

CALIFORNIA LEGISLATURE  
2011–12 REGULAR SESSION

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# ASSEMBLY DAILY JOURNAL

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**Wednesday, February 9, 2011**  
**TWENTY-FOURTH SESSION DAY**  
**SIXTY-SIXTH CALENDAR DAY**  
**AT SACRAMENTO, CALIFORNIA**



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**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  
Wednesday, February 9, 2011

The Assembly met at 7 a.m.

Hon. Jim Silva, Assembly Member, 67th District, presiding.

Chief Clerk E. Dotson Wilson at the Desk.

Reading Clerk Timothy Morland reading.

#### ROLL CALL

The following were placed upon the morning roll call—76:

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

Quorum present.

**At 12:47 p.m., Hon. Anthony Portantino, 44th 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 personal business, and waiving per diem: Assembly Members Fletcher and Galgiani.*

*Because of illness in his family: Assembly Member V. Manuel Pérez.*

**COMMUNICATIONS**

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

February 2, 2011

*The Honorable John A. Pérez  
Speaker of the Assembly  
State Capitol, Room 219  
Sacramento, California*

Dear Speaker Pérez: The Senate Rules Committee has made the following appointments to joint committees:

- Joint Legislative Sunset Review Committee—Senators Correa, DeSaulnier, Emmerson, Negrete McLeod, and Walters
- Joint Committee on Fairs, Allocation, and Classification—Senators La Malfa (Chair), Cannella, Harman, Kehoe, Padilla, Rubio, and Wolk

Sincerely,

GREGORY P. SCHMIDT  
Secretary of the Senate

**SPECIAL COMMITTEE MEETINGS**

By unanimous consent, the following committees were permitted to meet:

Transportation, to convene jointly with the Senate Committee on Transportation and Housing, on Monday, February 28, 2011, at 1:30 p.m., in Room 4202.

Judiciary, on Tuesday, March 1, 2011, at 9 a.m., in Room 4202.

Select Committee on Domestic Violence, on Wednesday, February 23, 2011, at 1:30 p.m., in Room 447.

**REPORTS**

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

California State Auditor

Investigative Report I2010-2

January 18, 2011

*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: Pursuant to the California Whistleblower Protection Act, the Bureau of State Audits presents its investigative report summarizing investigations completed between January and June 2010 concerning allegations of improper governmental activities.

This report details eight substantiated allegations involving several state departments. Through our investigations, we found patients placed at risk and state funds wasted during the continued employment of an incompetent psychiatrist, misuse of state resources, theft of registration fees, and failure to protect the security of confidential documents. As an example, we found that the Department of Corrections and Rehabilitation failed to promptly investigate allegations of a psychiatrist's incompetence, and in doing so, placed patients at risk and wasted nearly \$367,000 in state funds as it continued to pay the psychiatrist more than \$600,000 in salary while he was under investigation for nearly three years.

In addition, this report provides an update on previously reported investigations and describes additional actions taken by state departments to correct the problems we previously identified. For example, the Department of Industrial Relations filed a civil lawsuit against a former inspector in an effort to obtain reimbursement for \$70,105 in improper payments she received and formally reprimanded the inspector's immediate supervisor for his failure to monitor the inspector's time and attendance.

Respectfully submitted,

ELAINE M. HOWLE, CPA  
State Auditor

Above report referred to the Committee on Business, Professions and Consumer Protection.

California State Auditor

2009-109  
January 20, 2011

*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 the Sacramento County Superior Court and the Marin County Superior Court and their departments' or courtrooms' use of court appointees in child custody disputes, which are governed by the California Family Code and the California Rules of Court adopted by the Judicial Council of California.

This report concludes that both superior courts need to do more to ensure that the individuals who provide mediation and evaluation services and who act as counsel for minors in cases before their family courts have the necessary qualifications and required training. In addition, the two superior courts should follow their established processes for handling complaints, improve their processes for payments related to counsel appointed to represent the interests of minors involved in family law cases, and strengthen their procedures for dealing with conflicts of interest within the family courts.

Respectfully submitted,

ELAINE M. HOWLE, CPA  
State Auditor

Above report referred to the Committee on Judiciary.

## California State Auditor

2010-002.2  
January 27, 2011

*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: Pursuant to guidance issued by the U.S. Office of Management and Budget (OMB), the California State Auditor's Office (State Auditor's Office) presents its interim report concerning various state departments' administration of federal programs during fiscal year 2009–10. With the passage of the American Recovery and Reinvestment Act of 2009 (Recovery Act) comes a renewed emphasis on accountability and public transparency to ensure federal funds are spent properly. A key component of such accountability and transparency is the annual report from the State Auditor's Office on internal control and compliance with federal laws and regulations. OMB's June 2010 guidance stresses the importance of auditors communicating promptly any identified internal control deficiencies to management and those charged with governance. In addition, the guidance states that it is imperative that deficiencies in internal control be corrected by management as soon as possible to ensure proper accountability and transparency for expenditures of Recovery Act awards.

This interim report summarizes audit results pertaining to 14 federal programs administered by four departments. Three of the four departments received Recovery Act funding during fiscal year 2009–10. The State Auditor's Office has currently identified 17 findings regarding the four departments' administration of these federal programs during fiscal year 2009–10. In many cases the findings are recurring issues we identified in past audits. The findings focused on various federal requirements including those regarding eligibility and reporting. We also reported that the departments fully corrected six findings that we included in last year's annual audit report. The specific federal programs, and their administering state departments, are listed in the table of contents.

Respectfully submitted,

ELAINE M. HOWLE, CPA  
State Auditor

Above report referred to the Committee on Business, Professions and Consumer Protection.

**INTRODUCTION AND FIRST READING OF  
ASSEMBLY BILLS**

The following bills were introduced and read the first time:

**ASSEMBLY BILL NO. 293—Hill.** An act to amend Section 3019 of the Elections Code, relating to elections.

**ASSEMBLY BILL NO. 294—Portantino.** An act to add and repeal Article 6.3 (commencing with Section 217) of Chapter 1 of Division 1 of the Streets and Highways Code, relating to transportation.

**ASSEMBLY BILL NO. 295—Bonnie Lowenthal.** An act to amend Section 68511.8 of the Government Code, relating to courts.

**ASSEMBLY BILL NO. 296—Skinner.** An act relating to global warming.

**ASSEMBLY BILL NO. 297—Galgiani.** An act to amend Section 10115 of the Public Contract Code, relating to public contracts.

**ASSEMBLY BILL NO. 298—Brownley.** An act to add Section 42253.5 to the Public Resources Code, relating to recycling.

**ASSEMBLY BILL NO. 299—Eng.** An act to amend Section 22400 of the Financial Code, relating to finance lenders.

**ASSEMBLY BILL NO. 300—Ma.** An act to repeal and add Chapter 7 (commencing with Section 119300) of Part 15 of Division 104 of the Health and Safety Code, relating to body art.

**ASSEMBLY BILL NO. 301—Pan.** An act to amend Section 14094.3 of the Welfare and Institutions Code, relating to Medi-Cal.

**ASSEMBLY BILL NO. 302—Garrick.** An act to amend Section 2671 of the Labor Code, relating to employment.

**ASSEMBLY BILL NO. 303—Knight.** An act to add and repeal Section 6377 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

**ASSEMBLY BILL NO. 304—Knight.** An act to add and repeal Sections 17053.81 and 23623.2 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

**ASSEMBLY BILL NO. 305—Furutani.** An act to amend Section 7299.6 of the Government Code, relating to state government.

**ASSEMBLY BILL NO. 306—Gatto.** An act to add and repeal Section 25325 of the Public Resources Code, relating to energy.

**ASSEMBLY BILL NO. 307—Nestande.** An act to amend Section 6500 of, to add Section 6529.5 to, and to repeal Sections 6529 and 6530 of, the Government Code, relating to joint powers agreements.

**ASSEMBLY BILL NO. 308—Ammiano.** An act to add Section 806 to the Evidence Code, and to add Section 686.3 to the Penal Code, relating to criminal investigations.

**ASSEMBLY BILL NO. 309—Cook.** An act to amend Sections 1770 and 1771 of the Government Code, relating to public officers.

**ASSEMBLY BILL NO. 310—Ma.** An act to add Section 1367.225 to the Health and Safety Code, and to add Section 10123.197 to the Insurance Code, relating to health care coverage.

**ASSEMBLY BILL NO. 311—Cook.** An act to add Section 108 to the Labor Code, relating to employment.

**ASSEMBLY BILL NO. 312—Bonnie Lowenthal (Coauthors: Ammiano, Blumenfield, Chesbro, Eng, Hall, Huffman, and Swanson).** An act to amend Section 51.7 of the Civil Code, relating to civil rights.

**ASSEMBLY BILL NO. 313—Monning.** An act to add Section 1569.336 to the Health and Safety Code, relating to residential care facilities for the elderly.

**ASSEMBLY BILL NO. 314—Gorell.** An act to amend Section 70374 of the Government Code, and to amend Section 10335.7 of the Public Contract Code, relating to court facilities.

**ASSEMBLY BILL NO. 315—Solorio.** An act to amend Section 2216.2 of the Business and Professions Code, to amend Sections 51003 and 51007 of the Financial Code, to amend Sections 675.5, 703, 703.1, 1620, 1760, 1760.5, 1760.7, 1761, 1763, 1763.1, 1764.1, 1764.2, 1764.3, 1765.1, 1765.2, 1765.3, 1765.4, 1766, 1768, 1774, 1775.1, 1775.3, 1775.4, 1775.5, and 1780.56 of, and to add Sections 1760.1, 1760.2, 1765.5, and 1774.1 to, the Insurance Code, and to amend Section 13210 of, and to add Section 13215 to, the Revenue and Taxation Code, relating to surplus line brokers, and declaring the urgency thereof, to take effect immediately.

**ASSEMBLY BILL NO. 316—Carter.** An act to amend Sections 2805 and 2810 of the Vehicle Code, relating to vehicles.

**ASSEMBLY BILL NO. 317—Charles Calderon.** An act to amend Section 739.5 of the Public Utilities Code, relating to energy.

**ASSEMBLY BILL NO. 318—Skinner.** An act to add Section 19571 to the Revenue and Taxation Code, relating to taxation.

**ASSEMBLY BILL NO. 319—Norby.** An act to amend Section 25608 of the Business and Professions Code, relating to alcoholic beverages.

**ASSEMBLY BILL NO. 320—Hill.** An act to amend Sections 21108, 21152, and 21167.6.5 of the Public Resources Code, relating to the environment.

**ASSEMBLY BILL NO. 321—Roger Hernández.** An act to add Section 729.14 to the Welfare and Institutions Code, relating to juveniles.

**ASSEMBLY BILL NO. 322—Portantino.** An act to add and repeal Section 680.1 of the Penal Code, relating to forensic evidence.

#### ADJOURNMENT

At 3 p.m., the Assembly adjourned until 9 a.m., Thursday, February 10, 2011.

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JOHN A. PÉREZ, Speaker

AMY LEACH, Minute Clerk