

CALIFORNIA LEGISLATURE

2003–04 REGULAR SESSION

ASSEMBLY DAILY JOURNAL

Thursday, February 12, 2004

ONE HUNDRED FIFTY-SECOND SESSION DAY

FOUR HUNDRED THIRTY-EIGHTH 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
Thursday, February 12, 2004

The Assembly met at 9 a.m.

Hon. Fabian Nunez, Speaker of the Assembly, presiding.

Chief Clerk E. Dotson Wilson at the Desk.

Assistant Clerk Sue Parker reading.

ROLL CALL

The roll was called.

Quorum Call of the Assembly

Assembly Member Cogdill moved a quorum call of the Assembly.

Motion carried. Time, 9:01 a.m.

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

Quorum Present

At 9:10 a.m., Speaker Nunez declared a quorum of the Assembly present.

The roll call was completed, and the following answered to their names—73:

Aghazarian	Dymally	Levine	Plescia
Bates	Firebaugh	Lieber	Reyes
Benoit	Frommer	Liu	Ridley-Thomas
Berg	Garcia	Lowenthal	Runner
Bermudez	Goldberg	Maldonado	Salinas
Bogh	Hancock	Matthews	Samuelian
Calderon	Harman	Maze	Simitian
Canciamilla	Haynes	McCarthy	Spitzer
Chan	Horton, Jerome	Montanez	Steinberg
Chavez	Horton, Shirley	Mountjoy	Strickland
Chu	Houston	Mullin	Vargas
Cogdill	Jackson	Nakanishi	Wesson
Cohn	Keene	Nakano	Wiggins
Corbett	Koretz	Nation	Wolk
Correa	La Malfa	Negrete McLeod	Yee
Cox	La Suer	Oropeza	Mr. Speaker
Diaz	Laird	Pacheco	
Dutra	Leno	Parra	
Dutton	Leslie	Pavley	

PRAYER

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

Lord God, We cannot place ourselves directly in Your presence unless we impose upon ourselves, interior and exterior silence. Help us to accustom ourselves to stillness of the soul, stillness of the eyes and stillness of the tongue. For there is no life of prayer without silence. Everything good that happens in our life begins with prayer to You, and that prayer is born in the silence of our hearts.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker Nunez, Assembly Member Chan 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 McCarthy.

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 Members Daucher, Kehoe, Longville, Maddox, and Richman.

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

Because of illness: Assembly Member Wyland.

EXPLANATIONS OF ABSENCE

Pursuant to the Assembly Rules, the following explanations of absence were ordered printed in the Journal:

February 9, 2004

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

Dear Speaker Nunez: I hereby request that I be excused from session on Thursday, February 12, 2004 so that I may return to my District on legislative business.

I appreciate your consideration of this request. Please contact Chris Mowrer at 319-2072 with any questions. Thank you.

Sincerely,

LYNN DAUCHER, Assembly Member
Seventy-second District

February 10, 2004

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

Dear Mr. Speaker: I respectfully request to be excused from Floor Session on Thursday, February 12, and Friday, February 13, 2004 due to legislative business in my district.

Thank you for your consideration of this request.

Sincerely,

CHRISTINE KEHOE, Assembly Member
Seventy-sixth District

February 12, 2004

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

Dear Mr. Speaker: I respectfully request to have my absence excused for floor session on February 12, 2004, as I will be on legislative business in my district.

Thank you for your consideration.

Respectfully,

JOHN LONGVILLE, Assembly Member
Sixty-second District

February 9, 2004

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

Dear Mr. Speaker: I respectfully request authorization to be absent from check-in session on Thursday, February 12th and session on Friday, February 13th. I will be in my district on legislative business.

Thank you for your consideration of my request.

Sincerely,

KEN MADDOX, Assembly Member
Sixty-eighth District

February 10, 2004

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

Dear Speaker Nunez: I respectfully request that I be excused from attending session Thursday, February 12, 2004. I will be speaking Thursday morning and would like to be excused from attending session that day.

Thank you for your prompt attention to my request. Please contact Connie Bosserman in my office at (916) 319-2038 if you have any questions.

Sincerely,

KEITH S. RICHMAN, M.D., Assembly Member
Thirty-eighth District

COMMUNICATIONS

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

February 12, 2004

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

Dear Dotson: Please be advised that I have created the Select Committee on Science, Mathematics and Technology for the 2003–04 Regular Session and have appointed Assemblymember Mervyn Dymally as the Chair.

Sincerely,

FABIAN NUÑEZ
Speaker of the Assembly

The following communication was presented by the Chief Clerk from:

Richard P. West, Executive Vice Chancellor and Chief Financial Officer, California State University, dated January 30, 2004, relative to a delay in submitting a report on Disenrolled Students (required pursuant to Supplemental Report to the 2001 Budget Act).

Referred by the Speaker to the Committee on Budget.

REPORTS

The following reports were presented by the Chief Clerk:

**Reading, Writing, and Mathematics Proficiency
of All First-time Freshmen
(Pursuant to Supplemental Report to the 2001 Budget Act)**

Above transmitted report, together with letter of transmittal from Richard P. West, Executive Vice Chancellor and Chief Financial Officer, California State University, dated February 2, 2004, referred by the Speaker to the Committee on Budget.

**California State Teachers' Retirement System
Comprehensive Annual Financial Report
Fiscal Year Ended June 30, 2003
(Pursuant to Education Code Section 22324)**

Above transmitted report, together with letter of transmittal from Jack Ehnes, Chief Executive Officer, State Teachers' Retirement System, dated February 5, 2004, referred by the Speaker to the Committee on Public Employees, Retirement and Social Security.

**Summary of Federal Income Tax Changes—2003
(Pursuant to Government Code Section 9795)**

Above transmitted report, together with letter of transmittal from Gerald H. Goldberg, Executive Officer, Franchise Tax Board, dated February 3, 2004, referred by the Speaker to the Committee on Revenue and Taxation.

**INTRODUCTION AND FIRST READING OF
ASSEMBLY BILLS**

The following bills were introduced and read the first time:

ASSEMBLY BILL NO. 1951—Benoit. An act to amend Section 21461 of the Vehicle Code, relating to vehicles.

ASSEMBLY BILL NO. 1952—Berg (Coauthor: Senator Chesbro). An act to amend Section 5689.3 of the Welfare and Institutions Code, relating to mental health.

ASSEMBLY BILL NO. 1953—Vargas. An act to amend Section 15027 of the Insurance Code, relating to public insurance adjusters.

ASSEMBLY BILL NO. 1954—Vargas. An act to amend Section 32282 of the Education Code, relating to school safety.

ASSEMBLY BILL NO. 1955—Vargas. An act to add Section 1140.1 to the Insurance Code, relating to life insurance.

ASSEMBLY BILL NO. 1956—Wolk. An act to amend Sections 1001.20, 1001.21, 1001.22, and 1001.23 of the Penal Code, relating to diversion.

ASSEMBLY BILL NO. 1957—Frommer, Chu, Pavley, and Ridley-Thomas. An act to add Article 25 (commencing with Section 4430) to Chapter 9 of Division 2 of the Business and Professions Code, and to add Sections 14982 and 14983 to the Government Code, relating to prescription drugs, and making an appropriation therefor.

ASSEMBLY BILL NO. 1958—Frommer, Chu, Pavley, and Ridley-Thomas. An act to amend Section 22791.5 of the Government Code, relating to the Public Employees' Medical and Hospital Care Act.

ASSEMBLY BILL NO. 1959—Chu, Frommer, Pavley, and Ridley-Thomas. An act to amend Section 14977.1 of, and to add Section 22790.1 to, the Government Code, and to amend Section 14105.33 of the Welfare and Institutions Code, relating to health care contracts.

ASSEMBLY BILL NO. 1960—Pavley, Chu, Frommer, and Ridley-Thomas. An act to add Article 8 (commencing with Section 4130) to Chapter 9 of Division 2 of the Business and Professions Code, relating to pharmacy benefits management.

ASSEMBLY BILL NO. 1961—Harman. An act to add Article 4 (commencing with Section 116022) to Chapter 5 of Part 10 of Division 104 of the Health and Safety Code, relating to water public safety.

ASSEMBLY BILL NO. 1962—Cox. An act to amend Sections 12340.5 and 12389 of the Insurance Code, relating to underwritten title companies.

ASSEMBLY BILL NO. 1963—Salinas. An act to amend Sections 1179.1, 104105, 104120, 104317, 104318, 104564, 105285, 120800, and 123515 of, and to add Sections 152.1 and 104250 to, the Health and Safety Code, relating to public health.

ASSEMBLY BILL NO. 1964—Leslie. An act to add Section 1866 to the Civil Code, relating to evictions.

ASSEMBLY BILL NO. 1965—Hancock. An act to amend Section 3352 of the Labor Code, relating to workers' compensation.

ASSEMBLY BILL NO. 1966—Campbell. An act relating to energy resources.

ASSEMBLY BILL NO. 1967—Leno, Goldberg, Kehoe, Laird, and Lieber (Principal coauthor: Senator Kuehl) (Coauthors: Chan, Dymally, Firebaugh, Hancock, Koretz, Levine, Longville, Montanez, Nation, Oropeza, Simitian, Steinberg, Wiggins, and Yee). An act to amend Sections 300, 301, and 302 of the Family Code, relating to marriage.

ASSEMBLY BILL NO. 1968—Dutra. An act to amend Sections 3050 and 3066 of, and to add Section 3065.2 to, the Vehicle Code, relating to vehicles.

ASSEMBLY BILL NO. 1969—Negrete McLeod. An act to add Sections 89500.7 and 92611.7 to the Education Code, relating to public postsecondary education.

ASSEMBLY BILL NO. 1970—Harman. An act to add Section 65584.7 to the Government Code, relating to land use.

ASSEMBLY BILL NO. 1971—Lowenthal. An act to amend Section 40720 of the Health and Safety Code, relating to air pollution.

ASSEMBLY BILL NO. 1972—Steinberg. An act to amend Section 51220 of, and to add Section 60605.4 to, the Education Code, relating to curriculum.

ASSEMBLY BILL NO. 1973—Nation. An act to repeal Section 3572 of the Government Code, relating to the California State University.

ASSEMBLY BILL NO. 1974—Nation. An act relating to workers' compensation.

ASSEMBLY BILL NO. 1975—Bermudez. An act relating to prisoners.

ASSEMBLY BILL NO. 1976—Maze. An act to amend Section 7195 of the Business and Professions Code, relating to home inspections.

ASSEMBLY BILL NO. 1977—Maze. An act to add Section 31720.2 to the Government Code, relating to county employees' retirement.

ASSEMBLY BILL NO. 1978—Haynes. An act to amend Section 204 of the Code of Civil Procedure, relating to jurors.

ASSEMBLY BILL NO. 1979—Wiggins An act to amend Section 1916.5 of the Civil Code, relating to lending.

ASSEMBLY BILL NO. 1980—Wolk. An act to amend Section 18680 of the Elections Code, and to add Section 85301.5 to the Government Code, relating to the Political Reform Act of 1974.

ASSEMBLY BILL NO. 1981—Wolk and Bates. An act to amend Section 2881 of the Public Utilities Code, relating to telecommunications.

ASSEMBLY BILL NO. 1982—Wolk. An act to add Section 3706 to the Fish and Game Code, relating to birds.

ASSEMBLY BILL NO. 1983—Wolk. An act to amend Section 8590 of the Water Code, relating to water.

ASSEMBLY BILL NO. 1984—Wolk. An act to add Section 2715.5 to the Public Resources Code, relating to surface mining, and declaring the urgency thereof, to take effect immediately.

ASSEMBLY BILL NO. 1985—Wolk. An act to amend Section 1871.3 of the Insurance Code, relating to insurance claims.

ASSEMBLY BILL NO. 1986—Wolk. An act to amend Section 361.4 of the Welfare and Institutions Code, relating to dependent children.

ASSEMBLY BILL NO. 1987—Wolk. An act to amend Section 52314 of the Education Code, relating to regional occupational programs.

RESOLUTIONS

The following resolutions were offered:

ASSEMBLY CONCURRENT RESOLUTION NO. 178—Mountjoy (Coauthors: Bates, Benoit, Cogdill, Daucher, Dutton, Haynes, La Malfa, La Suer, Maze, Pacheco, Plescia, and Runner). Relative to the Compressed Air Foam System (CAFS).

ASSEMBLY CONCURRENT RESOLUTION NO. 179—Leslie. Relative to Officer Mark A. White Memorial Highway.

ASSEMBLY CONCURRENT RESOLUTION NO. 180—Bogh. Relative to a Blue Star Memorial Highway.

ASSEMBLY JOINT RESOLUTION NO. 61—Ridley-Thomas, Pavley, Chu, and Frommer. Relative to prescription drugs.

ASSEMBLY JOINT RESOLUTION NO. 62—Ridley-Thomas, Chu, Frommer, and Pavley. Relative to prescription drug costs.

HOUSE RESOLUTION NO. 42—Pacheco. Relative to eating disorders.

REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following resolution was referred to committee:

Assembly Concurrent

Resolution No.

Committee

172 ----- Rls.

REPORTS OF STANDING COMMITTEES**Committee on Rules**

Date of Hearing: February 12, 2004

Mr. Speaker: Your Committee on Rules reports:

Assembly Concurrent Resolution No. 172

With the recommendation: Be adopted.

MONTANEZ, Chair

Above resolution ordered to third reading.

SPECIAL COMMITTEE MEETINGS

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

Public Employees, Retirement and Social Security, on Tuesday, February 17, 2004, upon adjournment of Floor session, in the Tom Bane Rules Committee Room.

BILL RETURNED TO SENATE

Assembly Member Frommer was granted unanimous consent that Assembly Bill No. 1760 be returned to the Senate for further action.

RE-REFERENCE OF BILLS

Assembly Member Frommer was granted unanimous consent that the following bills be re-referred as noted:

Senate Bill No. 1041 from the Committee on Elections, Redistricting and Constitutional Amendments, to the Committee on Budget;

Senate Bill No. 1052 from the Committee on Insurance, to the Committee on Budget;

Senate Bill No. 23 from the Committee on Appropriations, to the Committee on Budget.

RE-REFERENCE OF BILLS FROM FILE TO COMMITTEE

Assembly Member Frommer was granted unanimous consent that Senate Bill No. 1057 be referred from the third reading file to the Committee on Budget.

JOINT RULE 62(a) WAIVED

Assembly Member Frommer was granted unanimous consent that Joint Rule 62(a) be waived for the purpose of setting Senate Bills Nos. 1041, 1052, 1057, and 23 for hearing in the Committee on Budget on Tuesday, February 17, 2004.

RECESS

By unanimous consent, at 9:16 a.m., Speaker Nunez declared the Assembly recessed.

RECONVENED

At 9:19 a.m., the Assembly reconvened.

Hon. Leland Y. Yee, Speaker pro Tempore of the Assembly, presiding.

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

ASSEMBLY BILL NO. 1786—An act to amend Section 1063 of the Government Code, relating to public officers, and declaring the urgency thereof, to take effect immediately.

Bill read second time; amendments proposed by the Committee on Local Government read and adopted; bill ordered reprinted and to be returned to the second reading file.

SECOND READING OF SENATE BILLS

SENATE BILL NO. 1086—An act to amend Section 1091 of the Government Code, relating to conflicts of interest, and declaring the urgency thereof, to take effect immediately.

Bill read second time, and ordered to third reading.

UNFINISHED BUSINESS**CONSIDERATION OF SENATE AMENDMENTS**

ASSEMBLY BILL NO. 1153 (Bermudez)—An act to amend Section 538e of, and to add Section 538g to, the Penal Code, relating to crime, and declaring the urgency thereof, to take effect immediately.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

The roll was opened, and the Assembly concurred in Senate amendments by the following vote:

AYES—67

Aghazarian	Dutton	Levine	Pavley
Bates	Firebaugh	Lieber	Plescia
Benoit	Frommer	Liu	Reyes
Berg	Garcia	Lowenthal	Ridley-Thomas
Bermudez	Goldberg	Maldonado	Runner
Bogh	Hancock	Matthews	Salinas
Calderon	Harman	Maze	Samuelian
Chan	Haynes	McCarthy	Simitian
Chavez	Horton, Jerome	Montanez	Spitzer
Chu	Horton, Shirley	Mountjoy	Steinberg
Cogdill	Houston	Mullin	Strickland
Cohn	Jackson	Nakanishi	Vargas
Corbett	La Malfa	Nakano	Wesson
Correa	La Suer	Nation	Wolk
Cox	Laird	Negrete McLeod	Yee
Diaz	Leno	Pacheco	Mr. Speaker
Dutra	Leslie	Parra	

NOES—None

Above bill ordered enrolled.

**RE-REFERENCE OF BILLS TO COMMITTEE PURSUANT TO
ASSEMBLY RULE 77.2**

Pursuant to Assembly Rule 77.2, Speaker pro Tempore Yee re-referred Assembly Bill No. 806 to the Committee on Public Employees, Retirement and Social Security.

MOTION TO RECONSIDER SENATE BILL NO. 131 CONTINUED

By unanimous consent, the motion to reconsider the vote on Senate Bill No. 131 was continued until the next legislative day.

ANNOUNCEMENTS

Speaker pro Tempore Yee announced the following session schedule:

Friday, February 13—Check-in Session, 6 a.m.–3 p.m.;

Monday, February 16—Holiday—Lincoln's Birthday;

Tuesday, February 17—Floor Session, 12 noon;

Wednesday, February 18—Check-in Session, 7 a.m.–3 p.m.;

Thursday, February 19—Check-in Session, 7 a.m.–3 p.m.;

Friday, February 20—Floor Session, 9 a.m.

ADJOURN IN MEMORY

Assembly Member Goldberg was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Mildred G. Kramer, of Los Angeles.

(Assembly Rule 45.5 suspended.)

CAUCUS ANNOUNCEMENTS

Assembly Member Bogh announced that the Republican Caucus would meet today, upon adjournment of Floor session, in the Tom Bane Rules Committee Room.

SPECIAL RECOGNITION

Assembly Member Vargas recognized Michael Mattoch of the Assembly Insurance Committee staff who is leaving the California State Capitol after over 3½ years of exemplary service, whereupon he was joined by the Members of the Assembly in extending best wishes in all future endeavors.

CONSIDERATION OF DAILY FILE (RESUMED)**UNFINISHED BUSINESS (RESUMED)****CONSIDERATION OF SENATE AMENDMENTS**

ASSEMBLY BILL NO. 44 (Pacheco)—An act to amend Section 2625 of the Penal Code, and Section 294 of the Welfare and Institutions Code, relating to dependent children, and declaring the urgency thereof, to take effect immediately.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

The roll was opened, and the Assembly concurred in Senate amendments by the following vote:

AYES—68

Aghazarian	Dutra	Leno	Parra
Bates	Dutton	Leslie	Pavley
Benoit	Dymally	Lieber	Plescia
Berg	Firebaugh	Liu	Reyes
Bermudez	Frommer	Lowenthal	Ridley-Thomas
Bogh	Garcia	Maldonado	Runner
Calderon	Goldberg	Matthews	Salinas
Canciamilla	Harman	Maze	Samuelian
Chan	Haynes	McCarthy	Simitian
Chavez	Horton, Jerome	Montanez	Spitzer
Chu	Horton, Shirley	Mountjoy	Steinberg
Cogdill	Houston	Mullin	Strickland
Cohn	Jackson	Nakanishi	Vargas
Corbett	Keene	Nakano	Wesson
Correa	La Malfa	Nation	Wolk
Cox	La Suer	Negrete McLeod	Yee
Diaz	Laird	Pacheco	Mr. Speaker

NOES—None

Above bill ordered enrolled.

SPECIAL RECOGNITION

Assembly Member Pacheco recognized Kevin Gould of his staff who is leaving the California State Capitol after six years of exemplary service, whereupon he was joined by the Members of the Assembly in extending best wishes in all future endeavors.

ADJOURN IN MEMORY

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 Patricia Ann Warren, of Riverside.

Assembly Members Spitzer and Bates were granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Evelyn Evans, of San Juan Capistrano.

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. 1153, Concurrence: Diaz, Houston, Leslie, Mountjoy, Pacheco, Simitian, Spitzer, Strickland, and Vargas—Aye.

Assembly Bill No. 44, Concurrence: Correa—Aye.

MOTION TO ADJOURN

At 9:36 a.m., Assembly Member Matthews moved that the Assembly do now adjourn.

Assembly Member Cogdill seconded the motion.

REMARKS ON CONDITION OF THE FILE

Assembly Member Maze arose to speak on the condition of the file.

FURTHER CONSIDERATION OF MOTION TO ADJOURN

The question being on the motion of Assembly Member Matthews that the Assembly adjourn.

Motion carried.

QUORUM CALL OF THE ASSEMBLY DISPENSED WITH

At 9:39 a.m., Speaker pro Tempore Yee declared the quorum call of the Assembly dispensed with.

ADJOURNMENT

At 3 p.m., pursuant to the motion by Assembly Member Matthews, the Assembly adjourned until 6 a.m., Friday, February 13, 2004, out of respect to the memory of Mildred G. Kramer, on motion of Assembly Member Goldberg; out of respect to the memory of Evelyn Evans, on motion of Assembly Members Spitzer and Bates; and out of respect to the memory of Patricia Ann Warren, on motion of Assembly Member Bogh.

FABIAN NUÑEZ, Speaker

PAM CAVILEER, Minute Clerk

**AMENDMENTS CONSIDERED BY THE
ASSEMBLY ON FEBRUARY 12, 2004**

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

AB RN
1786 0405574

Daily Total:	1
Cumulative Total:	3166

O