



APPHOTO/RICH PEDRONCELLI

Standing proudly in front of the Bear Flag of the short-lived California Republic of 1846, Governor Arnold Schwarzenegger announces his budget on May 14. Schwarzenegger is remodeling American federalism 161 years later.

# The Governor and the Bear Flag Revolution

BY ANDREW MCINTOSH

**F**RUSTRATED BY YEARS OF FEDERAL government inaction on key issues of concern to his state's 37 million residents, California Governor Arnold Schwarzenegger has tackled some of the most important problems himself, sidestepping a Washington preoccupied with war and international affairs.

In doing so, the populist Schwarzenegger has transformed himself from the Hollywood millionaire and big-screen action hero – The Terminator – into a kinder, more ambitious, national political action figure – The Governor – by portraying himself as a leader of a nation-state that has become a global player in its own right.

Sporting his trademark silk ties, wide smile and sculpted Hollywood good looks, the politically savvy Schwarzenegger, now in his second term, has undertaken what University of Southern

California professor Jonathan Taplin has dubbed the “Bear Flag Revolution.” The Bear Flag image comes from the mighty grizzly that stands at the centre of the handsome white, red and brown California state flag, commemorating the short-lived California Republic that preceded California's annexation by the United States in 1850.

## Centralizers Out!

“Something important is happening in California,” Taplin argued in a recent paper. “A profound experiment in federalism, led by a Republican Governor and a Democratic legislature, is taking shape, and it is the first break with an American political culture that has been centralizing power in Washington since 1932.”

“What the Governor and many in our state have concluded is that the only way forward for the American republic is a radical form of devolution,” Taplin added.

While the idea of returning more power to U.S. states and cities has been around for years, Schwarzenegger is the fledgling movement's new national champion because he is “openly experimenting with the New Federalism.”

Experimenting perhaps, but it was another Hollywood actor turned Republican politician, the late president Ronald Reagan, who devoted part of his 1983 State of the Union address to a sweeping proposal to devolve vast federal powers back to the states and cities in the United States.

Two decades later, the Bush administration now appears taken aback by the growing consequences of Reagan's legacy, according to Dennis Herrera, the San Francisco City Attorney who wrote a commentary on New Federalism in *The San Francisco Chronicle*.

By shifting some powers away from the federal government or simply by doing nothing at all, Congress has paved the way for states like California, and some of its larger cities, to launch and achieve dra-

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matic policy and regulatory innovations on issues previously considered ill-suited for state initiative, Herrera argued.

### Action on Climate Change

Since taking power in 2003, Schwarzenegger and his administration, working with like-minded Democratic senators and assemblymen, have responded to the long list of growing concerns of progressive Californians and businesses about the lack of progress on major state, national and international issues.

The governor has attacked air pollution and global warming by passing state laws to curb automobile and carbon dioxide emission levels, working with and earning praise from British Prime Minister Tony Blair. He also took the unusual step of issuing a statement to praise Gordon Campbell, premier of British Columbia, a Canadian province, after his Liberal government also adopted aggressive policies to control climate change.

For Schwarzenegger, the years of neglect of air pollution and air quality standards were no longer acceptable to Californians and their families and action was required. Why?

"Pollution decreases our productivity and increases our health care costs," he told state legislators and taxpayers last year. "When one in six children in the Central Valley goes to school with an inhaler, it is time to consider clean air as part of our critical infrastructure. We have the technology to clean our air. So I say build it."

Yet Schwarzenegger's credentials as an environmental champion have been questioned by critics who say his long-term anti-global-warming efforts require little public sacrifice and belie his unfavourable short-term environmental record. He has supported building new dams; opposed a ballot initiative to increase oil extraction taxes to fund alternative energy research and development; sacked the board of a state agency that opposed developers' plans to build new homes near unsafe levees; and slashed state support for public transit while cutting spending on a high-speed rail project.

Undeniably, he has aggressively promoted alternative energy-saving programs like solar power, green building standards and hydrogen fuels, while backing stem cell research and raising billions of dollars to finance it and promote its benefits.

After initially refusing to do so, Schwarzenegger even decided to raise the state's minimum wage to well above the federal standard, saying it's time the millions of lowest paid workers in California share in the state's prosperity.

The Governor did all this while often clashing with the neoconservative agenda of the Bush administration in Washington and risking the wrath of many in the business community.

As a Republican Governor in a state where union-backed Democrats control majorities in both the state assembly and senate, Schwarzenegger has to walk a fine line during policy or regulatory debates. He has forged close working and personal relationships with top Democrats, including Assembly Speaker Fabian Nunez, a Democrat from the Los Angeles area. The pair grew so close, in fact, that Schwarzenegger has been criticized by members of his own Republican caucus for pandering to Nunez. Such criticism increased after the Governor hired as his new chief of staff Susan Kennedy, a longtime Democrat and former aide to Schwarzenegger's Democratic predecessor, Gray Davis.

### California's Foreign Policy

With the aggressive United States military posture of President George W. Bush leading to a rise in anti-Americanism around the world, the Governor distanced himself, his administration and California business from the Bush doctrine. The reason: if you hate America, it's easy to reject its entertainment, technology and software exports, too.

To that end, he has gone on trade missions to China, Israel, Japan, Mexico and recently to Canada, where his plan was to "focus on promoting California trade and tourism, discuss ways of reducing the effects of climate change while boosting economic growth and look at creative ways to finance infrastructure."

With much of the knowledge and entertainment industries based in Hollywood and Silicon Valley in California, it comes as no surprise that Schwarzenegger has toiled hard to repo-

sition California as a "prosperous, peaceful Golden state." California has become the world's eighth largest economy, a fair trading partner and a welcome port for all immigrants, with world class technology skills, and a state that can shape national standards.

"Although ... the auto, oil and banking industries have joined with the Bush administration to sue for relief from the California standards, to date none of the courts has struck down any of the state laws," Taplin said.

Perhaps Schwarzenegger's boldest and bravest effort so far was launched this year when he tackled the monumental health care mess in California, where 6.5 million low-income families and illegal immigrants have no health insurance at all.

Schwarzenegger promised a made-in-California solution that will "set the standard for the rest of the nation."

Why would he take on such a mammoth task? The Governor argued that federal inaction allowed the situation in his state to become financially and socially untenable. For example, medical bills are the leading cause of personal bankruptcies in the Golden State.

Citizens with health care insurance and the companies that employ them also pay a whopping \$14.7 billion worth of hidden taxes each year to cover and



California Governor Arnold Schwarzenegger delivers a speech in Beijing in November 2005, promoting heightened trade between China and California.

REUTERS/JASON LEE

care for those who are uninsured. One Los Angeles hospital that Schwarzenegger visited was stuck with \$60 million worth of unpaid consumer bills for visits handled by its emergency service.

### Following California's Lead

At least eight other state governors have embarked on efforts to restructure their

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Andreas Khol, former President of the Austrian legislature, now retired but still one of the most prominent political experts on Austrian federalism, and Franz Fiedler, former President of the Austrian court of audit.

Two experts were delegated by the conference of the state governors. The first is Gabriele Burgstaller, state governor of Salzburg and a member of the Social Democrats; the second is Herbert Sausgruber, state governor of Vorarlberg, from the People's Party. These two individuals are partly represented by other experts. Georg Lienbacher, head of the Constitutional Service of the Federal Chancellery, is Secretary General of the group. The group of experts has until the end of June to work out its proposals.

### "Executive Federalism" Ahead?

Presently, the expert group is focusing its energies on issues related to administrative courts in the *Länder*, the organization of the educational administration in Austria and concentrating the administration of social welfare in a one-stop-shop on the regional level. There is a chance that these proposals will find support from the federal government and the *Länder*. As a result, these projects might strengthen "executive federalism" in Austria. It can be expected that the opposition parties, the Greens, the Freedom Party and the BZÖ (Jörg Haider's party), will object to these projects. They may not be able to block them if the Social Democrats and the People's Party, which also dominate eight of nine *Länder* (with the exception of Carinthia, governed by Jörg Haider's party) reach consensus.

Other chances for a new distribution of powers in legislative areas are very slim. There are huge differences between the positions of the *Länder* and the proposals of the federation. On the whole, it


is unlikely that the *Länder* will enhance their legislative functions and gain more legislative autonomy. Perhaps the creation of co-operative legislation between the federation and the *Länder*, in the form of a so-called "third pillar", will work as a dry run regarding some matters such as those related to hospitals, social welfare and aspects of youth affairs. That could pave the way for further change.

### Past Attempts Failed

The chances for reform this time are much better than in the past. One previous attempt at reforming the federal system was the Structural Reform of the Competencies, which took place from 1989 to 1994. Faced with the possibility of Austria's accession to the European Union, the *Länder* demanded a fundamental redistribution of responsibilities within the federal system to compensate for their loss of powers and influence in various legislative realms. In the end, the *Länder* rejected the compromise formula.

The second project for structural reform of the Austrian federal system was the Austrian Constitutional Convention, held from June 2003 to January 2005.

The convention, spurred on by Austria's coming accession to EU membership, tried to draft reform proposals for the Austrian political system and the constitution. The convention finished its work in January 2005 without reaching an agreement.

Although both reform projects had similar goals, there is one important difference. In the late 1990s and the first years of the 21st century, the paradigms of the Austrian discussion about the federal system changed. Reform discussions no longer dealt with the strengthening of the powers of the *Länder*, but rather with the future of the federal system itself. 

## SCHWARZENEGGER [FROM PAGE 3]

own health care systems this year.

Colorado Governor Bill Ritter has pledged a program to provide universal access to health care by 2010. South Dakota Governor Mike Rounds unveiled a recommendation to raise the age for dependants covered by family health insurance plans to 30, whether or not they attend school. And New York Governor Elliot Spitzer proposed a four-year initiative to cover 500,000 uninsured low-income children and another 900,000 eligible adults through Medicaid.

Schwarzenegger plans to reduce the average cost of insurance by increasing the number of people insured in his state, and he has massive public support for this. He has also proposed charging new fees to doctors and hospitals. Although his proposals had not been drafted into a bill as of March 31, a January poll by the Public Policy Institute of California found that 71 per cent of Californians stand behind the Governor's efforts to fix the broken system.


"States and cities will become the important sources of leadership and the federal government will start shrinking," Taplin predicted. "The states are asserting their right to create a just society for their citizens."

Yet such policy innovation may be simply a cyclical phenomenon in American government.

"When the national government has been controlled by conservatives, it has been the states that have been the incubators of new responsibilities and programs for government," wrote Richard Nathan of the Rockefeller Institute in *The Albany Times Union* newspaper in January. "Often, these state innovations morph into national policies when the national mood shifts and is more responsive to federal activism."

However, there is a potential downside to the Schwarzenegger phenomena.

Earl Fry, Director of Brigham Young University's Washington Seminar Program in Provo, Utah, cautioned about sustainability.

"What happens when Arnold leaves office and the star power evaporates? How will the so-called Bear Flag Revolution be institutionalized when so much has been done on a personal basis and linked so closely to the well-known and charismatic Governor?" 

### 1920 Constitution Originated in a Bi-partisan Compromise

The Austrian Federal Constitution, drafted by jurist Hans Kelsen and others in 1920, created Austria as a highly centralized federation. Many of the amendments since then modified the distribution of competencies and transferred additional powers to the federal level.

The constitution was a compromise between the political intentions of the conservative Christian Social Party (the predecessor of today's People's Party, the ÖVP), which favoured a high degree of *Länder* autonomy, and the Social Democratic Party (SPÖ), which preferred a strong central power.