

CALIFORNIA LEGISLATURE
2001-02 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

Monday, August 20, 2001
FORTY-THIRD SESSION DAY
NINETY-NINTH 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.

(Please Direct Any Inquiries and Report Any Omissions or Errors to Minute Clerk: Phone 319-2360)

PROCEEDINGS OF THE ASSEMBLY

IN ASSEMBLY

Assembly Chamber, Sacramento
Monday, August 20, 2001

The Assembly met at 12:49 p.m.

Hon. Fred Keeley, 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, and the following answered to their names—76:

Aanestad	Corbett	La Suer	Richman
Alquist	Correa	Leach	Runner
Aroner	Cox	Leslie	Salinas
Ashburn	Daucher	Liu	Shelley
Bates	Diaz	Longville	Simitian
Bogh	Dickerson	Lowenthal	Steinberg
Briggs	Dutra	Maddox	Strickland
Calderon	Florez	Maldonado	Strom-Martin
Campbell, Bill	Frommer	Matthews	Thomson
Campbell, John	Goldberg	Migden	Vargas
Canciamilla	Harman	Mountjoy	Washington
Cardenas	Havice	Nakano	Wayne
Cardoza	Hollingsworth	Negrete McLeod	Wesson
Cedillo	Horton	Oropeza	Wiggins
Chan	Jackson	Pacheco, Robert	Wright
Chavez	Keeley	Pacheco, Rod	Wyland
Chu	Kehoe	Papan	Wyman
Cogdill	Kelley	Pavley	Zettel
Cohn	Koretz	Reyes	Mr. Speaker

PRAYER

Upon invitation of Speaker pro Tempore Keeley, the following prayer was offered by Assembly Chaplain Rabbi Mona Alfi:

Phillips Brooks, a noted 19th century leader of the Episcopal Church, taught: "It is not for us to pray for tasks equal to our powers, but for powers equal to our tasks"

It is not enough to simply do what is within our reach. What God asks of us is to grow to meet the challenging tasks that beckon us.

Often times, we live in the illusion that there is a finite amount of power to be exercised in the different realms of our lives; with our friends, our family, and in our work.

However, when we draw from the internal strengths that we have been given, we are doubly blessed; first by being able to help those around us, and secondly, we are rewarded by growing beyond what we believed we could.

May the Holy One of Blessing grant us the ability to use our powers to create a more perfect world within us and around us. May this be God's will.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker pro Tempore Keeley, Assembly Member Canciamilla 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 Shelley, seconded by Assembly Member Cox.

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 Firebaugh and Leonard.

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

On personal business, per diem waived for the 2001–2002 Session (See Assembly Journal, page 162): Assembly Member Pescetti.

(NOTE: For explanations of absences of Assembly Members Firebaugh and Leonard on this day, on legislative business, pursuant to the Assembly Rules, see the Assembly Daily Journal for the Regular Session for this day.)

COMMUNICATIONS

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

August 16, 2001

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

Re: Assembly Water, Parks and Wildlife Committee

Dear Dotson: This is to advise you that I have appointed the following members to the Assembly Water, Parks and Wildlife Committee for the 2001–02 Second Extraordinary Session:

Assemblymember Dean Florez, Chair
Assemblymember Dick Dickerson, Vice Chair
Assemblymember Sam Aanestad
Assemblymember Dion Aroner
Assemblymember Tom Calderon
Assemblymember Dario Frommer
Assemblymember Jackie Goldberg
Assemblymember Dennis Hollingsworth
Assemblymember Christine Kehoe
Assemblymember Dave Kelley
Assemblymember Tim Leslie
Assemblymember Fran Pavley
Assemblymember Helen Thomson
Assemblymember Howard Wayne
Assemblymember Phil Wyman

Sincerely,

ROBERT M. HERTZBERG
Speaker of the Assembly

ENGROSSMENT AND ENROLLMENT REPORTS

Assembly Chamber, July 24, 2001

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

Assembly Bill No. 59
Assembly Bill No. 78

And reports the same correctly engrossed.

E. DOTSON WILSON, Chief Clerk

Above bills re-referred to committee.

Assembly Chamber, July 31, 2001

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

Assembly Bill No. 27

And reports the same correctly enrolled, and presented to the Governor on the 31st day of July, 2001, at 1:30 p.m.

E. DOTSON WILSON, Chief Clerk

REFERENCE OF BILLS TO COMMITTEE

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

<i>Senate</i>	<i>Committee</i>
<i>Bill No.</i>	
2 -----	E.C. & A.
18 -----	E.C. & A.
23 -----	E.C. & A. and L. Gov.
41 -----	E.C. & A.
85 -----	E.C. & A.

AUTHOR'S AMENDMENTS

Committee on Energy Costs and Availability

August 20, 2001

Mr. Speaker: The Chair of your Committee on Energy Costs and Availability reports: Senate Bill No. 39

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

WRIGHT, Chairman

SENATE BILL NO. 39—An act to amend Sections 216, 228.5, 362, and 431 of, and to add Section 761.3 to, the Public Utilities Code, relating to public utilities.

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.

AUTHOR'S AMENDMENTS

Committee on Revenue and Taxation

August 20, 2001

Mr. Speaker: The Chair of your Committee on Revenue and Taxation reports: Senate Bill No. 17

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

CORBETT, Chairwoman

SENATE BILL NO. 17—An act to add and repeal Sections 17053.84 and 23684 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

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.

AUTHOR'S AMENDMENTS

Committee on Revenue and Taxation

August 20, 2001

Mr. Speaker: The Chair of your Committee on Revenue and Taxation reports: Senate Bill No. 1

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

CORBETT, Chairwoman

SENATE BILL NO. 1—An act to amend Section 19221 of, to add Section 17052.75 to, and to add Part 14.5 (commencing with Section 33001) to Division 2 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

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.

AUTHOR'S AMENDMENTS
Committee on Revenue and Taxation

August 20, 2001

Mr. Speaker: The Chair of your Committee on Revenue and Taxation reports:

Assembly Bill No. 76

Assembly Bill No. 81

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

CORBETT, Chairwoman

ASSEMBLY BILL NO. 76—An act to add and repeal Sections 17052.56 and 23656 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

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.

ASSEMBLY BILL NO. 81—An act to add Sections 17211 and 24342 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

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.

AUTHOR'S AMENDMENTS
Committee on Appropriations

August 20, 2001

Mr. Speaker: The Chair of your Committee on Appropriations reports:

Assembly Bill No. 59

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

MIGDEN, Chairwoman

ASSEMBLY BILL NO. 59—An act to add Section 739.12 to, and to add and repeal Section 380.5 of, the Public Utilities Code, relating to public utilities.

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.

REPORTS OF STANDING COMMITTEES
Committee on Energy Costs and Availability

Date of Hearing: July 17, 2001

Mr. Speaker: Your Committee on Energy Costs and Availability reports:

Assembly Bill No. 60

With amendments with the recommendation: Amend, do pass, as amended and be re-referred to the Committee on Appropriations.

WRIGHT, Chairman

Above bill ordered to second reading.

MESSAGES FROM THE GOVERNOR

The following message from the Governor was received and ordered printed in the Journal:

EXECUTIVE ORDER D-44-01

by the

Governor of the State of California

WHEREAS, on January 17, 2001, I proclaimed a State of Emergency to exist within the State of California due to the energy shortage in the State of California; and

WHEREAS, there is a high probability that the energy shortage will continue to cause rolling blackouts throughout California, threatening the health and safety of California residents, critical services in the State, and vital segments of California's economy; and

WHEREAS, all reasonable efforts must be made to ensure that generating facilities located in California become operational and are operating to ensure an adequate availability of generation during periods of peak demand; and

WHEREAS, the Kern Power Plant in Kern County, owned by the Pacific Gas and Electric Company (PG&E), has not been in operation since 1985; and

WHEREAS, if restored to operation, the Kern Power Plant would provide 180 megawatts of urgently needed power; and

WHEREAS, PG&E has filed a Chapter 11 bankruptcy petition in the United States Bankruptcy Court, and states that it lacks both the funds and the necessary personnel to restore the Kern Power Plant to operation; and

WHEREAS, on August 24, 2000, PG&E entered into an agreement with North American Power Group for the North American Power Group to acquire the Kern Power Plant and return it to operation; and

WHEREAS, the North American Power Group has already invested significant resources in preparing to retool the Kern Power Plant, including completing detailed engineering studies and mobilizing the necessary workforce; and

WHEREAS, the prohibition against the sale of generation assets in Public Utilities Code Section 377, as enacted by AB 6X (Dutra), Chapter 2 of the Statutes of 2001, was not intended to apply to non-operational facilities; and

WHEREAS, the California Public Utilities Commission (PUC) nevertheless concluded that Public Utilities Code Section 377 prohibits PG&E from transferring its Kern Power Plant to the North American Power Group for reactivation and renewed operation; and

WHEREAS, the Office of Ratepayer Advocates, an independent agency charged with protecting the interests of California ratepayers, has concluded the North American Power Group is in a superior position to quickly, effectively and safely retool the Kern Power Plant; and

WHEREAS, failure to transfer the Kern Power Plant to the North American Power Group for operation will prevent, hinder, and delay mitigation of the effects of the energy shortage emergency; and

WHEREAS, the energy shortage emergency requires extraordinary measures beyond the authority of the PUC; and

WHEREAS, the Legislative Counsel has opined that Public Utilities Code Section 377 may be suspended pursuant to the California Emergency Services Act if necessary to mitigate the effects of the energy shortage emergency;

NOW, THEREFORE, I, GRAY DAVIS, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and the statutes of the State of California, including the California Emergency Services Act, Government Code Section 8550 et seq., do hereby issue this order to become effective immediately:

IT IS ORDERED that Public Utilities Code Section 377 is hereby suspended to the extent that it would prohibit completion of the pending transfer of PG&E's Kern Power Plant to the North American Power Group.

IT IS FURTHER ORDERED that Public Utilities Code Section 377 is so suspended upon the condition that the Kern Power Plant be transferred subject to the requirement that the North America Power Group enter into one or more contracts to sell power generated by the facility and ancillary services to the California Department of Water Resources or any other creditworthy California entity for distribution to California rate-payers on a cost-of-service basis for a term of not less than five years.

IT IS FURTHER ORDERED that the parties to this transfer shall obtain any and all necessary court approvals that may apply, including but not limited to, approval by the Bankruptcy Court presiding over the PG&E proceeding.

IT IS FURTHER ORDERED that any order or decision of the PUC prohibiting or restricting PG&E from transferring its Kern Power Plant under the above conditions is hereby suspended to the extent necessary to effectuate this transfer. The PUC shall retain all other jurisdiction over the transfer.

The activities herein are authorized pursuant to the California Emergency Services Act, Government Code Section 8550 et seq., as necessary to mitigate the effects of the energy shortage emergency.

I FURTHER DIRECT that, as soon as hereafter possible, this order be filed in the Office of the Secretary of State and that widespread publicity and notice be given to this order.

IN WITNESS WHEREOF, I hereunto
set my hand and caused the Great Seal
of California to be affixed this
30th day of July 2001.

GRAY DAVIS
Governor of California

ATTEST:

BILL JONES
Secretary of State



RE-REFERENCE OF BILLS

Assembly Member Shelley was granted unanimous consent that Assembly Bill No. 12 be re-referred from the Committee on Business and Professions to the Committee on Water, Parks and Wildlife and to Energy Costs and Availability.

RECESS

By unanimous consent, at 12:51 p.m., Speaker pro Tempore Keeley declared the Assembly recessed.

RECONVENED

At 3:18 p.m., the Assembly reconvened.
Hon. Christine Kehoe, Assistant Speaker pro Tempore of the Assembly, presiding.

CONSIDERATION OF DAILY FILE

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

ASSEMBLY BILL NO. 4 (Cardoza)—An act to add Section 2774.5 to the Public Utilities Code, relating to electric power, 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—74

Aanestad	Corbett	Leach	Salinas
Alquist	Correa	Liu	Shelley
Aroner	Cox	Longville	Simitian
Ashburn	Daucher	Lowenthal	Steinberg
Bates	Diaz	Maddox	Strickland
Bogh	Dickerson	Maldonado	Strom-Martin
Briggs	Dutra	Matthews	Thomson
Calderon	Florez	Migden	Vargas
Campbell, Bill	Goldberg	Mountjoy	Washington
Campbell, John	Harman	Nakano	Wayne
Canciamilla	Havice	Negrete McLeod	Wesson
Cardenas	Hollingsworth	Oropeza	Wiggins
Cardoza	Horton	Pacheco, Robert	Wright
Cedillo	Jackson	Pacheco, Rod	Wyland
Chan	Keeley	Papan	Wyman
Chavez	Kehoe	Pavley	Zettel
Chu	Kelley	Reyes	Mr. Speaker
Cogdill	Koretz	Richman	
Cohn	La Suer	Runner	

NOES—None

Above bill ordered enrolled.

VOTE ADDS

The following Assembly Members were granted unanimous consent to record their votes on the following item:

Assembly Bill No. 4, Concurrence: Mountjoy and Richman—Aye.

RECESS

By unanimous consent, at 3:18 p.m., Assistant Speaker pro Tempore Kehoe declared the Assembly recessed.

ADJOURNMENT

At 3:23 p.m., the Assembly adjourned to reconvene upon Call of the Speaker.

ROBERT M. HERTZBERG, Speaker

PAM CAVILEER, Minute Clerk

**AMENDMENTS CONSIDERED BY THE
ASSEMBLY ON AUGUST 20, 2001**

The following measures were amended in the Assembly on this day:

AB	RN
59	0119514
76	0119212
81	0119452

SB	RN
1	0119521
17	0118859
39	0119026

Daily Total:	6
Cumulative Total:	47

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