

CALIFORNIA LEGISLATURE
2005–06 REGULAR SESSION

ASSEMBLY DAILY JOURNAL

Tuesday, January 4, 2005

THIRD SESSION DAY

THIRTIETH CALENDAR DAY

AT SACRAMENTO, CALIFORNIA



NOTE: Official record of roll call votes; all amendments considered by the Assembly on this day are on file with the Chief Clerk of the Assembly and available on request. A list of all measures amended and on which amendments were offered is shown on the final page of this day's Assembly Journal.

PROCEEDINGS OF THE ASSEMBLY

IN ASSEMBLY

Assembly Chamber, Sacramento
Tuesday, January 4, 2005

The Assembly met at 7 a.m.

Hon. Keith Richman, Assembly Member, 38th District, presiding.

Chief Clerk E. Dotson Wilson at the Desk.

Assistant Clerk Brian Ebbert reading.

ROLL CALL

The following were placed upon the morning roll call—77:

Aghazarian	Emmerson	Leno	Richman
Arambula	Evans	Leslie	Ridley-Thomas
Baca	Frommer	Levine	Runner
Bass	Garcia	Lieber	Ruskin
Benoit	Goldberg	Liu	Saldana
Berg	Gordon	Matthews	Salinas
Bermudez	Hancock	Maze	Strickland
Blakeslee	Harman	McCarthy	Torrico
Bogh	Haynes	Montanez	Tran
Calderon	Horton, Shirley	Mountjoy	Umberg
Canciamilla	Houston	Mullin	Vargas
Chan	Huff	Nakanishi	Villines
Chavez	Jones	Nation	Walters
Chu	Karnette	Nava	Wolk
Cogdill	Keene	Negrete McLeod	Wyland
Cohn	Klehs	Niello	Yee
Coto	Koretz	Oropeza	Mr. Speaker
De La Torre	La Malfa	Parra	
DeVore	La Suer	Pavley	
Dymally	Laird	Plescia	

Quorum present.

At 1:40 p.m., Hon. Rebecca Cohn, 24th District, presiding

REGULAR BUSINESS DISPENSED WITH

By unanimous consent, the regular order of business of the Assembly was dispensed with for this legislative day.

LEAVES OF ABSENCE FOR THE DAY

By unanimous consent, the following Assembly Members were granted leaves of absence for the day:

On legislative business: Assembly Member Jerome E. Horton.

On personal business, and waiving per diem: Assembly Member Spitzer.

Because of illness: Assembly Member Daucher.

EXPLANATIONS OF ABSENCE

Pursuant to the Assembly Rules, the following explanation of absence was ordered printed in the Journal:

January 3, 2005

*The Honorable Fabian Nunez
Speaker of the Assembly
State Capitol, Room 219
Sacramento, California*

Dear Mr. Speaker: Due to weather damage from the recent storms, I am respectfully requesting permission to be excused from Assembly Check-In Session on Tuesday, January 4, 2005, for legislative business. I will be returning to Sacramento on Wednesday, January 5, 2005, in time for Assembly Floor Session.

I want to thank you in advance for your consideration of this request and if you have any questions, please contact me at (916) 319-2051 or (310) 413-0635.

Sincerely,

JEROME E. HORTON, Assembly Member
Fifty-first District

COMMUNICATIONS

The following letters of transmittal were presented by the Chief Clerk and ordered printed in the Journal:

California State Auditor

2004-139
December 16, 2004

*The Honorable Speaker of the Assembly
The Honorable Members of the Assembly
of the Legislature of California
State Capitol, Room 3196
Sacramento, California*

Members of the Assembly: As requested by the Joint Legislative Audit Committee, the Bureau of State Audits presents its audit report concerning the Office of the Secretary of State's (office) administration of federal Help America Vote Act of 2002 (HAVA) funds.

This report concludes that the office's insufficient planning and poor management practices hampered its efforts to implement HAVA provisions in a timely way. Consequently, the office is at risk of failing to meet certain requirements by the January 1, 2006, HAVA implementation date. Additionally, the office's disregard for proper controls and its poor oversight of staff and consultants led to questionable uses of HAVA funds. As a result of these practices, the office runs the risk that the federal government may conduct an audit of the office's implementation of HAVA and its use of federal funds and may require repayment of some, if not all, of the HAVA funds used to pay certain employees and consultants.

Furthermore, the office avoided competitive bidding for most of its purchases paid with HAVA funds. It obtained and then inappropriately used a Department of General Services (General Services) exemption from competitive bidding for some consultant services and did not follow the State's procurement policies when purchasing other goods and services. As a result, the State has less assurance that

the office obtained the best value for purchases, totaling \$3.3 million, it made with HAVA funds. Moreover, the office bypassed the Legislature's spending approval authority by inappropriately executing voter outreach consultant contracts valued at \$230,400 and then charging the associated consultant costs of \$84,600 to its fiscal year 2004–05 HAVA administration account.

Finally, the office failed to disburse federal HAVA funds to counties for the replacement of outdated voting machines within the time frames outlined in its grant application package and county agreements, causing some counties to lose interest income they could have used in replacing their voting systems.

Respectfully submitted,

ELAINE M. HOWLE
State Auditor

Above report referred to the Committee on Elections and Redistricting.

California State Auditor

2004-101
December 20, 2004

*The Honorable Speaker of the Assembly
The Honorable Members of the Assembly
of the Legislature of California
State Capitol, Room 3196
Sacramento, California*

Members of the Assembly: As requested by the Joint Legislative Audit Committee, the Bureau of State Audits presents its audit report concerning the pricing practices and impact of the Prison Industry Authority (PIA).

This report concludes that PIA has discretion with regard to how it fulfills its statutory purpose to be self-supporting. For instance, PIA uses profits from some enterprises to offset losses in others. In addition, although state law does not require PIA to offer competitive prices and its prices can differ from those of other vendors, PIA could improve certain pricing practices, such as product costs of questionable reliability, inadequate documentation justifying its prices, and a lack of policies with regard to special or discount pricing.

PIA has not established participation targets for the number of inmates it aims to employ among its various enterprises, which would allow it to demonstrate its effectiveness in fulfilling its statutory purpose to employ inmates. Also, PIA has not demonstrated adequately whether and in what manner it fulfills its statutory purpose to reduce the operating costs of the California Department of Corrections. Finally, although PIA has embarked upon various activities aimed at enhancing the employability of its participants, it has not established targets or performance measures to track participants' post-release success and evaluate its own performance.

Respectfully submitted,

ELAINE M. HOWLE
State Auditor

Above report referred to the Committee on Public Safety.

California State Auditor

2004-140
December 22, 2004

*The Honorable Speaker of the Assembly
The Honorable Members of the Assembly
of the Legislature of California
State Capitol, Room 3196
Sacramento, California*

Members of the Assembly: As requested by the Joint Legislative Audit Committee, the Bureau of State Audits presents its audit report on the Department of Transportation's (Caltrans) Toll Bridge Seismic Retrofit Program (program). The report examines the cost increases for the program between its budget established in 2001 and its August 2004 cost estimate, as well as Caltrans' project management practices for the program.

This report concludes that the \$3.2 billion increase in estimated program costs and the four-year time delay in the program occurred for many reasons, but the replacement of the San Francisco-Oakland Bay Bridge's east span (East Span) was the largest contributor, with an estimated cost increase of \$2.5 billion. However, only \$930 million of the \$3.2 billion cost increase relates to the bid for the superstructure of the East Span's signature span; the remainder is attributable to increases for other cost categories such as Caltrans' support costs and the program contingency reserve, which rose by \$556 million and \$452 million, respectively. According to Caltrans, costs may rise even further as the contract to construct the superstructure for the East Span's signature span has expired and Caltrans must now either rebid or redesign this section of the bridge.

Despite the East Span's extraordinary strategic, technical, and financial risks, Caltrans failed to create a risk management plan, track risks that it identified, or update its cost estimates and contingency reserve to reflect those risks. Further, Caltrans' cost update for the August 2004 report to the Legislature was its first program-wide update of cost estimates since April 2001. Finally, as early as November 2003, when it reported the program's financial status to the Federal Highway Administration, Caltrans should have known that the program would experience large cost overruns. At that time, Caltrans failed to recognize that it had only a year and a half of support costs funding remaining though the program was to last eight more years, that the bid for the signature span's superstructure would be much higher than its official estimate, and that its remaining program contingency reserve of \$122 million was inadequate given the uncertainty facing the program.

Respectfully submitted,

ELAINE M. HOWLE
State Auditor

Above report referred to the Committee on Transportation.

REPORTS

The following reports were presented by the Chief Clerk:

**2002 Electronic Interceptions Report
(Pursuant to Penal Code Section 629.62)**

Above transmitted report, together with letter of transmittal from Sue Johnsrud, Director, Administrative Services Division, Department of Justice, dated December 8, 2004, referred by the Speaker to the Committee on Public Safety.

2004 Integrated Energy Policy Report Update

Above transmitted report, together with letter of transmittal from William J. Keese, Chairman, California Energy Commission, dated December 8, 2004, referred by the Speaker to the Committee on Natural Resources.

**2003–04 Seismic Safety Commission Assessment Report
(Pursuant to Insurance Code Section 10089.45 (e))**

Above transmitted report, together with letter of transmittal from John Garamendi, Insurance Commissioner, dated December 9, 2004, referred by the Speaker to the Committee on Insurance.

**Specific Information Relevant to
State of California Salaries of Female-Dominated Classifications
December 2004 Report
(Pursuant to Government Code Section 19827.2)**

Above transmitted report, together with letter of transmittal from Robert K. Clifford, Chief, Policy Development Office, Department of Personnel Administration, dated December 10, 2004, referred by the Speaker to the Committee on Labor and Employment.

**The Carl Moyer Program Annual Status Report
(Pursuant to Health and Safety Code Section 44295 (a))**

Above transmitted report, together with letter of transmittal from Alan C. Lloyd, Ph.D., Chairman, Air Resources Board, dated December 9, 2004, referred by the Speaker to the Committee on Transportation.

**State Water Resources Control Board (SWRCB) and
Regional Water Quality Control Board's Reports on
Non-Point Source Pollution-Related Information, Fiscal Year 2003–04
(Pursuant to Water Code Section 13369 (b))**

Above transmitted report, together with letter of transmittal from Celeste Cantu, Executive Director, Water Resources Control Board, dated December 9, 2004, referred by the Speaker to the Committee on Environmental Safety and Toxic Materials.

SPECIAL COMMITTEE MEETINGS

By unanimous consent, the following committee was permitted to meet:

Joint Legislative Audit Committee, on Tuesday, January 11, 2005, at 9 a.m., in Room 4202.

**INTRODUCTION AND FIRST READING OF
ASSEMBLY BILLS**

The following bills were introduced and read the first time:

ASSEMBLY BILL NO. 80—Houston. An act to add Section 6377 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

ASSEMBLY BILL NO. 81—Leslie. An act to add Section 4291.5 to the Public Resources Code, relating to the Tahoe Basin, and making an appropriation therefor.

ASSEMBLY BILL NO. 82—Calderon. An act to amend Section 3701.5 of, and to add Article 2.3 (commencing with Section 3737) to Chapter 4 of Part 1 of Division 4 of, and to add Sections 3741.1 and 3748 to, the Labor Code, relating to workers' compensation, and declaring the urgency thereof, to take effect immediately.

ASSEMBLY BILL NO. 83—Leslie. An act relating to swimming pools.

ADJOURNMENT

At 3 p.m., the Assembly adjourned until 4:30 p.m., Wednesday, January 5, 2005.

FABIAN NUÑEZ, Speaker

SUE PARKER, Minute Clerk

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