

CALIFORNIA LEGISLATURE
2003-04 REGULAR SESSION

ASSEMBLY DAILY JOURNAL

Thursday, February 26, 2004

ONE HUNDRED SIXTIETH SESSION DAY

FOUR HUNDRED FIFTY-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
Thursday, February 26, 2004

The Assembly met at 9 a.m.
Hon. Sally Lieber, Assistant Speaker pro Tempore 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 Mountjoy moved a quorum call of the Assembly. Motion carried. Time, 9:01 a.m.
The Assistant Speaker pro Tempore directed the Sergeant at Arms to close the doors, and to bring in the absent Members.

Quorum Present

At 9:18 a.m., Assistant Speaker pro Tempore Lieber declared a quorum of the Assembly present.

The roll call was completed, and the following answered to their names—71:

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

PRAYER

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

O God, You are eternal, without beginning; and have called all things into being from nothing. You dwell in light and have the heavens for Your throne and the earth for Your footstool. Heavenly Father, as we pray this morning we ask first for Your forgiveness, and further, Lord, we ask that You strengthen us with the Grace and inspiration of Your life-giving Holy Spirit, so that we may accomplish the tasks set before us this day to Your glory.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Assistant Speaker pro Tempore Lieber, Assembly Member Kehoe 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 Members Levine, Longville, Maddox, Simitian, Wesson, and Yee.

On legislative business, and waiving per diem: Assembly Member Strickland.

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

EXPLANATIONS OF ABSENCE

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

February 20, 2004

Assemblyman Fabian Nunez

Speaker

California State Assembly

State Capitol, Room 219

Sacramento, California

Dear Mr. Speaker: I am respectfully requesting permission to be excused from Assembly Floor Session Thursday, February 26, for legislative business in my district.

Thank you for your consideration of this request.

Sincerely,

LLOYD LEVINE, Assembly Member
Fortieth District

February 24, 2004

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

Dear Mr. Speaker: I respectfully request to be excused from Legislative Session on February 26, 2004 due to legislative business in my district.

Thank you for your consideration of this request. If your staff should have any further questions or require further information, please feel free to contact Traci Holt at 319-2062.

Respectfully,

JOHN LONGVILLE, Assembly Member
Sixty-second District

February 17, 2004

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

Dear Speaker Nunez,

This is a request to be excused from Session on Thursday, February 26, 2004. I have legislative business in the district.

Thank you for your consideration of this request.

Sincerely,

S. JOSEPH SIMITIAN, Assembly Member
Twenty-first District

February 26, 2004

Hon. Fabian Nunez
Speaker of the Assembly
State Capitol, Room 219
Sacramento, California

Dear Fabian: This is to request permission to be excused from Session today, Thursday, February 26 on legislative business.

Sincerely,

HERB J. WESSON, JR.
Speaker Emeritus of the California Assembly

February 26, 2004

*Speaker Fabian Nunez
California State Assembly
Room 219, State Capitol
Sacramento, California*

Dear Speaker Nunez: I respectfully request that I be excused from the Assembly floor session on Thursday, February 26th. I will be in my district during that time attending to legislative business.

Sincerely,

LELAND Y. YEE, PH.D.
Speaker pro Tempore

(NOTE: For letters explaining the absence of Assembly Member Maddox on this day on legislative business and Assembly Member Strickland on legislative business and waiving per diem pursuant to the Assembly Rules, see Assembly Daily Journal for February 25, 2004.)

**COMMUNICATIONS
Proposed Initiatives**

The following communications were presented by the Chief Clerk from:

Tricia Knight, Initiative Coordinator, Department of Justice, Office of the Attorney General, Sacramento, dated February 20, 2004, transmitting copies of the title, summary, and text of the following proposed initiatives, pursuant to Section 9007, Elections Code:

Minor's Pregnancy.

**Waiting Period and Parental Notification or Waiver Before Abortion.
Initiative Constitutional Amendment. SA 2003RF0064, Amdt. #1-S**

Referred by the Speaker to the Committee on Judiciary.

SPECIAL COMMITTEE MEETINGS

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

Human Services, on Monday, March 1, 2004, upon adjournment of Floor Session in the Tom Bane Rules Committee Room;

Select Committee on Professional Sports, on Friday, March 5, 2004, at 10 a.m., in Los Angeles;

Select Committee on Adult Education to convene jointly with the Committee on Jobs, Economic Development, and the Economy, on Friday, March 12, 2004, at 12:30 p.m., in Los Angeles;

Labor and Employment, on Wednesday, March 17, 2004, at 1:30 p.m., in Room 447;

Joint Committee on Fisheries and Aquaculture, on Wednesday, March 17, 2004, at 9:30 a.m., in Room 126;

Elections, Redistricting and Constitutional Amendments, on Tuesday, March 25, 2004, at 1:30 p.m.;

Select Committee on the I-5/7-10 Expansion, on Thursday, March 25, 2004, at 11 a.m., or upon adjournment of Floor Session;

Joint Legislative Sunset Review Committee, on Tuesday, March 30, 2004 and Wednesday, April 14, 2004;

Select Committee on Childhood Obesity and Related Diabetes, on Saturday, April 24, 2004, at 10 a.m., in San Francisco;

Joint Committee to Develop a Master Plan to End Poverty in California, on Friday, March 5, 2004, at 11:30 a.m., in Los Angeles.

AUTHOR'S AMENDMENTS
Committee on Public Safety

February 26, 2004

Mr. Speaker: The Chair of your Committee on Public Safety reports:

Assembly Bill No. 1808

With author's amendments with the recommendation: Amend, and re-refer to the committee.

LENO, Chair

ASSEMBLY BILL NO. 1808—An act to amend Section 374.4 of the Penal Code, relating to littering.

Bill read second time; author's amendments, presented pursuant to Assembly Rules, read and adopted; bill ordered reprinted, and to be re-referred to the committee.

**AUTHORIZATION TO INTRODUCE BILLS PURSUANT TO
JOINT RULE 54**

Pursuant to the provisions of Joint Rule 54, the following communications were presented permitting the introduction of Assembly bills:

Dear Mr. Clerk: Pursuant to the provisions of Joint Rule 54, I hereby authorize Assembly Member Dymally to introduce a bill relating to health facilities: neonatal intensive care units. Request No. 0402927.

Dear Mr. Clerk: Pursuant to the provisions of Joint Rule 54, I hereby authorize Assembly Member Dymally to introduce a bill relating to State Department of Mental Health: quality council. Request No. 0405808.

Dear Mr. Clerk: Pursuant to the provisions of Joint Rule 54, I hereby authorize Assembly Member Dymally to introduce a bill relating to employment: occupational safety and health. Request No. 0401946.

Dear Mr. Clerk: Pursuant to the provisions of Joint Rule 54, I hereby authorize Assembly Member Dymally to introduce a bill relating to emergency services. Request No. 0402564.

Dear Mr. Clerk: Pursuant to the provisions of Joint Rule 54, I hereby authorize Assembly Member Chavez to introduce a bill relating to sentencing. Request No. 0404647.

Dear Mr. Clerk: Pursuant to the provisions of Joint Rule 54, I hereby authorize Assembly Member Chavez to introduce a bill relating to alcoholic beverages: on-sale licenses. Request No. 0401739.

Dear Mr. Clerk: Pursuant to the provisions of Joint Rule 54, I hereby authorize Assembly Member Chavez to introduce a bill relating to prenatal ultrasound testing. Request No. 0405930.

FABIAN NUÑEZ
Speaker of the Assembly

INTRODUCTION AND FIRST READING OF ASSEMBLY BILLS

The following bills were introduced and read the first time:

ASSEMBLY BILL NO. 3035—Dymally. An act to add Section 1254.8 to the Health and Safety Code, relating to health facilities.

ASSEMBLY BILL NO. 3036—Dymally. An act to add Section 4204 to the Welfare and Institutions Code, relating to mental health.

ASSEMBLY BILL NO. 3037—Dymally. An act to amend Sections 6310, 6312, and 6401.7 of, to add Sections 6312.1, 6312.2, 6312.5, 6401.8, 6401.9, 6401.10, and 6401.11 to, and to repeal Section 6311 of, the Labor Code, and to amend Section 1103 of, and to add Chapter 1.5 (commencing with Section 1200) to Part 1 of Division 2 of, the Public Contract Code, relating to employment.

ASSEMBLY BILL NO. 3038—Dymally. An act to add Division 2.7 (commencing with Section 1850) to the Health and Safety Code, relating to emergency services.

ASSEMBLY BILL NO. 3039—Committee on Environmental Safety and Toxic Materials (Laird (Chair), Chu, Levine, Lieber, and Lowenthal). An act relating to coastal resources.

ASSEMBLY BILL NO. 3040—Committee on Environmental Safety and Toxic Materials (Laird (Chair), Chu, Levine, Lieber, and Lowenthal). An act to amend Section 25356.5 of the Health and Safety Code, and to amend Section 13177.7 of the Water Code, relating to hazardous substances.

ASSEMBLY BILL NO. 3041—Committee on Environmental Safety and Toxic Materials (Laird (Chair), Aghazarian (Vice Chair), Chu, Levine, Lieber, and Lowenthal). An act to amend Section 100830 of the Health and Safety Code, relating to environmental laboratories.

ASSEMBLY BILL NO. 3042—Chavez. An act to add Section 675 to the Penal Code, relating to sentencing.

ASSEMBLY BILL NO. 3043—Chavez. An act to amend Section 24045.1 of the Business and Professions Code, relating to alcoholic beverages.

ASSEMBLY BILL NO. 3044—Chavez. An act to add Article 5 (commencing with Section 125120) to Chapter 1 of Part 5 of Division 106 of the Health and Safety Code, relating to prenatal testing.

ASSEMBLY BILL NO. 3045—Committee on Agriculture (Matthews (Chair), Berg, Oropeza, Parra, Salinas, Vargas, and Wiggins). An act to amend Section 33294 of the Food and Agricultural Code, relating to milk.

ASSEMBLY BILL NO. 3046—Committee on Agriculture (Matthews (Chair), Berg, Oropeza, Parra, Salinas, Vargas, and Wiggins). An act to amend Section 32814 of the Food and Agricultural Code, relating to milk.

RESOLUTIONS

The following resolution was offered:

HOUSE RESOLUTION NO. 44—Matthews and Maldonado (Coauthors: Berg, Cogdill, Maddox, Maze, Oropeza, Parra, Reyes, Salinas, Vargas, and Wiggins). Relative to National Agriculture Week and National Agriculture Day.

REFERENCE OF BILLS TO COMMITTEE

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

Assembly

Bill No.

Committee

| | | |
|-------------|-------|-------------------------------|
| 1843 | ----- | J., E.D. & E. |
| 1855 | ----- | J., E.D. & E. |
| 1856 | ----- | J., E.D. & E. and Rev. & Tax. |
| 1863 | ----- | Jud. |
| 1880 | ----- | Higher Ed. and V.A. |

| | | |
|------|-------|------------------------|
| 1895 | ----- | Jud. |
| 1919 | ----- | V.A. |
| 1920 | ----- | Pub. S. |
| 1921 | ----- | W.,P. & W. |
| 1922 | ----- | Ed. |
| 1923 | ----- | L. & E. |
| 1925 | ----- | Ed. |
| 1926 | ----- | W.,P. & W. |
| 1927 | ----- | Health |
| 1929 | ----- | L. Gov. |
| 1931 | ----- | Pub. S. |
| 1932 | ----- | Higher Ed. |
| 1933 | ----- | G.O. |
| 1936 | ----- | L. Gov. |
| 1937 | ----- | Pub. S. |
| 1938 | ----- | Pub. S. |
| 1940 | ----- | E.S. & T.M. |
| 1942 | ----- | E.S. & T.M. |
| 1943 | ----- | L. Gov. |
| 1944 | ----- | Ed. |
| 1951 | ----- | Trans. |
| 1952 | ----- | Aging & L.T.C. |
| 1953 | ----- | Ins. |
| 1954 | ----- | Ed. |
| 1955 | ----- | Ins. |
| 1956 | ----- | Pub. S. |
| 1962 | ----- | Ins. |
| 1963 | ----- | Health |
| 1964 | ----- | Jud. |
| 1965 | ----- | Ins. |
| 1968 | ----- | Jud. |
| 1972 | ----- | Ed. |
| 1977 | ----- | P.E.,R. & S.S. |
| 1978 | ----- | Jud. |
| 1979 | ----- | B. & F. |
| 1980 | ----- | E.,R. & C.A. |
| 1981 | ----- | U. & C. |
| 1983 | ----- | W.,P. & W. |
| 1984 | ----- | Nat. Res. |
| 1985 | ----- | Ins. |
| 1987 | ----- | Ed. |
| 1989 | ----- | L. Gov. |
| 1990 | ----- | Jud. |
| 1993 | ----- | Ed. |
| 1999 | ----- | Higher Ed. and B. & P. |
| 2003 | ----- | E.,R. & C.A. |
| 2006 | ----- | U. & C. |
| 2007 | ----- | B. & P. |
| 2009 | ----- | L. Gov. |
| 2011 | ----- | Pub. S. |
| 2012 | ----- | Trans. |
| 2014 | ----- | B. & F. |
| 2015 | ----- | Ed. |
| 2019 | ----- | Pub. S. |

| | | |
|------|-------|----------------|
| 2020 | ----- | Pub. S. |
| 2021 | ----- | E.S. & T.M. |
| 2024 | ----- | Trans. |
| 2026 | ----- | Hum. S. |
| 2027 | ----- | Trans. |
| 2028 | ----- | Ins. |
| 2029 | ----- | Trans. |
| 2030 | ----- | Rev. & Tax. |
| 2031 | ----- | L. Gov. |
| 2032 | ----- | Trans. |
| 2033 | ----- | V.A. |
| 2034 | ----- | P.E.,R. & S.S. |
| 2035 | ----- | Ed. |
| 2036 | ----- | P.E.,R. & S.S. |
| 2037 | ----- | Pub. S. |
| 2038 | ----- | Jud. |
| 2040 | ----- | Trans. |
| 2049 | ----- | Health |
| 2050 | ----- | Ed. |
| 2051 | ----- | Ed. |
| 2054 | ----- | Agri. |
| 2056 | ----- | B. & P. |
| 2057 | ----- | Jud. |
| 2058 | ----- | Pub. S. |
| 2059 | ----- | B. & P. |
| 2060 | ----- | V.A. |
| 2066 | ----- | Ed. |
| 2067 | ----- | L. Gov. |
| 2074 | ----- | Agri. |
| 2076 | ----- | Rev. & Tax. |
| 2080 | ----- | Ed. |
| 2081 | ----- | Jud. |
| 2084 | ----- | Jud. |
| 2085 | ----- | Trans. |
| 2086 | ----- | Health |
| 2087 | ----- | Health |
| 2090 | ----- | B. & P. |
| 2091 | ----- | E.,R. & C.A. |

Assembly Concurrent

| <i>Resolution No.</i> | <i>Committee</i> | |
|-----------------------|------------------|--------|
| 179 | ----- | Trans. |
| 180 | ----- | Trans. |
| 181 | ----- | Rls. |
| 182 | ----- | V.A. |

Assembly Joint

| <i>Resolution No.</i> | <i>Committee</i> | |
|-----------------------|------------------|---------|
| 60 | ----- | Jud. |
| 61 | ----- | Health |
| 62 | ----- | Health |
| 63 | ----- | Trans. |
| 64 | ----- | Pub. S. |

Assembly Member Parra was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Waldemar Allvin, of Kingsburg.

Assembly Member Reyes was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Phagna Tougeu Lyfoung, of Fresno.

Assembly Member Runner was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Foster Phebus, of Palmdale.

MOTION TO ADJOURN

At 9:29 a.m., Assembly Member Cohn moved that the Assembly do now adjourn.

Assembly Member La Malfa seconded the motion.

REMARKS ON CONDITION OF THE FILE

Assembly Members Cox and 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 Cohn that the Assembly adjourn.

Motion carried.

QUORUM CALL OF THE ASSEMBLY DISPENSED WITH

At 9:36 a.m., Assistant Speaker pro Tempore Lieber declared the quorum call of the Assembly dispensed with.

ENGROSSMENT AND ENROLLMENT REPORTS

Assembly Chamber, February 26, 2004

Mr. Speaker: Pursuant to your instructions, the Chief Clerk has examined:

Assembly Bill No. 97

Assembly Bill No. 1618

And reports the same correctly enrolled, and presented to the Governor on the 26th day of February, 2004, at 10 a.m.

E. DOTSON WILSON, Chief Clerk

MESSAGES FROM THE SENATE

Senate Chamber, February 26, 2004

Mr. Speaker: I am directed to inform your honorable body that the Senate on this day concurred in Assembly amendments to:

Senate Bill No. 1041

Senate Bill No. 1057

GREGORY P. SCHMIDT, Secretary of the Senate
By John W. Rovane, Assistant Secretary

Senate Chamber, February 26, 2004

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

Senate Bill No. 1091

Senate Bill No. 1092

Senate Bill No. 1093

GREGORY P. SCHMIDT, Secretary of the Senate
By John W. Rovane, Assistant Secretary

FIRST READING OF SENATE BILLS

The following bills were read the first time:

SENATE BILL NO. 1091—An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time wherein actions may be commenced, and declaring the urgency thereof, to take effect immediately.

SENATE BILL NO. 1092—An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time wherein actions may be commenced, and declaring the urgency thereof, to take effect immediately.

SENATE BILL NO. 1093—An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time wherein actions may be commenced.

REPORTS OF STANDING COMMITTEES**Committee on Rules**

Date of Hearing: February 26, 2004

Mr. Speaker: Your Committee on Rules reports:

Senate Concurrent Resolution No. 57

With the recommendation: Be adopted.

Pursuant to the provisions of Joint Rules Nos. 22.1, 22.2, and 22.3, the committee recommends that the above resolution be placed on the Consent Calendar.

MONTANEZ, Chair

Above resolution ordered to the Consent Calendar.

Date of Hearing: February 26, 2004

Mr. Speaker: Your Committee on Rules reports:

Assembly Concurrent Resolution No. 159

With the recommendation: Be adopted.

Pursuant to the provisions of Joint Rules Nos. 22.1, 22.2, and 22.3, the committee recommends that the above resolution be placed on the Consent Calendar.

MONTANEZ, Chair

Above resolution ordered to the Consent Calendar.

Committee on Appropriations

Date of Hearing: February 26, 2004

Mr. Speaker: Your Committee on Appropriations reports:

Senate Joint Resolution No. 17

With the recommendation: Be adopted.

Pursuant to the provisions of Joint Rules Nos. 22.1, 22.2, and 22.3, the committee recommends that the above resolution be placed on the Consent Calendar.

CHU, Chair

Above resolution ordered to the Consent Calendar.

ADJOURNMENT

At 3 p.m., pursuant to the motion by Assembly Member Cohn, the Assembly adjourned until 11 a.m., Monday, March 1, 2004, out of respect to the memory of Keith DeShawn McDowell, on motion of Assembly Member Parra; out of respect to the memory of Donald E. Brewster II, Sallie Maranda Fiske, and Frank G. Hernandez, on motion of Assembly Member Goldberg; out of respect to the memory of Dr. Albert Jay Miller, on motion of Assembly Member Liu; out of respect to the memory of Kit Furber, on motion of Assembly Member Maldonado; out of respect to the memory of Waldemar Allvin, on motion of Assembly Member Parra; out of respect to the memory of Phagna Tougeu Lyfoung, on motion of Assembly Member Reyes; and out of respect to the memory of Foster Phebus, on motion of Assembly Member Runner.

FABIAN NUÑEZ, Speaker

PAM CAVILEER, Minute Clerk

**AMENDMENTS CONSIDERED BY THE
ASSEMBLY ON FEBRUARY 26, 2004**

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

| | | |
|--------------------------|-----------|-------------|
| AB | RN | |
| 1808 | 0405797 | |
| Daily Total: | | 1 |
| Cumulative Total: | | 3174 |

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