

CALIFORNIA LEGISLATURE  
1995-96 REGULAR SESSION

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# ASSEMBLY DAILY JOURNAL

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**Wednesday, January 4, 1995**

**SECOND SESSION DAY**

**THIRTY-FIRST CALENDAR DAY**

**AT SACRAMENTO, CALIFORNIA**



## PROCEEDINGS OF THE ASSEMBLY

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### IN ASSEMBLY

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Assembly Chamber, Sacramento  
Wednesday, January 4, 1995

The Assembly met at 9:05 a.m.

Hon. Willie L. Brown, Jr., Senior Member of the Assembly, presiding.

Chief Clerk E. Dotson Wilson at the Desk.

Assistant Clerk Stephen J. Greene, Jr. reading.

#### ROLL CALL

The roll was called.

#### PRAYER

Upon invitation of Senior Member of the Assembly Willie Brown, the following prayer was offered by Assembly Member Kevin Murray, of the 47th Assembly District:

*Almighty God, We thank You for another day to work for and with our fellow persons. We pray that Almighty God may be with us today to defend us, within us that He may sustain us, before us that He may lead us, behind us that He may protect us, above us that He may bless us and everything that we do.—AMEN.*

#### PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Senior Member of the Assembly Willie Brown, Assembly Member Mazzoni then led the Assembly in the pledge of allegiance to the Flag.

#### QUORUM CALL OF THE ASSEMBLY

At 9:06 a.m., Senior Member of the Assembly Willie Brown placed a quorum call upon the Assembly.

Senior Member of the Assembly Willie Brown then directed the Sergeant at Arms to close the doors, and to bring in the absent Members.

#### STATEMENT READ BY CLERK

Senior Member of the Assembly Willie Brown directed the Clerk to read the following statement by Chief Clerk E. Dotson Wilson to the Body, and upon request of Assembly Member Katz ordered the statement printed in the Journal.

#### STATEMENT OF E. DOTSON WILSON

Chief Clerk of the Assembly

*Who Presides over the Assembly on January 4, 1995?*

After considering the key provisions of the California Constitution, Government Code, Legislative Counsel opinions and *Mason's Manual of Legislative Procedure (1979)*, I have concluded that the

Chief Clerk is not required nor does he have the authority to preside after the first day of the organizational session.

If a Speaker is not elected on the first day of the organizational session the Senior Member present presides at subsequent sessions.

*Interpretation of Government Code Section 9023:*

Based on my interpretation of *Government Code Section 9023*, the Chief Clerk's role as presiding officer is limited to the day (December 5) and the hour (12 noon) as set forth in the Constitution.

"At the day and hour appointed for the assembling of any regular session of the Legislature," the Chief Clerk of the Assembly shall take the chair, call the members-elect to order, and call over the roll of counties in alphabetical order (*Government Code Section 9023*).

Pursuant to *Article IV, Sec. 3(a)*, the California Constitution provides that the house shall convene in regular session at **noon on the first Monday in December** of each even-numbered year and each house shall immediately organize.

There is no explicit Constitutional provision, Assembly rule or statute granting the Chief Clerk the authority to preside on any subsequent days following the first day of session if a Speaker is not elected.

*Framers of Section 9023 did not contemplate a stalemate:*

The language in Section 9023 (placed in the Government Code in 1943; previously in the Political Code) was not intended to apply to the Chief Clerk on subsequent session days.

This interpretation is consistent with the modern historical practice of the Assembly of having the Chief Clerk preside until the members-elect are sworn in and a Speaker elected on the first day.

Section 9023 does not contemplate, nor provide for a procedure when there is a tie vote for Speaker. Further, neither the *Government Code* nor *Mason's Manual* suggests or requires the Chief Clerk to preside when the House reconvenes.

Therefore, I conclude that the selection of a Speaker is a matter to be determined by the Members (elected by the voters) in the course of governing its internal affairs. In the absence of a rule adopted by a majority of those present and voting, the applicable provisions of *Mason's Manual* would dictate that the senior member present presides on January 4.

*Section 580.5 of Mason's Manual provides:*

"When no elected or appointed presiding officer is present at a meeting, the body should be called to order by the senior member present or other member, and a temporary presiding officer should be immediately elected. A presiding officer in such case may be elected by a majority vote."

#### CAUCUS ANNOUNCEMENTS

Senior Member of the Assembly Willie Brown announced that the Democratic Caucus would meet at this time in the Assembly Lounge, and that the Republican Caucus was presently meeting.

**RECESS**

By unanimous consent, at 9:15 a.m., Senior Member of the Assembly Willie L. Brown, Jr. declared the Assembly recessed.

**REASSEMBLED**

At 11:18 a.m., the Assembly reconvened.

Hon. Willie L. Brown, Jr., Senior Member of the Assembly, presiding.

**ANNOUNCEMENTS**

Senior Member of the Assembly Willie Brown called the attention of the Members of the Assembly to the laptop computers which had been installed on their desks during the Organizational Recess. He further announced that the Legislative Data Center would have staff available commencing tomorrow for essential training of the membership.

Members were advised to contact the Chief Clerk's office with any further questions.

**RECESS**

At 11:25 a.m., Senior Member of the Assembly Willie L. Brown, Jr. declared the Assembly recessed until 3 p.m. today.

**REASSEMBLED**

At 3:16 p.m., the Assembly reconvened.

Hon. Willie L. Brown, Jr., Senior Member of the Assembly, presiding.

**CAUCUS ANNOUNCEMENTS**

Senior Member of the Assembly Willie Brown announced that the Democratic Caucus would meet at this time in the Assembly Lounge.

**RECESS**

At 3:17 p.m., Senior Member of the Assembly Willie L. Brown, Jr. declared the Assembly recessed.

**REASSEMBLED**

At 5:17 p.m., the Assembly reconvened.

Hon. Willie L. Brown, Jr., Senior Member of the Assembly, presiding.

**QUORUM PRESENT**

At 5:18 p.m., a quorum of the Assembly was present.

**DESK HELD OPEN**

Without objection the Assembly Desk was held open for check-in purposes.

**ROLL CALL**

The following were placed upon the morning roll call—80:

Aguiar	Campbell	Horcher	Murray, Kevin
Alby	Cannella	House	Murray, Willard
Allen	Conroy	Isenberg	Napolitano
Alpert	Cortese	Johnson	Olberg
Archie-Hudson	Cunneen	Kaloogian	Poochigian
Baca	Davis	Katz	Pringle
Baldwin	Ducheny	Knight	Rainey
Bates	Escutia	Knowles	Richter
Battin	Figuroa	Knox	Rogan
Boland	Firestone	Kuehl	Setencich
Bordonaro	Friedman	Kuykendall	Sher
Bowen	Frusetta	Lee	Speier
Bowler	Gallegos	Machado	Sweeney
Brewer	Goldsmith	Martinez	Takasugi
Brown, Valerie	Granlund	Mazzoni	Thompson
Brown, Willie	Hannigan	McDonald	Tucker
Brulte	Harvey	McPherson	Vasconcellos
Burton	Hauser	Morrissey	Villaraigosa
Bustamante	Hawkins	Morrow	Weggeland
Caldera	Hoge	Mountjoy	Woods

Quorum present.

**FIRST READING OF ASSEMBLY BILLS**

The following bills were read the first time in the Assembly:

(NOTE: These bills were introduced in the Assembly during the 1995-96 Regular Session pursuant to the provisions of Joint Rule 54 (b).)

**ASSEMBLY BILL NO. 43—Burton.** An act to add Section 65852.8 to the Government Code, relating to land use.

**ASSEMBLY BILL NO. 44—Burton.** An act to add Section 638 to the Penal Code, relating to crimes.

**ASSEMBLY BILL NO. 45—Burton.** An act to add Division 2.7 (commencing with Section 2500) to the Welfare and Institutions Code, relating to orphan asylums.

**ASSEMBLY BILL NO. 46—Hauser.** An act to amend Sections 1354, 1363, and 1368 of, and to add Sections 798.13 and 1363.05 to, the Civil Code, relating to common interest developments.

**ASSEMBLY BILL NO. 47—Pringle. (Senator Lewis, coauthor).** An act to amend Section 53684 of the Government Code, relating to investments, and declaring the urgency thereof, to take effect immediately.

**ASSEMBLY BILL NO. 48—Willard Murray.** An act to amend Sections 11452, 11453.05, and 11477 of, and to add Sections 11452.1 and 11477.2 to, the Welfare and Institutions Code, relating to aid to families with dependent children, and making an appropriation therefor.

**ASSEMBLY BILL NO. 49—Hawkins.** An act to amend Section 48916 of the Education Code, relating to pupils.

**ASSEMBLY BILL NO. 50—Johnson and Pringle.** An act to repeal Section 6357 of the Labor Code, relating to employment, and declaring the urgency thereof, to take effect immediately.

**ASSEMBLY BILL NO. 51—Johnson.** An act to amend Section 13 of, and to add section 13.5 to, the Elections Code, relating to elections.

**ASSEMBLY BILL NO. 52—Johnson.** An act to add Chapter 6.6 (commencing with Section 6655) to Division 7 of Title 1 of the Government Code, relating to public entities.

**ASSEMBLY BILL NO. 53—Willard Murray.** An act to amend Sections 7515, 7570, 7581, 7582.1, 7583.31, 7583.37, 7588, 7596.6, and 7597.6 of the Business and Professions Code, and to amend Sections 171b, 171c, 171d, 626.9, 11106, and 12027 of the Penal Code, relating to security services.

**ASSEMBLY BILL NO. 54—Goldsmith.** An act to amend Section 998 of the Code of Civil Procedure, relating to actions.

**ASSEMBLY BILL NO. 55—Weggeland.** An act to amend Item 6110-161-001 of Section 2.00 of the Budget Act of 1994, relating to education, and declaring the urgency thereof, to take effect immediately.

**ASSEMBLY BILL NO. 56—Allen.** An act to amend Sections 33050, and 44669 of, and to add Section 51513 to, the Education Code, relating to schools, and declaring the urgency thereof, to take effect immediately.

**ASSEMBLY BILL NO. 57—Allen.** An act to amend Section 653g of the Penal Code, relating to school crimes, and declaring the urgency thereof, to take effect immediately.

**ASSEMBLY BILL NO. 58—Willard Murray.** An act to add Chapter 17 (commencing with Section 7440) to Title 7 of Part 3 of the Penal Code, relating to financing a prison and community-based correctional facilities construction program by providing the funds necessary therefor through the issuance and sale of bonds of the State of California and by providing for the handling and disposition of those funds.

**ASSEMBLY BILL NO. 59—Sher.** An act to amend Sections 42650, 43202, 43205, 43207, 43209, 43212, 43214, 43215, 43310, 44001, 44004, 44008, 44009, 44012, 44014, 44015, 44016, 44017, and 44103 of, to add Sections 43212.1, 43215.1, 43222, 43310.1, and 44019 to, to add Chapter 5 (commencing with Section 44820) to Part 4 of, to add Part 6 (commencing with Section 45030) to, to repeal Sections 44013, 44018, and 44105 of, to repeal and add Sections 44002 and 44005 of, and to repeal and add Chapter 4 (commencing with Section 44300) of Part 4 of, and Part 5 (commencing with Section 45000) of, Division 30 of, the Public Resources Code, relating to waste, and declaring the urgency thereof, to take effect immediately.

**ASSEMBLY BILL NO. 60—Baca.** An act relating to small business, and making an appropriation therefor.

**ASSEMBLY BILL NO. 61—Baca.** An act to amend Section 25210.4a of the Government Code, relating to counties.

**ASSEMBLY BILL NO. 62—Baca.** An act to add Section 6715 to the Government Code, relating to prisoners of war.

**ASSEMBLY BILL NO. 63—Katz.** An act to repeal, add and repeal, and add Sections 44017 and 44017.3 of the Health and Safety Code, relating to air pollution, and declaring the urgency thereof, to take effect immediately.

**ASSEMBLY BILL NO. 64—Baca.** An act to amend and renumber Section 181 of, and to add Chapter 7.5 (commencing with Section 176) to Title 7 of Part 1 of, the Penal Code, relating to employment of unauthorized aliens, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

**ASSEMBLY BILL NO. 65—Knight.** An act to amend Section 50 of the Antelope Valley Storm Water Conservation and Flood Control District Act (Chapter 764 of the Statutes of 1994), relating to water.

**ASSEMBLY BILL NO. 66—Goldsmith.** An act to amend Sections 47602 and 47606 of the Education Code, relating to schools.

**ASSEMBLY BILL NO. 67—Bowen.** An act to amend Section 1270 of the Penal Code, relating to misdemeanors.

**ASSEMBLY BILL NO. 68—Bowen.** An act to repeal Section 14563 of the Public Resources Code, relating to beverage containers.

**ASSEMBLY BILL NO. 69—Willard Murray.** An act to amend Section 2053.1 of, and to add Sections 2053.5 and 2053.6 to, the Penal Code, relating to prison education programs.

**ASSEMBLY BILL NO. 70—Willard Murray.** An act to amend Sections 12070, 12077, 12078, and 12081 of the Penal Code, relating to firearms.

**ASSEMBLY BILL NO. 71—Katz.** An act to amend Sections 71000 and 71003 of the Education Code, relating to the California Community Colleges.

**ASSEMBLY BILL NO. 72—Baca.** An act to amend Section 2024 of the Welfare and Institutions Code, relating to juveniles.

**ASSEMBLY BILL NO. 73—Friedman.** An act to add Sections 1368.5 and 1385.5 to the Health and Safety Code, and to add Section 10145.5 to the Insurance Code, relating to health coverage.

**ASSEMBLY BILL NO. 74—Baca.** An act to add Section 1192.55 to the Penal Code, relating to plea agreements.

**ASSEMBLY BILL NO. 75—Morrow.** An act to amend Section 602 of the Penal Code, relating to crimes.

**ASSEMBLY BILL NO. 76—Morrow.** An act to amend Sections 8111, 8112, 8114, 8150.5, 8150.7, 8150.9, 8250.5, 8284, 8392, and 9006 of, to add Section 9001.5 to, to add and repeal Sections 9001.6 and 9001.7 of, to repeal Section 8153 of, and to repeal and add Sections 8113, 8151, and 8152 of, the Fish and Game Code, relating to fish, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

**ASSEMBLY BILL NO. 77—Morrow.** An act to amend Section 8598 of the Fish and Game Code, and to add Section 425.6 to the Government Code, relating to fish.

**ASSEMBLY BILL NO. 78—Morrow.** An act to amend Section 704.115 of the Code of Civil Procedure, relating to civil procedure.

**ASSEMBLY BILL NO. 79—Baca.** An act to amend Section 11370.2 of the Health and Safety Code, relating to controlled substances.

**ASSEMBLY BILL NO. 80—Napolitano.** An act to amend Section 19707 of the Revenue and Taxation Code, relating to taxation.

**ASSEMBLY BILL NO. 81—Napolitano.** An act to amend Section 51.7 of the Civil Code, and to add Section 181.5 to the Penal Code, relating to crimes.

**ASSEMBLY BILL NO. 82—Pringle.** An act to amend Section 29550 of the Government Code, relating to booking fees.

**ASSEMBLY BILL NO. 83—Napolitano.** An act to add Section 181.5 to the Penal Code, relating to crimes.

#### INTRODUCTION AND FIRST READING OF ASSEMBLY BILLS

The following bills were introduced and read the first time:

**ASSEMBLY BILL NO. 84—Willard Murray.** An act to add Part 26.9 (commencing with Section 47800) to the Education Code, relating to education.

**ASSEMBLY BILL NO. 85—Baca.** An act to add Section 1597.543 to the Health and Safety Code, relating to day care facilities.

**ASSEMBLY BILL NO. 86—Cortese.** An act to add Part 5.5 (commencing with Section 7500) to the Education Code, relating to families, and making an appropriation therefor.

**ASSEMBLY BILL NO. 87—Cortese.** An act to add Sections 4801.1, 4801.2, 4801.3, and 4803.1 to, the Fish and Game Code, relating to mountain lions, and making an appropriation therefor.

**ASSEMBLY BILL NO. 88—Hoge.** An act to add and repeal Section 5108.5 of the Revenue and Taxation Code, relating to taxation.

**ASSEMBLY BILL NO. 89—Hoge.** An act to add Section 17144.5 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

**ASSEMBLY BILL NO. 90—Baca.** An act to add Section 17052.6 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

**ASSEMBLY BILL NO. 91—Tucker.** An act to repeal Article 7 (commencing with Section 19550) of Chapter 4 of Division 8 of the Business and Professions Code, relating to horseracing.

**ASSEMBLY BILL NO. 92—Hauser.** An act to amend Sections 12023, 12026, 12026.1, 12026.2, and 12050 of, and to add and repeal Section 12038 of, the Penal Code, relating to firearms.

**ASSEMBLY BILL NO. 93—Hauser.** An act to amend Section 93010 of the Government Code, relating to railroads.

**QUORUM CALL OF THE ASSEMBLY DISPENSED WITH**

At 5:20 p.m., Senior Member of the Assembly Willie L. Brown, Jr., declared the quorum call of the Assembly dispensed with.

**MESSAGES FROM THE SENATE**

Senate Chamber, December 5, 1994

Mr. Speaker: I am directed to inform your honorable body that the Senate on this day adopted:

Senate Concurrent Resolution No. 1  
Senate Concurrent Resolution No. 2

RICK ROLLENS, Secretary of the Senate  
By John W. Rovane, Assistant Secretary

**FIRST READING OF SENATE BILLS**

The following resolutions were read:

**SENATE CONCURRENT RESOLUTION NO. 1**—Relative to the adoption of the Joint Rules of the Senate and Assembly for the 1995–96 Regular Session.

**SENATE CONCURRENT RESOLUTION NO. 2**—Relative to the selection of the Legislative Counsel of California.

**ADJOURNMENT**

At 7:35 p.m., the Assembly adjourned until 9 a.m., Thursday, January 5, 1995.

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WILLIE L. BROWN, JR., Senior Member of the Assembly

PAM CAVILEER, Minute Clerk