

CALIFORNIA LEGISLATURE
2009–10 REGULAR SESSION

ASSEMBLY DAILY JOURNAL

Thursday, January 15, 2009

TWELFTH SESSION DAY

FORTY-SIXTH 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.

(Please Direct Any Inquiries and Report Any Omissions or Errors to
Sue Parker, Minute Clerk: Phone 319-2360)

PROCEEDINGS OF THE ASSEMBLY

IN ASSEMBLY

Assembly Chamber, Sacramento
Thursday, January 15, 2009

The Assembly met at 9:14 a.m.
Hon. Lori Saldaña, Speaker pro Tempore of the Assembly,
presiding.
Chief Clerk E. Dotson Wilson at the Desk.
Assistant Clerk Elizabeth Potter reading.

ROLL CALL

The roll was called.

Quorum Call of the Assembly

Assembly Member Cook moved a quorum call of the Assembly.
Motion carried.
The Speaker pro Tempore directed the Sergeant at Arms to close the
doors, and to bring in the absent Members.

At 9:32 a.m., Speaker Karen Bass, 47th District, presiding

Quorum Present

At 9:32 a.m., Speaker Bass declared a quorum of the Assembly
present.

The roll call was completed, and the following answered to their
names—78:

Adams	DeVore	Hill	Portantino
Anderson	Duvall	Huber	Price
Arambula	Emmerson	Huffman	Ruskin
Beall	Eng	Jeffries	Salas
Berryhill, Bill	Evans	Jones	Saldaña
Berryhill, Tom	Feuer	Knight	Silva
Blakeslee	Fletcher	Krekorian	Skinner
Block	Fong	Lieu	Smyth
Blumenfield	Fuentes	Logue	Solorio
Brownley	Fuller	Lowenthal	Strickland
Buchanan	Furutani	Ma	Swanson
Caballero	Gaines	Mendoza	Torlakson
Carter	Galgiani	Miller	Torres
Chesbro	Garrick	Monning	Torrice
Conway	Gilmore	Nava	Tran
Cook	Hagman	Nestande	Villines
Coto	Hall	Niello	Yamada
Davis	Harkey	Nielsen	Mme. Speaker
De La Torre	Hayashi	Pérez, John	
De León	Hernandez	Pérez, V. Manuel	

PRAYER

Upon invitation of Speaker pro Tempore Saldaña, the following prayer was offered by Hon. Isadore Hall III, Assembly Member, District 52:

Our God,

We thank you for your grace and mercy.

We Honor you for loving us unconditionally.

We worship you just for who you are.

Now God,

We thank you for the many leaders of our past who have paved the way for justice, peace and equality.

Thank you for the leaders who have given their lives so that all people could be treated equal. We recognized that we have come a long way, but yet a long way to go.

We pray that the life, the legacy, the hope, the honor that was so easily bestowed on Dr. Martin Luther King, Jr. shall continue in the lives of all men and that men might know the freedom that exists within themselves.

Now God,

As we move forward to serve your people, I pray that you would grace every decision-making leader to recognize the seriousness of our responsibilities and the accountability to you and those we serve.

Bless this Legislature and the people of California.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker Bass, Assembly Member Feuer then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Assembly Member Torrico, seconded by Assembly Member Blakeslee.

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 Ammiano.

Because of illness: Assembly Member Calderon.

EXPLANATIONS OF ABSENCE

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

January 6, 2009

*The Honorable Karen Bass
Speaker of the Assembly
State Capitol, Room 219
Sacramento, California*

Dear Speaker Bass: I write to request permission to be excused from Session and Check-in Session on Thursday and Friday, January 15 and 16, 2009. I have an urgent legislative matter that I must attend to in my district.

Thank you for your assistance in this matter. If you have any questions or need more information, please do not hesitate to contact me or my executive assistant, Lourdes Machado, at (916) 319-2013.

Sincerely,

TOM AMMIANO, Assembly Member
Thirteenth District

ASSEMBLY RULE 118 SUSPENDED—PRIVILEGES OF THE FLOOR

Speaker Bass and Assembly Member Swanson were granted unanimous consent that Assembly Rule 118 be suspended granting privileges of the Floor and permitting guests in the Assembly Chamber and in the Gallery.

REQUEST FOR PHOTOGRAPHER

Speaker Bass and Assembly Member Swanson were granted unanimous consent that a photographer be permitted on the Floor of the Assembly and in the Gallery.

REQUEST FOR UNANIMOUS CONSENT TO PRINT IN JOURNAL

Assembly Member Blakeslee was granted unanimous consent that the following statement of legislative intent be printed in the Journal:

Legislative Intent—Assembly Bill No. 2794

December 8, 2008

*E. Dotson Wilson
Chief Clerk
California State Assembly
State Capitol
Sacramento, California*

Legislative Intent—Assembly Bill No. 2794 (Blakeslee, 2008)

Dear Mr. Wilson: The purpose of this letter is to clarify my intent with regard to Assembly Bill AB 2794, pertaining to physician billing practices. AB 2794 added Section 655.8 to the Business and Professions Code and prohibited a physician from billing for performance of the technical component of specified diagnostic imaging services not rendered by the physician or persons under their supervision.

The intent of the bill was to close a problematic loophole in the state physician self referral prohibition that was resulting in fraud and increased medical costs. Specifically, the bill required radiological facilities or imaging centers to directly bill either the patient or the responsible third-party payer for the services performed by those facilities, not the referring physician.

Sincerely,

SAM BLAKESLEE, Assembly Member
Thirty-third District

**CONSIDERATION OF ASSEMBLY CONCURRENT RESOLUTION NO. 7
BY UNANIMOUS CONSENT**

Assembly Member Swanson was granted unanimous consent to take up Assembly Concurrent Resolution No. 7 without reference to file, for purpose of consideration.

ASSEMBLY CONCURRENT RESOLUTION NO. 7 (Swanson)—Relative to Dr. Martin Luther King, Jr. Day.

Resolution read.

**Members Made Coauthors of
Assembly Concurrent Resolution No. 7**

Assembly Member Swanson was granted unanimous consent to open the roll for the purpose of permitting Members to add as coauthors of Assembly Concurrent Resolution No. 7.

Roll Call

The following Assembly Members indicated a desire to become coauthors:

Adams, Anderson, Arambula, Bass, Beall, Bill Berryhill, Tom Berryhill, Blakeslee, Block, Blumenfield, Brownley, Buchanan, Caballero, Carter, Chesbro, Conway, Cook, Coto, Davis, De La Torre, De León, DeVore, Duvall, Emmerson, Eng, Evans, Feuer, Fletcher, Fong, Fuentes, Fuller, Furutani, Gaines, Galgiani, Garrick, Gilmore, Hagman, Hall, Harkey, Hayashi, Hernandez, Hill, Huber, Huffman, Jeffries, Jones, Knight, Krekorian, Logue, Lowenthal, Ma, Miller, Monning, Nava, Nestande, Niello, Nielsen, John Pérez, V. Manuel Pérez, Portantino, Price, Ruskin, Salas, Saldaña, Silva, Skinner, Smyth, Solorio, Strickland, Torlakson, Torres, Torrico, Tran, Villines, and Yamada.

Request for Unanimous Consent

Assembly Member Swanson was granted unanimous consent to take up Assembly Concurrent Resolution No. 7, as amended, without reference to print or file, and that the same be considered engrossed.

Consideration of Assembly Concurrent Resolution No. 7, as Amended

ASSEMBLY CONCURRENT RESOLUTION NO. 7—Relative to Dr. Martin Luther King, Jr. Day.

Resolution read, as amended, and adopted by the following vote:

AYES—78

Adams	DeVore	Hill	Portantino
Anderson	Duvall	Huber	Price
Arambula	Emmerson	Huffman	Ruskin
Beall	Eng	Jeffries	Salas
Berryhill, B.	Evans	Jones	Saldaña
Berryhill, T.	Feuer	Knight	Silva
Blakeslee	Fletcher	Krekorian	Skinner
Block	Fong	Lieu	Smyth
Blumenfield	Fuentes	Logue	Solorio
Brownley	Fuller	Lowenthal	Strickland
Buchanan	Furutani	Ma	Swanson
Caballero	Gaines	Mendoza	Torlakson
Carter	Galgiani	Miller	Torres
Chesbro	Garrick	Monning	Torrico
Conway	Gilmore	Nava	Tran
Cook	Hagman	Nestande	Villines
Coto	Hall	Niello	Yamada
Davis	Harkey	Nielsen	Mme. Speaker
De La Torre	Hayashi	Pérez, J.	
De León	Hernandez	Pérez, V.M.	

NOES—None

Resolution ordered transmitted to the Senate.

SPECIAL RECOGNITION

The Members of the Assembly joined Speaker Bass in extending best wishes to Assembly Member Silva on the occasion of his birthday.

At 9:47 a.m., Acting Speaker Sandré Swanson, 16th District, presiding

**RECESS FOR OBSERVANCE OF
MARTIN LUTHER KING, JR.'S BIRTHDAY**

By unanimous consent at 9:47 a.m., Acting Speaker Sandré Swanson declared the Assembly recessed to permit the introduction of special guests in observance of Martin Luther King, Jr.'s Birthday.

At 9:51 a.m., Acting Speaker Curren Price, 51st District, presiding

Acting Speaker Price introduced the following honorees who were instrumental in the passage and signing of Assembly Bill No. 312 which designated Martin Luther King, Jr.'s birthday a state holiday. The honorees were escorted to the front of the Assembly Chamber, whereupon they were greeted by Speaker Bass, Assembly Members Swanson and Villines, Senate President pro Tempore Steinberg, and Senator Cogdill and presented with a member's resolution:

Hon. Edmund G. Brown, Jr., escorted by Assembly Member Coto; Hon. Elihu Harris, escorted by Assembly Member Portantino; Alice Huffman, escorted by Assembly Member Ma; Hon. Alice Spearman, escorted by Assembly Member Eng; Hon. David Roberti was unable to be present for today's ceremony, Senator Rod Wright accepted the resolution on his behalf; and Hon. Willie L. Brown, Jr. was not able to be present for today's ceremony, Assembly Member Wilmer Amina Carter accepted the resolution on his behalf.

RECONVENED

At 9:57 a.m., the Assembly reconvened.

Hon. Karen Bass, Speaker of the Assembly, presiding.

RECESS

By unanimous consent, at 10:01 a.m., Speaker Bass declared the Regular Session of the Assembly recessed.

IN JOINT CONVENTION

At 10:01 a.m., the Senate and Assembly met in Joint Convention. Hon. Karen Bass, Speaker of the Assembly, presiding.

INTRODUCTION OF FIRST LADY OF CALIFORNIA

Speaker Bass introduced Maria Shriver, First Lady of California, to the Joint Convention.

**INTRODUCTION OF CONSTITUTIONAL OFFICERS
AND SPECIAL GUESTS**

Speaker Bass introduced Hon. Gray Davis, former Governor; Hon. John Garamendi, Lieutenant Governor; Hon. Jerry Brown, Attorney General; Hon. Debra Bowen, Secretary of State; Hon. Bill Lockyer, Treasurer; Hon. John Chiang, Controller; Hon. Jack O'Connell, Superintendent of Public Instruction; Hon. Steve Poizner, Insurance Commissioner; and Board of Equalization Members: Hon. Betty Yee (District 1); Hon. Bill Leonard (District 2); and Hon. Michelle Steel (District 3).

INTRODUCTION OF SUPREME COURT JUSTICES

Speaker Bass introduced Hon. Ronald M. George, Chief Justice of California; and Associate Justices Hon. Marvin R. Baxter, Hon. Kathryn M. Werdegar, Hon. Ming Chin, and Hon. Carol A. Corrigan.

APPOINTMENT OF JOINT COMMITTEE ON ESCORT

Speaker Bass appointed Assembly Members De León, Harkey, Emmerson, Galgiani, Cook, Carter, and Caballero and Senators Florez, Cogdill, Benoit, Simitian, Liu, Ashburn, Ducheny, and Hollingsworth as a Joint Committee on Escort to escort Governor Arnold Schwarzenegger to the Joint Convention.

PRESENTATION OF PRESIDENT PRO TEMPORE OF THE SENATE

Speaker Bass then presented the Honorable Darrell Steinberg, President pro Tempore of the Senate.

PRESENTATION OF LIEUTENANT GOVERNOR

President pro Tempore Steinberg then presented the Honorable John Garamendi, Lieutenant Governor and President of the Senate.

PRESENTATION OF GOVERNOR

Lieutenant Governor Garamendi introduced his wife Patty and then presented the Honorable Arnold Schwarzenegger, Governor of the State of California to the Joint Convention.

ADDRESS BY GOVERNOR

Governor Schwarzenegger then addressed the Joint Convention.

ADJOURNMENT OF JOINT CONVENTION

At 10:22 a.m., there being no further business, Speaker Bass declared the Joint Convention adjourned *sine die*.

IN ASSEMBLY

At 10:23 a.m., the Assembly reconvened.
Hon. Karen Bass, Speaker of the Assembly, presiding.

GOVERNOR'S ADDRESS PRINTED IN JOURNAL

Without objection, the following text of Governor Arnold Schwarzenegger's State of the State Address was printed in the Journal:

Governor Arnold Schwarzenegger
2009 State of the State Address
January 15, 2009

Lt. Governor Garamendi, Chief Justice George, President pro Tem Steinberg, Speaker Bass, Senate Republican Leader Cogdill, Assembly Republican Leader Villines, Members of the Legislature, ladies and gentlemen, we meet in times of great hope for our nation.

Although we hear the drumbeat of news about bailouts, bankruptcies and Ponzi schemes, the nation with great anticipation is also awaiting the inauguration of a new president.

Our nation should be proud of what President-elect Obama's election says to the world about American openness and renewal.

President Reagan used to tell about the letter he got from a man who said that you can go to live in Turkey, but you can't become a Turk.

You can go to live in Japan, but you cannot become Japanese. And he went through other countries.

“But,” the man said, “anyone from any corner of the world can come to America and become an American.”

And now, we know that any American child, no matter what corner of the world his father or mother comes from, can even become President of the United States.

What a wonderful national story for us. This nation rightfully feels the hope of change.

Californians, of course, desire change here in their own state as well. Yet they have doubts if that is possible.

For months, in the face of a crisis, we have been unable to reach agreement on the largest budget deficit in our history.

We are in our third special session and we’ve declared a fiscal emergency—and every day that goes by makes the budget problem that much harder to solve.

As a result of all this, California, the seventh largest economy in the world, faces insolvency within weeks. The Legislature is currently in the midst of serious and good faith negotiations to resolve the crisis, negotiations that are being conducted in the knowledge we have no alternative but to find agreement.

The importance of the negotiation’s success goes far beyond the economic and human impact.

People are asking if California is governable. They wonder about the need for a constitutional convention.

They don’t understand how we could have let political dysfunction paralyze our state for so long.

In recent years, they have seen more gridlock in Sacramento than on our roads, if such a thing is possible.

I will not give the traditional State of the State address today, because the reality is that our state is incapacitated until we resolve the budget crisis.

The truth is that California is in a state of emergency. Addressing this emergency is the first and greatest thing we must do for the people.

The 42 billion dollar deficit is a rock upon our chest, and we cannot breathe until we get it off.

It doesn’t make any sense to talk about education, infrastructure, water, health care reform and all these things when we have this huge budget deficit.

I will talk about my vision for all of these things . . . and more . . . as soon as we get the budget done.

So, no, I did not come today to deliver the normal list of accomplishments and proposals. I came to encourage this body to continue the hard work you are doing behind closed doors. There is a context and a history to the negotiations that are underway. It is not that California is ungovernable.

It’s that for too long we have been split by ideology. Conan’s sword could not have cleaved our political system in two as cleanly as our own political parties have done.

Over time, ours has become a system where rigid ideology has been rewarded and pragmatic compromise has been punished. And where has this led?

I think you would agree that in recent years California's legislature has been engaged in civil war.

Meanwhile, the needs of the people became secondary. Our citizens do not believe that we in government are in touch with their needs. These needs are not unreasonable.

At the end of the day, most people do not require a great deal from their government. They expect the fundamentals. They want to live in safety.

They want a good education for their children. They want jobs. They want to breathe clean air. They want water when they turn on the faucet and electricity when they turn on the switch.

And they want these things delivered efficiently and economically.

One of the reasonable expectations the public has of government is that it will produce a sound and balanced budget. That is what the legislative leaders are struggling to do right now.

There is no course left open to us but this: to work together, to sacrifice together, to think of the common good—not our individual good.

No one wants to take money from our gang-fighting programs or from Medi-Cal or from education. No one wants to pay more in taxes or fees.

But each of us has to give up something because our country is in an economic crisis, and our state simply doesn't have the money.

In December, we even had to suspend funding that affects 2,000 infrastructure projects that were already underway.

So, now, the bulldozers are silent. The nail guns are still. The cement trucks are parked. This disruption has stopped work on levees, schools, roads, everything.

It has thrown thousands and thousands of people out of work at a time when our unemployment rate is rising.

How could we let something like that happen? I know that everyone in this room wants to hear again the sound of construction. No one wants unemployment checks replacing paychecks.

So, I am encouraged that meaningful negotiations are underway. And, as difficult as the budget will be, good things can come out of it.

Because, in spite of the budget crisis, when we have worked together in the past, we have passed measures that moved this state—and even the nation—forward.

When a budget agreement is reached, when some of the raw emotions have passed, I will send to the Legislature the package of legislative goals and proposals that a governor traditionally sends.

These proposals are sitting on my desk. Let me tell you, I have big plans. They include action on the economy, on water, environment, education, health care reform, government efficiency and reform, job creation.

But, our first order of business is to solve the budget crisis. And I have an idea going forward. As you know, in the last 20 years of budgeting, only four budgets have been on time.

So, if you don't mind, let me make a little suggestion. We should make a commitment that legislators—and the governor, too—lose per diem expenses and our paychecks for every day the budget goes past the constitutional deadline of June 15th.

You have to admit it is a brilliant idea. I mean, if you call a taxi and the taxi doesn't come, you don't pay the driver.

If the people's work is not getting done, the people's representatives should not get paid either. That is common sense in the real world. And I will send you some other reforms, too.

Let me close by saying something about the fires of 2008.

At one point, I got a phone call that we had 875 wildfires burning all at the same time. I said to myself, how do we deal with this?

The next morning I get a call, "Governor, there are now 2,014 fires burning all at the same time." The largest number on record.

Imagine, 2,000 fires, a huge challenge, and every one of those fires was put out. You know why? Because we have the best trained, the most selfless, the toughest firefighters in the nation.

Thirteen of whom lost their lives. They gave their lives for this state.

Ladies and gentlemen, the courageous examples of those firefighters should not be lost on us. In our own way, we, too, must show courage in serving the public.

Ladies and gentlemen, let this be a year of political courage. Let us be courageous for the people.

Let us be courageous for the common good of California. Let us resolve the budget crisis, so that we can get on with the people's work.

Thank you.

ANNOUNCEMENTS

Speaker Bass announced the following session schedule:

Friday, January 16, 2009, Check-in Session, 7 a.m.–3 p.m.

Monday, January 19, 2009, Holiday, observance of Martin Luther King, Jr. Day;

Tuesday, January 20, 2009, Check-in Session, 7 a.m.–3 p.m.

Wednesday, January 21, 2009, No Session

Thursday, January 22, 2009, Floor Session, 9:30 a.m.

ADJOURN IN MEMORY

Assembly Member Chesbro was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Jacqueline Kasun of Bayside.

Assembly Member Portantino was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Roy Hayes of Altadena.

Assembly Member Yamada was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Julie Partansky of Davis.

MOTION TO ADJOURN

At 10:23 a.m., Assembly Member Torrico moved that the Assembly do now adjourn.

Assembly Member Villines seconded the motion.

Motion carried.

QUORUM CALL OF THE ASSEMBLY DISPENSED WITH

At 10:23 a.m., Speaker Bass declared the quorum call of the Assembly dispensed with.

**INTRODUCTION AND FIRST READING OF
ASSEMBLY BILLS**

The following bills were introduced and read the first time:

ASSEMBLY BILL NO. 118—Logue. An act to repeal Division 25.5 (commencing with Section 38500) of the Health and Safety Code, relating to air pollution.

ASSEMBLY BILL NO. 119—Jones. An act to amend Section 1365.5 of the Health and Safety Code, and to add Section 10140.2 to the Insurance Code, relating to health care coverage.

ASSEMBLY BILL NO. 120—Hayashi. An act to amend Sections 2234, 2761, and 3541 of, and to add Section 686 to, the Business and Professions Code, and to amend Section 123462 of the Health and Safety Code, relating to the healing arts.

ASSEMBLY BILL NO. 121—Hernandez. An act to amend Sections 697.510 and 697.670 of the Code of Civil Procedure, relating to judgment liens.

ASSEMBLY BILL NO. 122—Coto. An act to add and repeal Chapter 3.2 (commencing with Section 58530) of Part 31 of Division 4 of Title 2 of the Education Code, relating to small schools.

ASSEMBLY BILL NO. 123—Portantino (Coauthors: Adams, Beall, Brownley, and Fong) (Coauthors: Senators DeSaulnier and Leno). An act to amend Sections 1505, 1568.03, and 1569.145 of the Health and Safety Code, relating to community care facilities.

ASSEMBLY BILL NO. 124—Galgiani (Coauthor: Senator Denham). An act to add Section 9723.3 to the Business and Professions Code, relating to cemeteries, and declaring the urgency thereof, to take effect immediately.

ASSEMBLY BILL NO. 125—De León (Coauthors: Carter, Coto, Eng, Hernandez, Jones, Lieu, Ma, and Solorio). An act to add Title 25 (commencing with Section 100000) to the Government Code, relating to retirement, and making an appropriation therefor.

ADJOURNMENT

At 3 p.m., pursuant to the motion by Assembly Member Torrico, the Assembly adjourned until 7 a.m., Friday, January 16, 2009, out of respect to the memory of Jacqueline Kasun, on motion of Assembly Member Chesbro; out of respect to the memory of Roy Hayes, on motion of Assembly Member Portantino; and out of respect to the memory of Julie Partansky, on motion of Assembly Member Yamada.

KAREN BASS, Speaker

SUE PARKER, Assistant Chief Clerk