

Preventing pretexting



October 9, 2006

Budget & taxes Political gusher in CA	5
Politics & leadership States take aim at lame ducks	7
Governors Govs on the run	9
Bird's eye view	3
Hot issues	12
Once around the statehouse lightly	15

● The next issue of
 ● Capitol Journal will be
 ● available on October 16th.
 ●

Top Story

For both lawmakers and privacy advocates, the ongoing HP pretexting scandal has raised significant questions over just how much of our personal information can and should be legally protected, and by whom.

SNCJ Spotlight

New pretexting laws only part of bigger privacy picture

Until the recent corporate spying scandal at computer giant Hewlett-Packard, many Americans had probably never even heard of the highly shady practice known as pretexting — the act of pretending to be someone else in order to get pieces of that person's confidential information. But for both lawmakers and privacy

advocates, the ongoing HP debacle has also raised significant questions over just how much of our personal information can and should be legally protected, and by whom.

While pretexting may not have been a household word until HP's ill advised efforts to track down suspected information leaks coming from their own Board of Directors began making headlines nationwide, both state and federal lawmakers have for years been taking steps to make it illegal. According to the National Conference of State Legislatures, at least 16 states passed pretexting bills in 2006 (See *Bird's eye view* on page 3). Virtually all of this legislation was introduced long before the HP episode, brought on by the sudden proliferation of Internet-based companies offering to obtain and sell personal phone records without the knowledge of the phone owner.

Accordingly, most of these new laws specifically bar the acquisition of someone's personal telephone records through fraudulent means. The majority also make it illegal to sell someone's personal telephone records without the owner's written consent, regardless of how they are acquired. A new ILLINOIS statute also goes beyond protecting phone records to include other personal data such as dating service information and a post office box location.

To date, all of the legislatively-approved measures have been signed into law, with gubernatorial signatures coming on NEW YORK SB 1673 and CALIFORNIA SB 202 in just the last few weeks. Similar bills failed, however, in HAWAII, KENTUCKY and the U.S. Congress. Others are still pending in NEW JERSEY and will likely be addressed next session.

The plethora of state laws enacted this year is the most substantial effort to directly criminalize pretexting since the 1999 federal Gramm Leach Bliley Act (GLBA), which makes it illegal to use such deception to obtain private financial records. That law was also a direct response to a particular situation — the growing use of pretexting to steal financial data in order to commit identity theft.

But privacy advocates are quick to point out that while this is a step in

The week in session

States in Regular Session:

DC, NJ

States in Informal Session: MA

States in Skeleton Session: OH

States in Special Session:

PA "a"

States in Recess: MI, NY, PA, US

States in Special Session in Recess:

DE "a", PA "a"

States Prefiling or Drafting for 2007

Session: FL, KY, MT, ND, NV, VA

States Adjourned in 2006: AK, AL,

AZ, CA, CT, CO, DE, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MN, MO, MS, NC, NE, NH, NM, OK, RI, SC, SD, TN, UT, VA, VT, WA, WI, WV, WY

States in Special Session Adjourned

in 2006: AK "b", AK "c", AR "a", AZ "a", CA "a", CA "b", CO "a", IA "a", ID "a", KY "a", LA "a", MD "a", MS "a", OK "a", OK "b", OR "a", OK "b", TN "a", TX "c", UT "a", UT "b", VA "a", WV "a", WI "b", WI "c"

Letters indicate special/extraordinary sessions
Source: State Net, 10/05/06

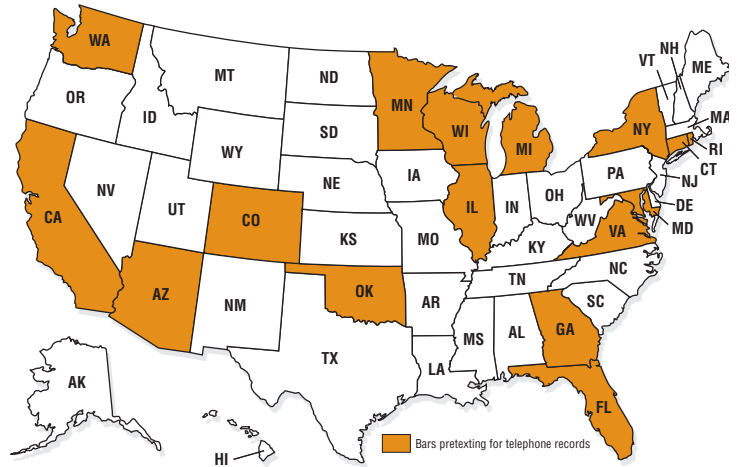
the right direction, these new laws still address only a small part of the overall privacy issue. And according to attorney Mark Rasch, a former head of the U.S. Justice Department's computer crime unit who now serves as chief security counsel for Solutionary, Inc., a computer security company based in Omaha, NEBRASKA, they also pose as many questions as answers.

"These laws only criminalize pretexting as it applies to getting phone records," says Rasch. "Since that is the problem de jour, that is the kind of legislation we are passing. But someone can pretext a lot of other information that your phone company, your utility company, your credit card company and even your doctor is going to have about you."

"That is the problem we have with how we deal with privacy in America," Rasch adds. "We don't have any kind of blanket protection. What we do is to take an individual area of information and we give it a particular kind of legal protection only when we perceive there to be a problem."

Rasch also questions the efficacy of the new state laws because they deal only with records of what numbers are called, not the content of those phone conversations. He notes that in 1999 the U.S. Supreme Court (*Smith v. MARYLAND*) "basically said that the contents of a phone call are protected, but the fact that you made the call is not. So all of these laws say you can't pretext to get private information, but the Supreme Court has already said this is not private information."

Bird's eye view



Source: National Conference of State Legislatures, State Net

Preventing pretexting

Most of us have seen detective movies or television shows where the hero pretends to be someone else in order to get information about the bad guy he or she is chasing. In Hollywood, that device is simply good sleuthing. But in the real



world, presenting yourself as someone else in order to get that person's confidential information is a highly shady practice known as "pretexting" (See *SNCJ Spotlight* in this issue). Federal law already criminalizes pretexting in order to get a person's private financial information, but after a recent spate of Internet-based companies began selling personal telephone records online, at least 16 states enacted laws this year to also bar the use of pretexting to obtain and sell that information. The accompanying map shows the states that enacted pretexting laws in 2006.



He says that pretexting phone records is also a staple of both private detectives and law enforcement, which has traditionally been able to use the practice at will. “Almost every jurisdiction in the country has come to the conclusion that pretexting is

legal for law enforcement. If it is such aberrant behavior, why then would we want those charged with enforcing the law to be doing it?” Rasch says.

CALIFORNIA state Sen. Joe Simitian (D), who authored SB 202, says he understands that the privacy issue goes well beyond just protecting phone records. But Simitian says many state lawmakers are only now becoming as aware and informed about privacy issues as they need to be to adequately address those problems.

Simitian, who has also authored several other privacy measures over the years in both the Assembly and the Senate, admits that he himself was not very well-versed in the topic until he was able to immerse himself in it over a long period of time. Given that, he believes he and other lawmakers are left to address the key parts of the problem as they arise.

“Our response to the phone records issue was to what we saw as the very blatant situation of them being marketed on the Internet. I agree that there is certainly a larger set of issues associated with pretexting, but whether or not it makes sense to tackle some of these issues more generically right now is an open question,” Simitian says.

Although Congress this year also considered legislation similar to the state measures passed in 2006, no action was taken. That is just fine

with Simitian and Rasch, both of whom contend that any resolutions on pretexting should come first from the state level.

“In theory yes, in practice, no,” Simitian says of potential federal legislation. “This Congress does not have a particularly good track record on privacy issues. Congressional proposals are also usually far weaker than what we develop on the state level.”

Rasch agrees that federal laws often end up weaker than state statutes. He also argues that there is enough confusion surrounding privacy issues to make any potential regulation

If it is such aberrant behavior, why then would we want those charged with enforcing the law to be doing it?

This Congress does not have a particularly good track record on privacy issues. Congressional proposals are also usually far weaker than what we develop on the state level.



murky at best. “Think about it. What you are really doing is trying to regulate an industry, but in this case it’s not entirely clear who the regulated industry is. Is it just private investigators, is it lawyers, or is it just people who like to lie on the phone?” Rasch says.

“We should start out with the basic question of what is private information and who owns it? Then we could really have some public hearings and debate on this,” he adds. “But ultimately, you need to allow the states to experiment for a while before we have a national law.”

Simitian says that regardless of where pretexting laws go from here, he hopes that the general public does not just label what happened at HP as another case of corporate malfeasance that is not connected to their daily lives. He believes it is just the opposite.

“It would be unfortunate if this coming to national light over a business scandal obscures the fact that this is not a business issue — this is a major consumer privacy issue,” he says.

— *By RICH EHISEN*

It would be unfortunate if this coming to national light over a business scandal obscures the fact that this is not a business issue — this is a major consumer privacy issue.

Budget & Taxes

POLITICAL GUSHER IN CA: CALIFORNIA oil companies have poured a whopping \$45 million into a campaign to defeat an initiative scheduled for the state’s November ballot. But if the companies succeed, they’ll have saved themselves far more.

The measure they’re battling is Proposition 87, which would impose a tax of up to 6 percent on oil extracted from CALIFORNIA land to fund alternative energy research and use. The proposition could cost the oil producers \$485 million a year.

So far, the oil companies’ pricey effort appears to be working. According to recent polling, support for Proposition 87 has waned in recent weeks (from 52 percent in July to 44 percent last month).

But, despite the deep pockets of the “No on 87” campaign, the fate of

the initiative is not a foregone conclusion. That's because Prop 87 is being backed by Stephen L. Bing, a wealthy Hollywood movie producer, who is one of the biggest contributors to Democratic and environmentalist causes in the country. Bing has given \$40 million to the "Yes on 87" campaign. And he may not be opposed to giving more, if the comments of Yes on 87 spokesman Yusef Robb are any indication. "The bottom line is that if Steve Bing were looking to get rich, he'd be buying oil stocks," said Robb. "Instead, he is putting his money into clean-air technology and Proposition 87."

The only thing that does seem certain, consequently, is that Proposition 87 will set a new spending record for a single initiative campaign. (LOS ANGELES TIMES, SACRAMENTO BEE)

NEW YORK SECURES HOSPITAL BAILOUT: Federal officials have agreed to pay NEW YORK \$1.5 billion over five years to stabilize the state's hospital industry while the state works on improving the industry's long-term financial health. Officials said there were no similar deals negotiated with other states — nor were there likely to be — because NEW YORK's situation was uniquely bad. But the money isn't necessarily a lock for the Empire State either. It must meet certain conditions each year, including increasing the amount of money it recovers from Medicaid fraud prosecutions to \$215 million in the second year and to \$644 million in the fifth year. And no state had ever even broken the \$100 million mark in Medicaid fraud collections until last year. (NEW YORK TIMES)

BUDGETS IN BRIEF: The U.S. Congress broke for its fall recess on Sept. 29th without extending a tax break that saved residents of eight states big money on their federal tax returns each year. The break allowed taxpayers in **ALASKA, FLORIDA, NEVADA, SOUTH DAKOTA, TENNESSEE, TEXAS, WASHINGTON** and **WYOMING** — who don't pay state income taxes — to deduct what they pay in state and local sales taxes from their federal tax bill. There is a chance Congress could still act when it returns after the November election, but it would have to act promptly in order to give the IRS time to inform taxpayers they can still claim the deduction (OLYMPIAN). • **MISSISSIPPI** Gov. Haley Barbour (R) called lawmakers back into special session last week to make a another attempt at passing his proposed tax cut for modular housing to facilitate Katrina rebuilding. The Legislature failed to approve the plan in a special session held in late August (SUN HERALD [BILOXI]). • **FLORIDA's** Democratic nominee for governor, U.S. Rep. Jim Davis, is promising to cut property taxes by \$1 billion if he's elected (MIAMI HERALD). • **NEW**



YORK tax assessors' offices have been flooded with complaints recently from widows and divorcees residing in the Empire State who have been unable to cash the property tax relief checks they've received through the STAR, or school tax reform, program. It appears that when making out the checks, the state relied on deed records dating back in some cases to the 1950s, 60s and 70s, when deeds often included only the male property owner's name (ASSOCIATED PRESS, TIMES UNION [ALBANY]).

— *Compiled by KOREY CLARK*

Politics & leadership

STATES TAKE AIM AT LAME DUCKS: In the era of term limits, lame duck lawmakers are not unusual; in fact, 268 state legislators became term-limited “ducks” this session. But this year, a few states appear to have declared it duck-hunting season.

In March, a bill was introduced in NEW JERSEY that would prohibit the Legislature from taking up issues like state borrowing or tax increases during its lame-duck session, held after Election Day in odd-numbered years. Assemblyman Michael J. Doherty (R), one of the measure's sponsors, said it was designed to “prevent shenanigans from happening right before people are going out the door.”

Meanwhile, legislative leaders in UTAH recently barred lame duck lawmakers from attending out-of-state conferences, maintaining that the knowledge they gained would be of no use to the state. As an assistant to House Speaker Greg Curtis (R) put it, “Why are we sending them all over the country and spending money when they're not returning?”

But the underlying reason for the duck hostility in NEW JERSEY and UTAH may lie in another state: PENNSYLVANIA. There, because of retirements and primary election losses associated with last year's pay raise scandal rather than term limits, the post-election session — known as the “sine die” session — will include more lame ducks than any in decades.

The abnormally high number of departing legislators (49 of the state's 253 total) — which could even grow if the state's voters give more incumbents the boot in November — and the fact that the General Assembly plans to consider a tax increase to fund transportation projects after Election Day this year have fueled efforts to limit the sine die session, or do away with it altogether.

That is one of the primary aims of a bipartisan group of



PENNSYLVANIA House members that calls itself the Jefferson Reform Initiative. “There is a widespread recognition that we need to do something about the sine die session,” said Rep. Curt Schwroeder (R), one of the group’s founding members.

The most common question I get is, ‘What does sine die mean?’ I always tell people it’s Latin for ‘Screw the taxpayers.’

Some lame duck lawmakers in the Keystone State, however, take offense at the suggestion they won’t do their duty. “Lawmakers are elected to do a job, and they’re going to do that job until they leave office,” said Rep. Mark McNaughton (R), who announced his retirement this year.

But the words of Lowman Henry, president and chief executive officer of the Lincoln Institute of Public Opinion Research Inc., a conservative think tank based in Harrisburg, Pa., may be more likely to resonate: “The most common question I get is, ‘What does sine die mean?’ I always tell people it’s Latin for ‘Screw the taxpayers.’” (STATELINE.ORG)

527s TARGET STATES: In 2004, it was the presidential race that drew the attention of the tax-exempt political action groups known as 527s — organizations like the Swift Boat Veterans and MoveOn.org. But this year, despite an election season in which control of the U.S. Congress is at stake, 527s are focusing on the states. According to a report by the nonpartisan Center for Responsive Politics, during the first 18 months of the 2006 election cycle, 527s raised \$105 million for state races, an increase of 41 percent over the same period of the 2004 election cycle. Actual 527 spending on state races increased by 36 percent over 2004 levels, to \$85 million, the report stated. In contrast, 527 fundraising for federal campaigns declined by 55 percent (from \$211 million to \$96 million) during the same time frame, while spending dropped by 40 percent. The states that have seen the greatest amount of 527 activity are ALABAMA, COLORADO, NEW JERSEY, NEW YORK, NORTH CAROLINA, OKLAHOMA and VIRGINIA. The Center attributes the shift from national races to state ones in part to the fact that at the state level, 527s are not restricted from campaigning expressly for or against individual candidates, allowing them to get greater results out of their investment. (STATELINE.ORG, CAPITALEYE.ORG)

AT THE POLLS: Nine-term SOUTH CAROLINA state Rep. Lewis Vaughn (R) defeated accountant Michael Meilinger in the Republican



Rick Perry is doing even worse, garnering only 38 percent approval in a recent poll by Blum & Weprin Associates Inc for the *Dallas Morning News*. Perry’s dismal mark is buffered, however, by the fact that none of the three challengers he is facing has even half that much support.

On the flip side, CALIFORNIA Gov. Arnold Schwarzenegger, RHODE ISLAND Gov. Don Cariceri and GEORGIA Gov. Sonny Perdue are doing much better, with each carrying a double-digit lead going into the last four weeks of the campaign. According to a new poll conducted by the Survey and Policy Research Institute at San Jose State University, Schwarzenegger leads Democratic state Treasurer Phil Angelides by 13 points, while a Mason-Dixon Polling and Research survey commissioned by the Atlanta Journal-Constitution revealed that Perdue has a 19-point edge over Democratic challenger, Lt. Gov. Mark Taylor. Another Mason-Dixon survey showed Cariceri with a 16-point bulge over Democratic challenger, Lt. Gov. Charles J. Fogarty.

The polls are similarly kind to Democratic incumbents like KANSAS Gov. Kathleen Sebelius and TENNESSEE Gov. Phil Bredesen. A Rasmussen Reports survey shows Sebelius with a 48 percent to 39 percent lead over Republican state Sen. Jim Barnett, while a Mason-Dixon poll shows Bredesen with a seemingly overwhelming lead of 63 percent to 22 percent over Republican challenger Jim Bryson. According to a recent Cronkite-Eight poll, ARIZONA Gov. Janet Napolitano enjoys the largest lead of any governor — a 36 point cushion over Republican Les Munsil. (WICHITA EAGLE, ARKANSAS NEWS BUREAU [LITTLE ROCK], ATLANTA JOURNAL-CONSITUTION, PROVIDENCE JOURNAL, SAN JOSE MERCURY NEWS, MEMPHIS APPEAL, DALLAS MORNING NEWS, ARIZONA REPUBLIC [PHOENIX])

ROMNEY CONCEDES ON GAY MARRIAGE: MASSACHUSETTS Gov. Mitt Romney (R) was forced to concede defeat last week in his efforts to block gay RHODE ISLAND couples from coming to the Bay State to get married. Romney had previously invoked a 1913 state law barring out-of-state couples from getting married in MASSACHUSETTS if that union would be illegal in their home state — a law originally intended to block inter-racial marriages — to successfully prevent gay couples from NEW YORK, VERMONT, CONNECTICUT, MAINE and NEW HAMPSHIRE from obtaining MASSACHUSETTS marriage licenses. Those states have statutes barring same-sex marriage. But after what he determined “an

Upcoming stories

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

- **Funding transportation**
- **Government retiree healthcare**
- **Animal rescues in disasters**

exhaustive search” of the RHODE ISLAND constitution and other state laws, Suffolk Superior Court Judge Thomas E. Connolly ruled that no law specifically prohibiting gay marriage exists for their neighbor to the south. Romney urged MASSACHUSETTS Attorney General Thomas Reilly to appeal the decision, but Reilly declined. Romney reiterated his belief that his state’s original Supreme Judicial Court decision that legalized gay marriage was a “monumental error,” but also acknowledged that the latest court ruling left him with no further options, saying “I have to follow the law.

**I have to follow the law.
This is a nation of laws,
even if I don’t like them**

This is a nation of laws, even if I don’t like them.” He did vow to continue lobbying both Congress and the MASSACHUSETTS Legislature to pass constitutional amendments defining marriage as being only between one man and one woman. Such an amendment in Congress would then have to be ratified by three-fourths of the states. (PROVIDENCE JOURNAL, BOSTON GLOBE)

SCHWARZENEGGER RUNNING ON HIS OWN NOW: The bipartisan lovefest between CALIFORNIA Gov. Arnold Schwarzenegger (R) and state Democratic leaders may be coming to an end. The Governor and Dems have joined forces on numerous bills of late, often sharing the stage in dramatic, joyful signing ceremonies that made many observers wonder just how committed Dems are to beating back Schwarzenegger’s re-election bid next month. But Democratic leaders now say “no more,” announcing last week that they have abandoned plans to campaign up and down the Golden State with Schwarzenegger to prop up a massive package of public works bonds also on the November ballot. So, why the change of heart? According to Assembly Speaker Fabian Nunez (D), it’s simple — “Its October and we need to consolidate the Democratic base, and the Republicans need to consolidate their base.” While that of course makes political sense — Nunez is, after all, a co-chair for the campaign of Schwarzenegger’s challenger, Phil Angelides — it has sparked concern that the split could jeopardize the record \$37.3 billion bond package. That possibility doesn’t appear to bother Nunez. “Are we going to fund-raise for the bonds with the governor? The answer is yes. Are we going to campaign for the governor’s re-election? The answer is no,” he said. (SAN DIEGO UNION TRIBUNE)

GOVERNORS IN BRIEF: ILLINOIS Gov. Rod Blagojevich (D) orders state officials to develop a program to cut greenhouse gas emissions



by around 6 percent by 2010. But unlike restrictions enacted recently in **CALIFORNIA**, the program would not impose restrictions on private vehicles or coal-fired power plants, the largest sources of heat-trapping carbon dioxide (**CHICAGO TRIBUNE**). • **WASHINGTON** Gov. Christine Gregoire (D) says she has instructed her staff to investigate whether public financing of judicial races would be feasible in the Evergreen State. Gregoire was reacting to her state’s recent Supreme Court races in which candidates and their supporters spent a record \$2.1 million (**OLYMPIAN**).

— *Compiled by RICH EHISEN*

Hot issues

BUSINESS: The U.S. Supreme Court refuses to hear a challenge to a **NEW JERSEY** court’s decision that said a Garden State law barring large trucks from traveling on local roads was unconstitutional (**RECORD [BERGEN]**). • **NEW YORK** Gov. George Pataki (R) signs legislation that restricts the use of eminent domain to build certain high-voltage electricity transmission lines. The law specifically prohibits private transmission companies from using eminent domain to condemn the land necessary to build those lines (**NEW YORK TIMES**). • **CALIFORNIA** Gov. Arnold Schwarzenegger (R) signs AB 2987, which makes the Golden State the latest to allow phone companies to obtain a single statewide permit to provide pay video service. **INDIANA, NEW JERSEY** and **TEXAS** are among the others that have done so (**LOS ANGELES TIMES**). • Still in **CALIFORNIA**, Gov. Schwarzenegger vetoes AB 1147, which would have legalized the growing of industrial hemp for in-state commerce. The governor said the measure would have conflicted with federal law, which bans hemp (**SACRAMENTO BEE**).

CRIME & PUNISHMENT: In **CALIFORNIA**, Gov. Arnold Schwarzenegger (R) signs SB 202, which makes it illegal to buy or sell phone records without the owner’s consent. The measure also makes it illegal to impersonate someone in order to obtain their phone records (**LOS ANGELES TIMES**). • Still in **CALIFORNIA**, Schwarzenegger vetoes AB 1677, which would have allowed non-profit groups to distribute condoms in Golden State prisons (**LOS ANGELES TIMES**). • Schwarzenegger addresses another prison issue by vetoing SB 1521, which would have made it easier for reporters to

interview **CALIFORNIA** prison inmates. Schwarzenegger said the bill would allow the media to glamorize criminals (SAN DIEGO UNION TRIBUNE).

- Staying with the **CALIFORNIA** prison theme, Schwarzenegger also signs legislation that would allow non-violent ex-convicts to shorten their parole by completing an intensive drug rehabilitation program. Qualified ex-cons must have also completed six months of drug treatment while under lock and key. No sex offenders of any kind will be eligible for the program, which begins Jan 1, 2007 (LOS ANGELES TIMES).
- Finally, **CALIFORNIA** Gov. Arnold Schwarzenegger (R) signs an emergency proclamation declaring the state's prison system to be perilously overcrowded. Prison officials also announced they will soon begin sending as many as 200 prisoners a month to private prisons in **OKLAHOMA, TENNESSEE** and **ARIZONA** (LOS ANGELES TIMES).

In the hopper

State Net's database tracks tens of thousands of bills in all 50 states at any given time. Here's a snapshot of what's in the legislative works:

Number of 2006 prefiles last week:
57

Number of 2007 prefiles last week:
34

Number of 2006 Intros last week:
436

Number of bills enacted/adopted last week: 592

Number of 2006 prefiles to date:
21,046

Number of 2007 prefiles to date:
1,448

Number of 2006 Intros to date:
99,841

Number of enacted/adopted overall in 2006: 31,244

— Compiled By JAMES ROSS
(Measures current as of 10/04/06)
Source: State Net

EDUCATION: A **CALIFORNIA** appeals court rejects a lawsuit that sought to block implementation of the state's high school exit exam. The court did not accept the argument that the state did not do enough to provide alternatives to the exam (SAN JOSE MERCURY NEWS). • Still in **CALIFORNIA**, Gov. Schwarzenegger signs SB 1454, a measure that raises the penalty for extreme college hazing from a misdemeanor to a felony (SAN JOSE MERCURY NEWS). • Also in **CALIFORNIA**, Schwarzenegger vetoes SB 160, which would have allowed illegal immigrants who graduated from state high schools to apply for financial aid to attend college (SACRAMENTO BEE). • Again in **CALIFORNIA**, Schwarzenegger vetoes SB 1769, which would have required state education officials to develop special textbooks and other materials for students who are non-native speakers. The governor said the program would isolate such students from their classmates (SACRAMENTO BEE). • Finally, **CALIFORNIA** Gov. Arnold Schwarzenegger (R) signs SB 1655, which allows principals at the state's lowest-performing schools

to reject the voluntary transfer of any teacher. The measure is designed to prevent poor schools from being forced to accept subpar teachers who are forced out of their current school (SACRAMENTO BEE).

ENVIRONMENT: Wildlife officials in **PENNSYLVANIA** legalize the use of bait for deer hunting on private land. The new law applies only to five counties and only for the state's late hunting season, which begins after Dec. 26 (PHILADELPHIA INQUIRER). • **CALIFORNIA** Gov. Arnold Schwarzenegger (R) signs SB 1379, which sets up the nation's first statewide biomonitoring program to measure exposure to toxic chemicals such as lead, mercury and pesticides. The test will be voluntary (SAN JOSE MERCURY NEWS).

HEALTH & SCIENCE: **CALIFORNIA** Gov. Arnold Schwarzenegger (R) signs AB 2911, which requires drug companies to offer significant discounts on prescription drugs to about six million uninsured Golden State residents. Companies will have three years to develop the program or face sanctions from the state (LOS ANGELES TIMES). • **MICHIGAN** Gov. Jennifer Granholm (D) signs legislation that will allow health insurers and health maintenance organizations to offer rebates and other financial incentives to small businesses that want to reward their employees for healthy behavior. The measure will also allow insurance companies to give similar rebates to people who purchase individual policies (DETROIT FREE PRESS). • Back in **CALIFORNIA**, Gov. Arnold Schwarzenegger (R) signs SB 438, which will allow oral surgeons to perform plastic surgery such as face lifts and lip augmentation (LOS ANGELES TIMES). • **CALIFORNIA**, Gov. Arnold Schwarzenegger (R) vetoes AB 2360, which would have barred the purchase of ultrasound machines by anyone other than a licensed physician or medical facility (SACRAMENTO BEE).

HOMELAND SECURITY: **CALIFORNIA** Gov. Arnold Schwarzenegger (R) vetoes SB 1162, a measure that would have allowed illegal immigrants to obtain a driver's license. It was the eighth straight year that a **CALIFORNIA** governor has vetoed such a proposal, and the third straight for Schwarzenegger (SACRAMENTO BEE).

SOCIAL POLICY: A **MASSACHUSETTS** court rules that it is legal for same-sex couples from **RHODE ISLAND** to get married in the Bay State. The court said that since **RHODE ISLAND** law does not specifically ban gay marriage, **MASSACHUSETTS** cannot enforce a 1913 law that disallows marriages that would be illegal in a couple's home state. The



Ocean State attorney general, however, said the ruling does not mean **RHODE ISLAND** will necessarily recognize gay marriages, noting that only the legislature can determine the ultimate legality of such unions (**PROVIDENCE JOURNAL**). • **CALIFORNIA** Gov. Arnold Schwarzenegger vetoes AB 1873, which would have given new mothers who do not wish to keep their baby up to 30 days to surrender the child to designated sites without fear of prosecution. Current Golden State law allows only 72 hours for that decision to be made (**SACRAMENTO BEE**).

In case you missed it

States got a whopping — and unexpected — boost this fiscal year, with coffers up nearly 25 percent from 2005. Wary of past spending sprees that have resulted in massive budget deficits down the road, many states this time around have pumped the extra cash into their rainy day funds. They may soon be glad they did.

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

http://statenet.com/capitol_journal/08-21-2006.

POTPOURRI: The **NEBRASKA** Supreme Court rules that someone injured on public land can sue the government for their injuries. The state had claimed that a Cornhusker State law that shields private landowners who open up their property to a public event from being sued if someone gets hurt there also applied to events held on public land (**LINCOLN JOURNAL STAR**).

— *Compiled by RICH EHISEN*

Once Around the Statehouse Lightly

THE MYTH OF GIL: For the eighth consecutive year, an effort to give illegal immigrants a **CALIFORNIA** driver's license has failed. Like a modern Sisyphus, Democratic state Sen. Gil Cedillo has been trying to roll this rock over the hill, only to be frustrated time and again by fellow legislators and governors — in this case, Republican Arnold Schwarzenegger, who last week vetoed the bill. Cedillo's only success came in 2003, and it was ephemeral. At the time, a driver's license bill passed the Legislature and was signed into law by then-Gov. Gray Davis, who was courting his Democratic base in an effort to beat back a recall. Davis' action, however, became a key issue in the successful effort to boot him from office. Cedillo subsequently reached an

●
●
●
●
●

agreement with the new governor, His Arnoldness, to repeal the bill and try again at a later date — when the timing is right. Timing apparently still isn't right, and Cedillo told *The Sacramento Bee* that he'll be back with another boulder next year.

MONEY WELL SPENT: It costs the taxpayers of OHIO about \$1.1 million a year to staff and maintain a press office for the State Supreme Court. And, what do folks get for those dollars — besides 11 fulltime employees and one intern? Not much, reports the *Akron Beacon Journal*. The office has a strict — albeit, unwritten — policy of speaking only “on background.” No attribution and, therefore, no responsibility for the information. Nobody — *nobody* — from that office is allowed to speak on the record, even though seven staffers have the words “public information” in their titles. Chris Davey directs the office and says he is the official Court spokesman. The policy, Davey adds, was in force when he took the job and applies to all facets of Court activity, including queries about routine procedure. How about location of the bathroom?

MORE MONEY WELL SPENT: Taxpayers in NEW JERSEY have spent some \$29 million over the past 10 years to maintain the beaches in Sea Bright, a resort perched on the shore where Jersey bulges into the Atlantic south of Perth Amboy. But according to the *Philadelphia Inquirer*, precious few taxpayers have access to the sand because the property itself is tied up by a small group of private beach clubs, where a membership can cost as much as \$12,000 a year. The clubs have been in battle with the Garden State for years over beach access, and although the state has won several lawsuits, the clubs have been slow to adapt. Too slow for the state attorney general who recently filed yet another court action designed to force compliance. Consider the cost of this new lawsuit as the state's entry fee.

MOVE IT, PEEWEE: People are not happy in MAINE. Lobster people, that is. And they want the government to do something about it. The situation: invasion by a charlatan known as the “langostino lobster.” In Maine, lobsters are worth \$290 million to the state's economy, reports the *Portland Press Herald*. So when a puny imposter — the langostino — comes along, calls itself a lobster and subsequently swipes some \$44 million away from the state's signature industry, locals rally to the ramparts. Some marine experts say the pretender indeed is a lobster, but Mainers grump that the langostino is nothing more than a prawn and shouldn't bear the title of its bigger and more robust cousin. At stake: the

ability of restaurants to label some dishes as “lobster” when they contain meat of the (cheaper) langostino. U.S. Sen. Olympia Stowe has taken the cause to the U.S. Food and Drug Administration, seeking withdrawal of its approval to call the langostino a lobster. Of such disputes are secessions made.

— *By A.G. Block*

Editor: Rich Ehsen — capj@statenet.com

Associate Editor: Korey Clark — capj@statenet.com

Contributing Editor: A.G. Block — capj@statenet.com

Editorial Advisor: Lou Cannon

Correspondents: Richard Cox (CA), Steve Karas (CA), Bruce McKeeman (CA), Jeff Kinnison (CA), Linda Mendenhall (IL), Lauren King (MA) and Ben Livingood (PA)

Graphic Design: Suzanne Raney

©2006 State Net ISSN: 1521-8449



You've just read **State Net Capitol Journal**, the insider's source for political and legislative news in the 50 states.

State Net Capitol Journal is published 40 times annually and delivered over the Web or e-mail.

For a FREE subscription, visit our Website at www.statenet.com and click on the "Register Now" icon. Or call us at 916.444.0840

A publication of State Net — *the leader in legislative and regulatory intelligence.*

Who relies on State Net?

- Five of the nation's ten largest companies
- Major information services including Lexis-Nexis and WestLaw
- Companies representing every major industry in the U.S.

State Net: the service you can trust when you need to be right.

Learn more about our issue-based reporting solutions today:
info@statenet.com n www.statenet.com • (800) 726-4566