESOURCES BOARD). • **CALIFORNIA** officials also vote to charge companies that produce large amounts of greenhouse gases a fee that will help cover the state's cost in monitoring and regulating greenhouse gases as required by AB 32, the Global Warming Solutions Act of 2006 (SAN FRANCISCO CHRONICLE). • **CALIFORNIA** and **OREGON** officials reach a settlement with a private utility company to remove four hydroelectric dams that have for decades blocked fish migrations on the Klamath River, one of the West Coast's most important salmon rivers. Federal officials must still approve the removal plan. If that occurs, the removal process would begin in 2020 (LOS ANGELES TIMES). • **NEW YORK** regulators propose new rules to govern natural gas production in the Empire State. Under the proposal, drillers would be required to disclose the chemical fluids used for each well, create buffer zones around reservoirs and aqueducts in the watershed and obtain special permits before drilling wells that lie within a 1,000-foot corridor of underground tunnels that carry drinking water to New York City. Regulators will release a final report early next year (NEW YORK CITY).

HEALTH & SCIENCE: A federal judge rejects a plan to fix **GEORGIA**'s troubled psychiatric hospitals. Federal authorities have threatened to take over the seven state facilities, citing a pattern of substandard care and crime, including multiple homicides and sexual assaults committed on patients (ATLANTA JOURNAL-CONSTITUTION). • **CALIFORNIA** Gov. Arnold Schwarzenegger (R) signs AB

The week in session

States in Regular Session: DC, MA, MI, OH, PA, PR, US

States in Recess: NJ, NY, WI

States in Special Session: CT "b", CT "d"

Special Sessions in Recess: CA "c", CA "e", DE "a"

Upcoming Special Sessions: CA "f" (TBA: FL "b", NM "a", OK "a")

States in Veto Session: IL (10/14/2009)

States Currently Prefiling or Drafting for 2010: AL, FL, IA, KS, KY, NH, OK

States Adjourned in 2009: AK, AL, AR, AZ, CA, CO, CT, DE, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MN, MO, MS, MT, NC, ND, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WA, WV, WY

State Special Sessions Adjourned in 2009: AK "a", AL "a", AZ "a", AZ "b", AZ "c", CA "a", CA "b", CA "d", CT "a", CT "c", FL "a", HI "a", HI "b", IL "a", IL "b", IN "a", KY "a", MS "a", MS "b", MS "c", NV "a", NY "a-o", TX "a", UT "a", VA "c", VT "a", WI "a", WV "a", WV "b", WV "c"

Letters indicate special/extraordinary sessions

— Compiled By JAMES ROSS
(session information current as of 10/2/2009)
Source: State Net database



1422, a measure that replaces a soon-to-expire tax on Medi-Cal managed care providers with a new, lower fee. The bill will help keep 600,000 children of low-income families from losing state-funded health care coverage (SACRAMENTO BEE).

HOMELAND SECURITY: A federal judge in **NEW YORK** rules that the CIA does not have to release hundreds of documents related to the destruction of videotapes of Sept. 11 detainee interrogations that used harsh methods. The judge said he believed he has an obligation to let the CIA director decide what information should be released when it pertains to the methods used to make uncooperative detainees divulge information (ASSOCIATED PRESS).

SOCIAL POLICY: The U.S. Supreme Court agrees to consider whether its decision last year to strike down the District of Columbia’s ban on handguns also covers states and other cities with gun-control laws. The court ruled that the D.C. law was unconstitutional because it blocked an individual’s right to own guns for self defense. The case the court accepted involves a similar gun ban in Chicago (WASHINGTON POST). • A **TEXAS** court rules that the Lone Star State’s ban on same-sex marriage is unconstitutional. State officials announced they would appeal the ruling (DALLAS MORNING NEWS).

POTPOURRI: CALIFORNIA Gov. Arnold Schwarzenegger (R) signs AB 717, a measure that establishes an annual “Welcome Home Vietnam Veterans Day” in the Golden State. The governor had threatened to veto the measure after lawmakers failed to approve a comprehensive water reform package he has championed. He backed down, however, when lawmakers from both parties that supported the bill vowed to override the veto. No **CALIFORNIA** governor has had a veto overridden since 1979 (LOS ANGELES TIMES).

— *Compiled by RICH EHISEN*

Once around the statehouse lightly

A **COLD SHOT OF REALITY:** Being the child of a celebrity isn’t always what it is cracked up to be. Just ask the children of **CALIFORNIA** Gov. Arnold Schwarzenegger. As Reuters reports, the Governor recently told a class of fourth graders that when he was a kid in the years after World War II, he lived in a house with no running water, which forced his family to be extremely frugal



about their water use. Thus, these days he hates it when his own kids take extra-long showers. He hates it so much that he is prone to timing them. If they take too long, he opens the door and shuts off the hot water. The gov didn't say if he uses the same tack with First Lady Maria Shriver.

In case you missed it

Three years after launching its historic universal health care program, MASSACHUSETTS — for better and worse — has become the model for a similar federal program.

In case you missed it, the article can be found on our Web site at

http://www.statenet.com/capitol_journal/09-21-2009/html

IT AIN'T ME BABE: When the public learned last month of the tawdry sex scandal that quickly forced CALIFORNIA Assemblyman Mike Duvall from office, they were angry. Hundreds of people were so mad, in fact, that they took the time to sit down and send Duvall an e-mail telling him just what a louse he is. Many told him he was a “scumbag.” Others called him an “embarrassment.” Still others said he was a “disgrace to America.” Many said they wished his wife would leave him and his business would go broke. But, as Sacramento CBS affiliate *CBS 13* reports, most of those e-mails went not to the former Golden State lawmaker, but to a UTAH businessman who unfortunately shares the same name. The “other” Mike Duvall said he was shocked by some of the things people said, noting “I just thought to myself, ‘Wow, this tells me why I’m not in politics.’”

POTENTIAL BOSS REVELS IN THE REAL BOSS: U.S. Attorney and NEW JERSEY gubernatorial candidate Chris Christie is a major Bruce Springsteen fan. So imagine the thrill that Christie experienced recently when he found himself sitting on a plane with his musical idol. As the *New York Times* reports, Christie, who claims to have been to 120 of the Boss’s concerts, immediately called a friend to share his good fortune, gushing that “he’s sitting right behind me.” He also worked up the nerve to introduce himself to the Jersey-born Springsteen, admitting that he hoped the singer would offer to let him sit down with him for the flight. Alas, the Boss was polite but no such offer materialized. It probably didn’t help that Christie was appointed to his current position by former President George W. Bush. Springsteen publicly endorsed Bush’s opponent, John Kerry, in the 2004 election.

BUT WOULD YOU TRUST HIM TO DRINK WITH YOUR PUPPY? Have you ever wondered what PENNSYLVANIA Gov. Ed Rendell has in common with George Clooney, Lebron James and Hillary Clinton? Neither have we, but thankfully we don’t have to think about it for too long. That is because *Esquire* magazine recently placed all of them on their list of the “World’s 75 Best People.” And what did the gov do to earn such an exalted position? As the magazine notes, the folks on the list had to meet only two criteria: “Would we like to have a drink with this person?” and “Would we trust this person with our puppy?” Rendell took the “honor” in stride, noting through a spokesperson that he “always thought *Esquire* magazine had terrific judgment.”

— By RICH EHISEN

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