

CALIFORNIA LEGISLATURE
2005-06 REGULAR SESSION

ASSEMBLY DAILY JOURNAL

Monday, January 24, 2005
FOURTEENTH SESSION DAY
FIFTIETH 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
Monday, January 24, 2005

The Assembly met at 12:01 p.m.
Hon. Leland Y. Yee, Speaker pro Tempore of the Assembly,
presiding.
Chief Clerk E. Dotson Wilson at the Desk.
Assistant Clerk Neva Parker reading.

ROLL CALL

The roll was called.

Quorum Call of the Assembly

Assembly Member La Suer moved a quorum call of the Assembly.
At 12:02 p.m., Speaker pro Tempore Yee placed a quorum call upon
the Assembly.

The Speaker pro Tempore directed the Sergeant at Arms to close the
doors, and to bring in the absent Members.

Quorum Present

At 12:03 p.m., Speaker pro Tempore Yee declared a quorum of the
Assembly present.

The roll call was completed, and the following answered to their
names—76:

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

PRAYER

Upon invitation of Speaker pro Tempore Yee, the following prayer was offered by Assembly Chaplain Rev. Constantine C. Pappademos:

Lord, The work we do in this chamber concerns all the people of this great state. Yet, Your greatness is seen in all the world! Your praise reaches up to the heavens, and is sung by young and old alike. When we look at the sky, which You have made, at the moon and the stars, which You have set in their places, we can only marvel that You take the time to care for us. You have crowned us all with glory and honor, and have given us dominion over the earth and its creatures. So we praise and bless You this day, O Lord, and we glorify Your name forever.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker pro Tempore Yee, Assembly Member Tran 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 Frommer, seconded by Assembly Member Cogdill.

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 Calderon.

Because of illness: Assembly Members Niello and Oropeza.

Because of illness in her family: Assembly Member Montañez.

EXPLANATIONS OF ABSENCE

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

January 11, 2005

*The Honorable Fabian Núñez
Speaker of the Assembly
State Capitol
Sacramento, California*

Dear Mr. Speaker: I am writing today to request to be excused from Session on Monday, January 24, 2005 to attend legislative business in my district. I will return to Sacramento on Tuesday, January 25, 2005. If you have any questions please contact Tiffany Morrison at (916) 319-2058.

Sincerely,

RONALD S. CALDERON, Assembly Member
Fifty-eighth District

COMMUNICATIONS

The following communication was presented by the Speaker, and ordered printed in the Journal:

January 24, 2005

*E. Dotson Wilson
Chief Clerk of the Assembly
State Capitol, Room 3196
Sacramento, California*

Dear Dotson: This is to advise you that I appointed Assemblymember Lloyd Levine to replace Assemblymember Cindy Montañez on the Assembly Rules Committee for today's hearing only.

Sincerely,

FABIAN NUÑEZ
Speaker of the Assembly

REPORTS

The following letter of transmittal was presented by the Chief Clerk and ordered printed in the Journal:

California State Auditor

2004-115
January 20, 2005

*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 service-related contracts and subcontracts for state-funded work that is being performed outside of the country. This report concludes that it is difficult to judge the prevalence and effects of offshore contracting (offshoring). Specifically, state agencies currently receive no guidance related to offshoring and are not required to track where their contracted services are being performed or report the extent to which services are being performed offshore. Because of the difficulty in identifying where subcontracted work is performed, determining with any certainty the amount of state funds spent on services performed offshore is a challenge.

Our survey of selected state agencies and campuses (entities) indicates that some state-funded services are being performed offshore. However, from our limited data, the State apparently has been spending little on services performed in foreign countries. Entities that we surveyed reported 185 contracts totaling \$638.9 million where at least some portion of the work has possibly been performed offshore. Asked to estimate the dollar amount of these offshored services, participants reported the amount was unknown for 76 of these contracts. For the remaining 109 contracts, totaling \$349 million, participants estimated that only \$9.7 million (2.8 percent) of the contracted services were performed offshore.

Finally, the offshore contracts we reviewed generally contain provisions to protect sensitive and confidential information from disclosure. It is essential for state entities to determine where

subcontracted services are performed and who is performing the services. This knowledge will enable state entities to better ensure that all contracts and subcontracts include appropriate provisions to protect confidential information from disclosure and that all parties to the contract, including subcontractors, are aware of and comply with contract terms and conditions.

Respectfully submitted,

ELAINE M. HOWLE
State Auditor

Above report referred to the Committee on Jobs, Economic Development and the Economy.

The following reports were presented by the Chief Clerk:

**2005 Annual Report of
the California DUI Management Information System
(Pursuant to Assembly Bill 757, Chapter 450, Statutes of 1989)**

Above transmitted report, together with letter of transmittal from Joan M. Borucki, Director, Department of Motor Vehicles, dated January 12, 2005, referred by the Speaker to the Committee on Transportation.

**Environmental Justice Program Update Report
(Pursuant to Public Resources Code Section 71115)**

Above transmitted report, together with letter of transmittal from Alan C. Lloyd, Ph.D., Agency Secretary, California Environmental Protection Agency, dated January 13, 2005, referred by the Speaker to the Committee on Natural Resources.

**Disabled Veterans Business Enterprise Report 2003-04
(Pursuant to Public Contract Code Section 10115.5)**

Above transmitted report, together with letter of transmittal from Ruth Coleman, Director, Department of Parks and Recreation, dated January 20, 2005, referred by the Speaker to the Committee on Jobs, Economic Development, and the Economy.

**Predatory Lending Report
(Pursuant to Assembly Bill 489, Chapter 732, Statutes of 2001)**

Above transmitted report, together with letter of transmittal from Jeff Davi, Commissioner, Department of Real Estate, dated January 13, 2005, referred by the Speaker to the Committee on Banking and Finance.

JOINT RULE 62(a) WAIVED

Assembly Member Frommer was granted unanimous consent that Joint Rule 62(a) be waived for the purpose of setting the Enforcement Monitor's Report on the Medical Board of California for hearing in the Joint Committee on Boards, Commissions and Consumer Protection on Tuesday, January 25, 2005.

COMMUNICATIONS

The following communication was presented by the Chief Clerk, and ordered printed in the Journal:

Legislative Intent—Assembly Bill No. 2856

January 24, 2005

*E. Dotson Wilson
Chief Clerk of the Assembly
State Capitol, Room 219
Sacramento, California*

Dear Mr. Wilson: I respectfully submit this letter in an effort to address the context of my Assembly Bill 2856 (Chapter 890, Statutes of 2004).

As a matter of background, the Assembly Special Committee on State Mandates, to which the Speaker appointed me chair, has over the last 18 months explored in detail most aspects of the state mandates process.

AB 2856 is only one step in reforming the state mandates claiming process. I believe it is an important first step. It is my hope that we will be able to enact broad and fundamental reforms to the state mandates process this session as a follow up to the work of the Special Committee. It is important to understand this bill in that context and that it does not constitute the last expected action on the mandates process.

A concern was also raised about the ‘reasonable reimbursement methodology’ included as a piece of AB 2856. The bill states that this methodology shall be used ‘whenever possible,’ indicating that it is an alternative to the current process whenever possible.

I appreciate your time and consideration of this matter.

Respectfully submitted,

JOHN LAIRD, Assembly Member
Twenty-seventh District

REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bills were referred to committee:

<i>Assembly Bill No.</i>	<i>Committee</i>
30 -----	P.E.,R. & S.S. and V.A.
68 -----	Jud.
84 -----	Trans. and Nat. Res.
89 -----	Health
90 -----	Budget
91 -----	Pub. S.
93 -----	Ed.
95 -----	Health
96 -----	Pub. S.
98 -----	Pub. S.
99 -----	Jud.
100 -----	Pub. S.
101 -----	Pub. S.
104 -----	Jud.
105 -----	Health
106 -----	Pub. S.
107 -----	Trans.
108 -----	Jud.

111 ----- G.O.
112 ----- Jud.
113 ----- Pub. S.
114 ----- Pub. S.
115 ----- Rev. & Tax.
116 ----- Health
117 ----- Health
118 ----- Jud.
119 ----- Health
120 ----- Jud.
121 ----- Health
122 ----- Hum. S.
123 ----- Ed.
125 ----- Pub. S.
126 ----- Health
127 ----- Budget
128 ----- Budget
129 ----- Budget
130 ----- Budget
131 ----- Budget
132 ----- Budget
133 ----- Budget
134 ----- Budget
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145 ----- Budget
146 ----- Budget
147 ----- Budget
148 ----- Budget
149 ----- Budget
150 ----- Budget
151 ----- Budget
152 ----- Budget
153 ----- Budget
154 ----- Budget
155 ----- Budget
156 ----- Budget
157 ----- Pub. S.
158 ----- E. & R.

Assembly Concurrent

Resolution No.

Committee

8 ----- Rls.

**CONSIDERATION OF DAILY FILE
THIRD READING OF ASSEMBLY BILLS**

ASSEMBLY JOINT RESOLUTION NO. 3 (Cohn)—Relative to the 32nd anniversary of Roe v. Wade.

Resolution read.

Point of Order

Assembly Member Frommer arose to the following point of order:
Assembly Member Mountjoy is not limiting debate to the merits of the resolution.

Ruling by Speaker pro Tempore Yee

The Speaker pro Tempore ruled the point of order well-taken.

Motion to Appeal from the Decision of the Chair

Assembly Member Mountjoy moved to appeal from the decision of the Chair.

Assembly Member Maze seconded the motion.

The question being: Shall the decision of the Chair that the point of order raised by Assembly Member Frommer is well-taken be overruled?

The roll was opened and the decision of the Chair sustained by the following vote:

AYES—31

Aghazarian	Garcia	La Suer	Runner
Benoit	Harman	Leslie	Spitzer
Blakeslee	Haynes	Maze	Strickland
Bogh	Horton, Shirley	McCarthy	Tran
Cogdill	Houston	Mountjoy	Villines
Daucher	Huff	Nakanishi	Walters
DeVore	Keene	Parra	Wyland
Emmerson	La Malfa	Plescia	

NOES—45

Arambula	Dymally	Leno	Ruskin
Baca	Evans	Levine	Saldaña
Bass	Frommer	Lieber	Salinas
Berg	Goldberg	Liu	Torrico
Bermúdez	Gordon	Matthews	Umberg
Canciamilla	Hancock	Mullin	Vargas
Chan	Horton, Jerome	Nation	Wolk
Chavez	Jones	Nava	Yee
Chu	Karnette	Negrete McLeod	Mr. Speaker
Cohn	Klehs	Pavley	
Coto	Koretz	Richman	
De La Torre	Laird	Ridley-Thomas	

Vote Changes

By unanimous consent, the following vote changes were permitted on the Mountjoy appeal from decision of the Chair on Assembly Joint Resolution No. 3: Assembly Member Leno from “Aye” to “No”; Assembly Member Aghazarian from “No” to “Aye”.

Point of Order

Assembly Member Mountjoy arose to the following point of order:
Assembly Member Cohn is not limiting debate to the merits of the resolution.

Ruling by Speaker pro Tempore Yee

The Speaker pro Tempore ruled the point of order well-taken.

**Further Consideration of Assembly Joint Resolution No. 3
Members Made Coauthors of Assembly Joint Resolution No. 3**

Assembly Member Cohn was granted unanimous consent to open the roll for the purpose of permitting Members to add as coauthors of Assembly Joint Resolution No. 3.

Roll Call

The following Assembly Members indicated a desire to become coauthors:

Baca, Bermúdez, Canciamilla, Coto, De La Torre, Dymally, Frommer, Gordon, Jerome Horton, Klehs, Koretz, Laird, Leno, Levine, Liu, Mullin, Nation, Nava, Núñez, Parra, Richman, Ruskin, Saldaña, Salinas, Vargas, and Yee.

Request for Unanimous Consent

Assembly Member Cohn was granted unanimous consent to take up Assembly Joint Resolution No. 3, as amended, without reference to print or file, and that the same be considered engrossed.

Consideration of Assembly Joint Resolution No. 3, as Amended

ASSEMBLY JOINT RESOLUTION NO. 3—Relative to the 32nd anniversary of Roe v. Wade.

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

AYES—47

Arambula	De La Torre	Laird	Richman
Baca	Dymally	Leno	Ridley-Thomas
Bass	Evans	Levine	Ruskin
Berg	Frommer	Lieber	Saldaña
Bermúdez	Goldberg	Liu	Salinas
Canciamilla	Gordon	Matthews	Torrico
Chan	Hancock	Mullin	Umberg
Chavez	Horton, Jerome	Nation	Vargas
Chu	Jones	Nava	Wolk
Cohn	Karnette	Negrete McLeod	Yee
Coto	Klehs	Parra	Mr. Speaker
Daucher	Koretz	Pavley	

NOES—26

Aghazarian	Garcia	Maze	Strickland
Benoit	Haynes	McCarthy	Tran
Blakeslee	Huff	Mountjoy	Villines
Bogh	Keene	Nakanishi	Walters
Cogdill	La Malfa	Plescia	Wyland
DeVore	La Suer	Runner	
Emmerson	Leslie	Spitzer	

Resolution ordered transmitted to the Senate.

ADJOURN IN MEMORY

Assembly Members Pavley, Frommer, and Chavez were granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Johnny Carson, of Malibu.

(Assembly Rule 45.5 suspended.)

ADJOURN IN MEMORY

Assembly Member Mountjoy was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Holly Wooster, of Monrovia.

(Assembly Rule 45.5 suspended.)

ADJOURN IN MEMORY

Assembly Members Haynes and Spitzer were granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Trudy Schmidt, of Corona.

(Assembly Rule 45.5 suspended.)

ADJOURN IN MEMORY

Assembly Member Arambula was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Consuelo Blanco, of Fresno.

Assembly Member Bogh was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Steve Marshall and Normand Steven Rush, of Yucaipa.

Assembly Member Chu was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Sibilina Flores and Frank Zavala, of El Monte.

Assembly Member Laird was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Neil Sandow, of Santa Cruz.

Assembly Member Leslie was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Shirley Elizabeth Van Maren, of Citrus Heights.

Assembly Member Nation was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Muriel Mackay, of Novato.

Assembly Member Pavley was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Neil C. Schmidt, of Filmier.Fillmore.

Assembly Member Strickland was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Virginia Mayo, of Thousand Oaks.

Assembly Member Wolk was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Joel Y. Bryan and Helen Audree Cordrey, of Davis; Carol Petra Falati, Steven Auega Fonoti, and Emma "Penny" Herington, of Fairfield; Frances M. Beitler and Rudolph Walter Mangels, of Vacaville; and Emma A. Rodriguez, of West Sacramento.

VOTE ADDS

The following Assembly Members were granted unanimous consent to record their votes on the following items (shown in sequential order):

Assembly Joint Resolution No. 3, Mountjoy Motion to Appeal Decision of the Chair: Shirley Horton—Aye; Umberg—No.

Assembly Joint Resolution No. 3: Karnette—Aye.

MOTION TO ADJOURN

At 1:09 p.m., Assembly Member Frommer moved that the Assembly do now adjourn.

Assembly Member Cogdill seconded the motion.

Motion carried.

QUORUM CALL OF THE ASSEMBLY DISPENSED WITH

At 1:10 p.m., Speaker pro Tempore Yee 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. 176—Bermudez. An act to amend Section 71601 of the Government Code, relating to trial courts.

ASSEMBLY BILL NO. 177—Bogh. An act to amend Sections 40106, 40201, 41781.2, 41783, and 41783.1 of, and to add Section 40107 to, the Public Resources Code, relating to solid waste.

ASSEMBLY BILL NO. 178—Koretz (Coauthor: Senator Ortiz). An act to add Part 8 (commencing with Section 14950) to Division 12 of the Health and Safety Code, relating to cigarettes.

ASSEMBLY BILL NO. 179—Bermudez. An act to add Section 1569.39 to the Health and Safety Code, relating to residential care facilities for the elderly.

ASSEMBLY BILL NO. 180—Jerome Horton (Coauthors: Benoit and Matthews). An act to amend Sections 6738 and 8729 of the Business and Professions Code, and to amend Sections 16101, 16956, and 16959 of the Corporations Code, relating to limited liability partnerships.

ASSEMBLY BILL NO. 181—Huff. An act to add Section 9032 to the Government Code, relating to the Legislature.

ASSEMBLY BILL NO. 182—Benoit. An act to amend Section 1529 of the Penal Code, relating to search warrants.

ASSEMBLY BILL NO. 183—Cogdill. An act to add Section 6203.5 to the Penal Code, relating to conservation camps, and declaring the urgency thereof, to take effect immediately.

ASSEMBLY BILL NO. 184—Cogdill. An act relating to air pollution.

ASSEMBLY CONSTITUTIONAL AMENDMENT NO. 9—Bogh. A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending subdivision (d) of Section 1 of Article XIX B thereof, relating to transportation.

RESOLUTIONS

The following resolution was offered:

ASSEMBLY CONCURRENT RESOLUTION NO. 9—Oropeza. Relative to California Girls and Women in Sports Day.

MESSAGES FROM THE SENATE

Senate Chamber, January 24, 2005

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

Senate Bill No. 29

GREGORY P. SCHMIDT, Secretary of the Senate
By David Valverde, Assistant Secretary

FIRST READING OF SENATE BILLS

The following bill was read the first time:

SENATE BILL NO. 29—An act relating to public health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

INTRODUCTION OF GUESTS

Assembly Member Levine, of the 40th Assembly District, introduced the Honorable Josefina M. dela Cruz, Governor, Bulacan.

Assembly Member Bass, of the 47th Assembly District, introduced Jennifer Wooley, President of the California Association of Nurse Anesthetists, Chris Stein, and Fred Cardinal.

ADJOURNMENT

At 3 p.m., pursuant to the motion by Assembly Member Frommer, the Assembly adjourned until 7 a.m., Tuesday, January 25, 2005, out of respect to the memory of Johnny Carson, on motion of Assembly Members Pavley, Frommer, and Chavez; out of respect to the memory of Holly Wooster, on motion of Assembly Member Mountjoy; out of respect to the memory of Trudy Schmidt, on motion of Assembly Members Haynes and Spitzer; out of respect to the memory of Consuelo Blanco, on motion of Assembly Member Arambula; out of respect to the memory of Steve Marshall and Normand Steven Rush, on motion of Assembly Member Bogh; out of respect to the memory of Sibilina Flores and Frank Zavala, on motion of Assembly Member Chu; out of respect to the memory of Neil Sandow, on motion of Assembly Member Laird; out of respect to the memory of Shirley Elizabeth Van Maren, on motion of Assembly Member Leslie; out of respect to the memory of Muriel Mackay, on motion of Assembly Member Nation; out of respect to the memory of Neil C. Schmidt, on motion of Assembly Member Pavley; out of respect to the memory of Virginia Mayo, on motion of Assembly Member Strickland; out of respect to the memory of Joel Y. Bryan, Helen Audree Cordrey, Carol Petra Falati, Steven Auega Fonoti, Emma “Penny” Herington, Frances M. Beitler, Rudolph Walter Mangels, and Emma A. Rodriguez, on motion of Assembly Member Wolk.

FABIAN NUÑEZ, Speaker

SUE PARKER, Minute Clerk