

CALIFORNIA LEGISLATURE
2011–12 REGULAR SESSION

ASSEMBLY DAILY JOURNAL

Tuesday, January 31, 2012

ONE HUNDRED FORTY-THIRD SESSION DAY

FOUR HUNDRED TWENTY-SECOND 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 31, 2012

The Assembly met at 9 a.m.

Hon. Fiona Ma, Speaker pro Tempore of the Assembly, presiding.

Chief Clerk E. Dotson Wilson at the Desk.

Reading Clerk Timothy Morland reading.

ROLL CALL

The roll was called.

Quorum Call of the Assembly

Assembly Member Roger Hernández moved a quorum call of the Assembly.

Motion carried. Time, 9 a.m.

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

Quorum Present

At 9:09 a.m., Speaker pro Tempore Ma declared a quorum of the Assembly present.

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

Achadjian	Cook	Hayashi	Nielsen
Alejo	Davis	Hernández	Norby
Allen	Dickinson	Hill	Olsen
Ammiano	Donnelly	Huber	Pan
Atkins	Eng	Hueso	Perea
Beall	Feuer	Huffman	Pérez, V. Manuel
Berryhill	Fletcher	Jeffries	Portantino
Block	Fong	Jones	Silva
Blumenfield	Fuentes	Knight	Skinner
Bonilla	Furutani	Lara	Smyth
Bradford	Gaines	Logue	Solorio
Brownley	Galgiani	Lowenthal	Swanson
Buchanan	Garrick	Ma	Torres
Butler	Gatto	Mansoor	Wagner
Calderon	Gordon	Mendoza	Wieckowski
Campos	Grove	Miller	Williams
Carter	Hagman	Mitchell	Yamada
Cedillo	Halderman	Monning	Mr. Speaker
Chesbro	Hall	Morrell	
Conway	Harkey	Nestande	

PRAYER

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

Lord, As we live each day, so many people ask for our help. Between family, friends and constituents, satisfying so many needs can become overwhelming and lead to a great deal of guilt. But by keeping our focus on You, Lord, we can get a handle on the guilt we may feel. In Your own way, You will let us know if we're going overboard or over-doing it. Inspire us to keep our focus on You, Lord, by showing love and kindness to others, and guide us to do the right thing at the right time.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker pro Tempore Ma, Assembly Member Bill Berryhill 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 Charles Calderon, seconded by Assembly Member Hagman.

LEAVES OF ABSENCE FOR THE DAY

By unanimous consent, the following Assembly Member was granted leave of absence for the day:

On active duty military deployment, and waiving per diem (Assembly Journal, page 452): Assembly Member Gorell.

The following Assembly Member was not excused for the day:

Not excused, and per diem waived: Assembly Member Valadao.

REPORTS

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

California State Auditor

2011-103
January 31, 2012

*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 California State Auditor presents this audit report concerning California's mutual aid system and whether participation in the system by local and regional entities is viable given the economic stresses on locally governed bodies throughout the State.

This report concludes that the California Emergency Management Agency (Cal EMA) generally processes local agencies' requests for reimbursement within 120 business days and the local agencies generally receive their reimbursements in a timely manner. However, Cal EMA can improve its oversight of other aspects of the reimbursement process by ensuring that local agencies calculate correctly the average actual hourly rates used to determine their reimbursements. Our analysis of 718 transactions processed between 2006 and 2010 found that inaccuracies in the average actual hourly rates

may have resulted in some agencies overbilling for personnel costs by nearly \$674,000, while other agencies were underbilling by nearly \$67,000.

Cal EMA also may need to improve the system it uses to generate invoices on behalf of local agencies that provide assistance. A March 2011 audit conducted by the U.S. Department of Homeland Security's Office of the Inspector General found that the California Department of Forestry and Fire Protection (CAL FIRE) was not in compliance with the Federal Emergency Management Agency's (FEMA) reimbursement criteria. FEMA is actively reviewing this issue and its review may result in a decision to recover some or all of the \$6.7 million identified in the audit report. If FEMA determines the CAL FIRE calculations and claims identified in the audit were erroneous, Cal EMA will need to modify its invoicing system to comply with FEMA's reimbursement criteria. For example, applying FEMA's reimbursement criteria, we found that CAL FIRE may have billed FEMA \$22.8 million more than it should have.

Finally, the majority of 15 local fire and five law enforcement agencies we interviewed stated that they had not evaluated how providing mutual aid affects their budgets. Some of the 15 local fire agencies and the majority of the five law enforcement agencies stated that, although their budgets had been reduced in the last five years, they did not believe that budget restrictions hindered their ability to respond to mutual aid requests. Four of the 15 local fire agencies and one of the five law enforcement agencies said that they were projecting budget reductions in future years. However, only one local fire agency we spoke with has evaluated the impact that budget restrictions will have on its ability to provide mutual aid.

Respectfully submitted,

ELAINE M. HOWLE, CPA
State Auditor

Above report referred to the Committee on Governmental Organization.

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

ASSEMBLY CONCURRENT RESOLUTION NO. 91—Relative to American Heart Month and Wear Red Day.

Resolution read; amendments proposed by the Committee on Rules read and adopted; resolution ordered reprinted and to be placed upon the third reading file.

THIRD READING OF ASSEMBLY BILLS

ASSEMBLY BILL NO. 1148 (Brownley)—An act to amend Sections 84305.5, 84504, and 84505 of, to add Sections 84506.1, 84506.2, and 84506.3 to, to repeal Sections 84502, 84503, and 84506.5 of, and to repeal and add Sections 84501, 84506, 84507, and 84508 of, the Government Code, relating to the Political Reform Act of 1974.

Bill read third time.

The roll was opened.

Call of the Assembly

Pending the announcement of the vote, Assembly Member Brownley moved a call of the Assembly.

Motion carried. Time, 9:47 a.m.

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

ASSEMBLY BILL NO. 467 (Eng)—An act to amend Section 75101 of the Public Resources Code, relating to the environment, and declaring the urgency thereof, to take effect immediately.

Bill read third time.

Urgency Clause

Urgency clause read, and adopted by the following vote:

AYES—77

Achadjian	Cook	Hayashi	Norby
Alejo	Davis	Hernández	Olsen
Allen	Dickinson	Hill	Pan
Ammiano	Donnelly	Huber	Perea
Atkins	Eng	Hueso	Pérez, V.M.
Beall	Feuer	Huffman	Portantino
Berryhill	Fletcher	Jeffries	Silva
Block	Fong	Jones	Skinner
Blumenfield	Fuentes	Knight	Smyth
Bonilla	Furutani	Lara	Solorio
Bradford	Gaines	Logue	Swanson
Brownley	Galgiani	Lowenthal	Torres
Buchanan	Garrick	Ma	Wagner
Butler	Gatto	Mansoor	Wieckowski
Calderon	Gordon	Mendoza	Williams
Campos	Grove	Miller	Yamada
Carter	Hagman	Monning	Mr. Speaker
Cedillo	Halderman	Morrell	
Chesbro	Hall	Nestande	
Conway	Harkey	Nielsen	

NOES—None

The question being on the passage of the bill.

Bill passed by the following vote:

AYES—77

Achadjian	Cook	Hayashi	Norby
Alejo	Davis	Hernández	Olsen
Allen	Dickinson	Hill	Pan
Ammiano	Donnelly	Huber	Perea
Atkins	Eng	Hueso	Pérez, V.M.
Beall	Feuer	Huffman	Portantino
Berryhill	Fletcher	Jeffries	Silva
Block	Fong	Jones	Skinner
Blumenfield	Fuentes	Knight	Smyth
Bonilla	Furutani	Lara	Solorio
Bradford	Gaines	Logue	Swanson
Brownley	Galgiani	Lowenthal	Torres
Buchanan	Garrick	Ma	Wagner
Butler	Gatto	Mansoor	Wieckowski
Calderon	Gordon	Mendoza	Williams
Campos	Grove	Miller	Yamada
Carter	Hagman	Monning	Mr. Speaker
Cedillo	Halderman	Morrell	
Chesbro	Hall	Nestande	
Conway	Harkey	Nielsen	

**NOES—None
Vote Changes**

By unanimous consent, the following vote changes were permitted on the urgency clause to Assembly Bill No. 467, and on passage of the bill: Assembly Members Garrick and Silva from “No” to “Aye”.

**UNFINISHED BUSINESS
MOTIONS TO RECONSIDER BILLS CONTINUED**

By unanimous consent, the motion to reconsider the vote on Senate Bill No. 923 was continued until the next legislative day.

MOTION TO RECONSIDER ASSEMBLY BILL NO. 327

In compliance with a motion given on a previous day, Assembly Member Davis moved that the vote be reconsidered whereby Assembly Bill No. 327 was refused passage.

Assembly Bill No. 327 reconsidered by the following vote:

AYES—44

Alejo	Carter	Gordon	Mitchell
Allen	Cedillo	Hall	Monning
Ammiano	Chesbro	Hayashi	Pan
Atkins	Davis	Hernández	Pérez, V.M.
Beall	Dickinson	Hill	Skinner
Block	Eng	Hueso	Swanson
Blumenfield	Feuer	Huffman	Torres
Bonilla	Fong	Lara	Wieckowski
Bradford	Fuentes	Lowenthal	Williams
Buchanan	Furutani	Ma	Yamada
Calderon	Galgiani	Mendoza	Mr. Speaker

NOES—26

Achadjian	Gatto	Knight	Olsen
Berryhill	Grove	Logue	Portantino
Conway	Hagman	Mansoor	Silva
Cook	Halderman	Miller	Smyth
Donnelly	Harkey	Morrell	Wagner
Fletcher	Jeffries	Nestande	
Gaines	Jones	Nielsen	

Further Consideration of Assembly Bill No. 327

ASSEMBLY BILL NO. 327 (Davis)—An act to amend Sections 667, 667.1, 1170.12, and 1170.125 of the Penal Code, relating to sentencing.

Bill read third time.

The roll was opened.

Call of the Assembly

Pending the announcement of the vote, Assembly Member Davis moved a call of the Assembly.

Motion carried. Time, 10:31 a.m.

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

ADJOURN IN MEMORY

Assembly Members Smyth and Conway were granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Hamilton Clyde Smyth of Santa Clarita.

(Assembly Rule 45.5 suspended.)

ANNOUNCEMENTS

Speaker pro Tempore Ma announced that today, January 31, 2012, is the last day for the Assembly to pass bills introduced in the Assembly in 2011.

Speaker pro Tempore Ma announced the following session schedule:
Wednesday, February 1, 2012, Check-in Session, 7 a.m.–3 p.m.;
Thursday, February 2, 2012, Floor Session, 9 a.m.;
Friday, February 3, 2012, No session.

COMMITTEE MEETING ANNOUNCEMENTS

Speaker pro Tempore Ma announced that the Committee on Budget would meet today, upon adjournment of Floor Session in Room 4202.

**CALL OF THE ASSEMBLY DISPENSED WITH ON
ASSEMBLY BILL NO. 327**

At 10:38 a.m., on motion of Assembly Member Davis, and in the absence of any objection, further proceedings under the call of the Assembly were dispensed with.

Assembly Bill No. 327 passed by the following vote:

AYES—41

Alejo	Carter	Hayashi	Pan
Allen	Cedillo	Hernández	Pérez, V.M.
Ammiano	Chesbro	Hill	Skinner
Atkins	Davis	Huber	Swanson
Beall	Dickinson	Hueso	Wieckowski
Blumenfield	Eng	Huffman	Williams
Bonilla	Feuer	Lara	Yamada
Bradford	Fong	Lowenthal	Mr. Speaker
Brownley	Furutani	Mendoza	
Butler	Gordon	Mitchell	
Calderon	Hall	Monning	

NOES—34

Achadjian	Gaines	Jones	Perea
Berryhill	Galgiani	Knight	Portantino
Block	Garrick	Logue	Silva
Buchanan	Gatto	Mansoor	Smyth
Campos	Grove	Miller	Solorio
Conway	Hagman	Morrell	Torres
Cook	Halderman	Nestande	Wagner
Donnelly	Harkey	Nielsen	
Fletcher	Jeffries	Olsen	

Bill ordered transmitted to the Senate.

**CALL OF THE ASSEMBLY DISPENSED WITH ON
ASSEMBLY BILL NO. 1148**

At 10:39 a.m., on motion of Assembly Member Brownley, and in the absence of any objection, further proceedings under the call of the Assembly were dispensed with.

Assembly Bill No. 1148 refused passage by the following vote:

AYES—52

Alejo	Campos	Gordon	Monning
Allen	Carter	Hall	Pan
Ammiano	Cedillo	Hayashi	Perea
Atkins	Chesbro	Hernández	Pérez, V.M.
Beall	Davis	Hill	Portantino
Block	Dickinson	Huber	Skinner
Blumenfield	Eng	Hueso	Solorio
Bonilla	Feuer	Huffman	Swanson
Bradford	Fletcher	Lara	Torres
Brownley	Fong	Lowenthal	Wieckowski
Buchanan	Fuentes	Ma	Williams
Butler	Furutani	Mendoza	Yamada
Calderon	Gatto	Mitchell	Mr. Speaker

NOES—26

Achadjian	Garrick	Knight	Norby
Berryhill	Grove	Logue	Olsen
Conway	Hagman	Mansoor	Silva
Cook	Halderman	Miller	Smyth
Donnelly	Harkey	Morrell	Wagner
Gaines	Jeffries	Nestande	
Galgiani	Jones	Nielsen	

VOTE ADDS

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

Assembly Bill No. 467 and Urgency: Brownley, Cedillo, Hayashi, and Logue—Aye.

Assembly Bill No. 327, Davis Motion to Reconsider: Cedillo and Pan—Aye; Gatto and Portantino—No.

Assembly Bill No. 327: Buchanan—No.

MOTION TO ADJOURN

At 10:42 a.m., Assembly Member Allen moved that the Assembly do now adjourn.

Assembly Member Conway seconded the motion.

Motion carried.

QUORUM CALL OF THE ASSEMBLY DISPENSED WITH

At 10:42 a.m., Speaker pro Tempore Ma 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. 1567—Jeffries. An act to amend Section 12804.11 of the Vehicle Code, relating to vehicles.

ASSEMBLY BILL NO. 1568—Roger Hernández. An act to amend Section 47605 of the Education Code, relating to charter schools.

ASSEMBLY BILL NO. 1569—Allen (Principal coauthors: Senators Wolk and Yee). An act to amend Section 5349.5 of the Welfare and Institutions Code, relating to mental health.

REPORTS OF STANDING COMMITTEES**Committee on Budget**

Date of Hearing: January 31, 2012

Mr. Speaker: Your Committee on Budget reports:

Senate Bill No. 81

Senate Bill No. 95

Senate Bill No. 98

With the recommendation: Do pass.

BLUMENFIELD, Chair

Above bills ordered to second reading.

MESSAGES FROM THE SENATE

Senate Chamber, January 31, 2012

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

Senate Bill No. 730

Senate Bill No. 890

GREGORY P. SCHMIDT, Secretary of the Senate
By Bernadette McNulty, Assistant Secretary

FIRST READING OF SENATE BILLS

The following bills were read the first time:

SENATE BILL NO. 730—An act relating to the payment of claims against the state, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

SENATE BILL NO. 890—An act to add Title 1.6C.5 (commencing with Section 1788.50) to Part 4 of Division 3 of the Civil Code, and to amend Sections 700.010, 706.103, 706.104, 706.108, and 706.122 of, and to add Sections 581.5 to, the Code of Civil Procedure, relating to debt buyers.

ADJOURNMENT

At 3 p.m., pursuant to the motion by Assembly Member Allen, the Assembly adjourned until 7 a.m., Wednesday, February 1, 2012, out of respect to the memory of Hamilton Clyde Smyth on motion of Assembly Members Smyth and Conway.

JOHN A. PÉREZ, Speaker

AMY LEACH, Minute Clerk

**AMENDMENTS CONSIDERED BY THE
ASSEMBLY ON JANUARY 31, 2012**

The following measure was amended in the Assembly on this day:

ACR RN

91 1203693

Daily Total: 1

Cumulative Total: 2483

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