

CALIFORNIA LEGISLATURE
2005-06 REGULAR SESSION

ASSEMBLY DAILY JOURNAL

Tuesday, August 23, 2005

**ONE HUNDRED ELEVENTH SESSION DAY
TWO HUNDRED SIXTY-FIRST 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
Sue Parker, Minute Clerk: Phone 319-2360)

PROCEEDINGS OF THE ASSEMBLY

IN ASSEMBLY

Assembly Chamber, Sacramento
Tuesday, August 23, 2005

The Assembly met at 7 a.m.

Hon. Simón Salinas, Assembly Member, 28th District, presiding.

Chief Clerk E. Dotson Wilson at the Desk.

Assistant Clerk Brian Ebbert reading.

ROLL CALL

The following were placed upon the morning roll call—77:

Aghazarian	Dymally	Leno	Richman
Arambula	Emmerson	Leslie	Runner
Baca	Evans	Levine	Ruskin
Bass	Frommer	Lieber	Saldaña
Benoit	Garcia	Liu	Salinas
Berg	Goldberg	Matthews	Spitzer
Bermúdez	Hancock	Maze	Strickland
Blakeslee	Haynes	McCarthy	Torrigo
Bogh	Horton, Jerome	Montañez	Tran
Calderon	Horton, Shirley	Mountjoy	Umberg
Canciamilla	Houston	Mullin	Vargas
Chan	Huff	Nakanishi	Villines
Chavez	Jones	Nation	Walters
Chu	Karnette	Nava	Wolk
Cogdill	Keene	Negrete McLeod	Wyland
Cohn	Klehs	Niello	Yee
Coto	Koretz	Oropeza	Mr. Speaker
Daucher	La Malfa	Parra	
De La Torre	La Suer	Pavley	
DeVore	Laird	Plescia	

Quorum present.

At 1:37 p.m., Hon. Michael Villines, 29th 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 legislative business: Assembly Member Harman.

On personal business, and waiving per diem: Assembly Member Ridley-Thomas.

(NOTE: For letter explaining the absence of Assembly Member Harman on this day on legislative business pursuant to the Assembly Rules, see Assembly Daily Journal for August 22, 2005.)

COMMUNICATIONS

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

August 23, 2005

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

Dear Dotson: This is to advise you that I have appointed Assemblymember John Laird to replace Assemblymember Mark Ridley-Thomas on the Assembly Appropriations Committee for the Thursday, August 25 hearing only.

Sincerely,

FABIAN NUÑEZ
Speaker of the Assembly

SPECIAL COMMITTEE MEETINGS

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

Select Committee on Critical Issues, on Tuesday, October 18, 2005, at 10 a.m., on Friday, October 21, 2005 and on Thursday, October 27, 2005, at 10 a.m., in Los Angeles.

ENGROSSMENT AND ENROLLMENT REPORTS

Assembly Chamber, August 23, 2005

Mr. Speaker: Pursuant to your instructions, the Chief Clerk has examined:
Assembly Concurrent Resolution No. 76
And reports the same correctly engrossed.

E. DOTSON WILSON, Chief Clerk

Above resolution re-referred to committee.

Assembly Chamber, August 23, 2005

Mr. Speaker: Pursuant to your instructions, the Chief Clerk has examined:
Assembly Concurrent Resolution No. 75
And reports the same correctly engrossed.

E. DOTSON WILSON, Chief Clerk

Above resolution ordered to the Consent Calendar.

Assembly Chamber, August 23, 2005

Mr. Speaker: Pursuant to your instructions, the Chief Clerk has examined:
Assembly Joint Resolution No. 30
And reports the same correctly engrossed.

E. DOTSON WILSON, Chief Clerk

Above resolution ordered on file.

Assembly Chamber, August 23, 2005

Mr. Speaker: Pursuant to your instructions, the Chief Clerk has examined:
Assembly Bill No. 86
Assembly Bill No. 370
And reports the same correctly enrolled, and presented to the Governor on the 23rd day of August, 2005, at 11 a.m.

E. DOTSON WILSON, Chief Clerk

REPORTS

The following reports were presented by the Chief Clerk:

**Litigation Deposit Fund (0920)—
Statement of Fund Balance—for Quarter Ending June 30, 2005
(Pursuant to Government Code Section 16427(f))**

Above transmitted report, together with letter of transmittal from Sue Johnsrud, Director, Administrative Services Division, Department of Justice, dated August 1, 2005, referred by the Speaker to the Committee on Judiciary.

**Child Care Facilities Revolving Fund Program
2004–05 Annual Report
(Pursuant to Assembly Bill 1578, Chapter 299, Statutes of 1997)**

Above transmitted report, together with letter of transmittal from Jack O'Connell, State Superintendent of Public Instruction, Department of Education, dated August 2, 2005, referred by the Speaker to the Committee on Budget.

**California Developmental Disabilities Information System (CADDIS)
Monthly Status and Oversight Reports from
the Fourth Quarter Fiscal Year 2004–05
(Pursuant to Senate Bill 1113, Chapter 208, Statutes of 2004)**

Above transmitted report, together with letter of transmittal from Cliff Allenby, Director, Department of Developmental Services, dated August 3, 2005, referred by the Speaker to the Committee on Budget.

**Adjusted Interest Rate
for Period January 1, 2006 through June 30, 2006
(Pursuant to Revenue and Taxation Code Section 19521)**

Above transmitted report, together with letter of transmittal from George Ramsey, Manager, Statistical Research Section, Franchise Tax Board, dated August 4, 2005, referred by the Speaker to the Committee on Revenue and Taxation.

**Availability and Loss Experience in Commercial Residential Insurance
(Pursuant to Assembly Bill 421, Chapter 771, Statutes of 2004)**

Above transmitted report, together with letter of transmittal from John Garamendi, Insurance Commissioner, dated August 3, 2005, referred by the Speaker to the Committee on Insurance.

**Toll Bridge Seismic Retrofit Report—
Second Quarter—2005 Fiscal Year Ending June 30, 2005
(Pursuant to Streets and Highways Code Section 188.5(g))**

Above transmitted report, together with letter of transmittal from Will Kempton, Director, Department of Transportation, dated August 16, 2005, referred by the Speaker to the Committee on Transportation.

**Adoption of Greenhouse Gas Regulations for Motor Vehicles
(Pursuant to Health and Safety Code, Section 43018.5(b)(2)(A))**

Above transmitted report, together with letter of transmittal from W. Thomas Jennings, Acting General Counsel, Air Resources Board, dated August 15, 2005, referred by the Speaker to the Committee on Transportation.

**Unpaid Holocaust-Era Insurance Claims Status Report
January 2005 through June 2005
(Pursuant to Insurance Code Section 12967 (e))**

Above transmitted report, together with letter of transmittal from John Garamendi, Insurance Commissioner, dated August 10, 2005, referred by the Speaker to the Committee on Insurance.

**2004 Energy Efficiency and Conservation Program Report
(Pursuant to Supplemental Report to the 1999 Budget Act)**

Above transmitted report, together with letter of transmittal from Steve Larson, Executive Director, Public Utilities Commission, dated July 15, 2005, referred by the Speaker to the Committee on Utilities and Commerce.

**Mentally Ill Offender Crime Reduction Grant Program
Final Report
(Pursuant to Government Code Section 9795)**

Above transmitted report, together with letter of transmittal from Karen L. Stoll, Executive Officer, Corrections Standards Authority, dated August 15, 2005, referred by the Speaker to the Committee on Public Safety.

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

California State Auditor

2005-008
August 16, 2005

*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: The Bureau of State Audits presents its audit report of the State Treasurer's Office statement of securities accountability as of December 31, 2004.

The statement of securities accountability presents the securities owned by or pledged to the State directly, or under investment agreements, and those securities held for safekeeping. The State Treasurer's Office is responsible for the safekeeping of all these securities held in the treasury or other depositories. It is not responsible for securities owned by or pledged to the University of California, or for securities in other depositories owned by or pledged to the Public Employees' Retirement System, the State Teachers' Retirement System, the Legislators' Retirement System, or the Judges' Retirement System. For the statement of securities accountability, the State Treasurer's Office assigned dollar amounts to each security for ease of accountability rather than for purposes of valuing securities at cost or market. The dollar amounts assigned represent various values, including the par or face value, the original principal value, the current outstanding principal balance, or a nominal value of \$1 per certificate or note. Therefore, the dollar amounts presented in the statement of

securities accountability should not be used to determine the value of investments owned by, or pledged to, the State. We found that the statement presents fairly the securities accountability of the State Treasurer's Office as of December 31, 2004.

We conducted this audit to comply with the California Government Code, Section 13299.1.

Respectfully submitted,

ELAINE M. HOWLE
State Auditor

Above report referred to the Committee on Banking and Finance.

California State Auditor

2004-126
August 17, 2005

*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 Bureau of State Audits presents its audit report concerning the Department of Parks and Recreation's (department) administration and allocation of moneys in the Off-Highway Vehicle Trust Fund (OHV trust fund).

This report concludes that the Off-Highway Motor Vehicle Recreation Commission and the department's Off-Highway Motor Vehicle Recreation Division (division) have not developed the shared vision, goals, and strategies necessary to balance off-highway vehicle recreation with concerns for the environment. Recent legal requirements to spend designated portions of OHV program revenue for conservation, restoration, and law enforcement have not been met and because the division is not setting aside the cash, a growing unfunded obligation exists. In addition, the division and the department have spent or plan to spend \$38 million for three land acquisition projects—one completed and two under consideration—that offer little or no additional OHV recreation. Further, based on a questionable legal interpretation and inadequately supported cost estimates, the department is using OHV trust fund money—\$3.6 million during fiscal year 2003–04—to support state parks that do not have OHV recreation. The division has also used contracts for questionable purchases and violated state contracting rules, including 80 instances of splitting tasks into multiple contracts to avoid regulatory oversight. Finally, the division's management of the funds expended through grants and cooperative agreements needs improvement.

Respectfully submitted,

ELAINE M. HOWLE
State Auditor

Above report referred to the Committee on Transportation.

RESOLUTIONS

The following resolution was offered:

ASSEMBLY CONCURRENT RESOLUTION NO. 91—DeVore and Tran (Coauthors: Benoit, Daucher, Keene, Maze, McCarthy, Nakanishi, Plescia, Richman, Sharon Runner, Spitzer, Strickland, Villines, Walters, and Wyland). Relative to the Republic of China on Taiwan.

**AUTHOR’S AMENDMENTS
Committee on Appropriations**

August 23, 2005

Mr. Speaker: The Chair of your Committee on Appropriations reports:
Senate Bill No. 92

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

CHU, Chair

SENATE BILL NO. 92—An act to add Section 22947.9 to the Business and Professions Code, relating to computer spyware.

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 23, 2005

Mr. Speaker: The Chair of your Committee on Appropriations reports:
Assembly Bill No. 1672

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

CHU, Chair

ASSEMBLY BILL NO. 1672—An act to add Section 684 to the Business and Professions Code, to add Sections 1250.06, 1378.1, and 123149.1 to the Health and Safety Code, and to add Section 10119.1 to the Insurance Code, relating to health care.

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 Governmental Organization**

August 23, 2005

Mr. Speaker: The Chair of your Committee on Governmental Organization reports:
Assembly Constitutional Amendment No. 15

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

JEROME HORTON, Chair

ASSEMBLY CONSTITUTIONAL AMENDMENT NO. 15—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 19 of Article IV thereof, relating to gaming.

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

REPORTS OF STANDING COMMITTEES
Committee on Business and Professions

Date of Hearing: August 23, 2005

Mr. Speaker: Your Committee on Business and Professions reports:

Senate Bill No. 954

With the recommendation: Do pass, and be re-referred to the Committee on Appropriations.

NEGRETE McLEOD, Chair

Above bill re-referred to the Committee on Appropriations.

Committee on Transportation

Date of Hearing: August 22, 2005

Mr. Speaker: Your Committee on Transportation reports:

Senate Concurrent Resolution No. 10

Senate Concurrent Resolution No. 11

With the recommendation: Be adopted, and be re-referred to the Committee on Appropriations with recommendation: To Consent Calendar.

OROPEZA, Chair

Above resolutions re-referred to the Committee on Appropriations.

Date of Hearing: August 22, 2005

Mr. Speaker: Your Committee on Transportation reports:

Assembly Concurrent Resolution No. 70

With the recommendation: Be adopted, and be re-referred to the Committee on Appropriations with recommendation: To Consent Calendar.

OROPEZA, Chair

Above resolution re-referred to the Committee on Appropriations.

Committee on Jobs, Economic Development, and the Economy

Date of Hearing: August 23, 2005

Mr. Speaker: Your Committee on Jobs, Economic Development, and the Economy reports:

Senate Bill No. 897

With the recommendation: Do pass, and be re-referred to the Committee on Appropriations.

ARAMBULA, Chair

Above bill re-referred to the Committee on Appropriations.

Committee on Judiciary

Date of Hearing: August 23, 2005

Mr. Speaker: Your Committee on Judiciary reports:

Senate Bill No. 1075

With the recommendation: Do pass, and be re-referred to the Committee on Appropriations.

JONES, Chair

Above bill re-referred to the Committee on Appropriations.

Date of Hearing: August 23, 2005

Mr. Speaker: Your Committee on Judiciary reports:

Assembly Concurrent Resolution No. 86

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.

JONES, Chair

Above resolution ordered to Consent Calendar.

AUTHOR'S AMENDMENTS
Committee on Appropriations

August 23, 2005

Mr. Speaker: The Chair of your Committee on Appropriations reports:
Senate Bill No. 954

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

CHU, Chair

SENATE BILL NO. 954—An act to add Sections 12103.5, 12104, 12104.5, and 12114 to the Public Contract Code, relating to public contracts, and declaring the urgency thereof, to take effect immediately.

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.

MESSAGES FROM THE SENATE

Senate Chamber, August 23, 2005

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

- | | |
|-----------------------|------------------------|
| Assembly Bill No. 224 | Assembly Bill No. 929 |
| Assembly Bill No. 228 | Assembly Bill No. 952 |
| Assembly Bill No. 327 | Assembly Bill No. 1180 |
| Assembly Bill No. 399 | Assembly Bill No. 1202 |
| Assembly Bill No. 429 | Assembly Bill No. 1229 |
| Assembly Bill No. 478 | Assembly Bill No. 1322 |
| Assembly Bill No. 547 | Assembly Bill No. 1380 |
| Assembly Bill No. 564 | Assembly Bill No. 1386 |
| Assembly Bill No. 646 | Assembly Bill No. 1517 |
| Assembly Bill No. 696 | Assembly Bill No. 1533 |
| Assembly Bill No. 729 | Assembly Bill No. 1585 |
| Assembly Bill No. 841 | Assembly Bill No. 1633 |
| Assembly Bill No. 862 | Assembly Bill No. 1738 |
| Assembly Bill No. 889 | Assembly Bill No. 1746 |

And respectfully requests the Assembly to concur in said amendments.

GREGORY P. SCHMIDT, Secretary of the Senate
By David Valverde, Assistant Secretary

Above bills ordered to unfinished business file.

Senate Chamber, August 23, 2005

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

- | | |
|-----------------------|------------------------|
| Assembly Bill No. 452 | Assembly Bill No. 1358 |
| Assembly Bill No. 690 | Assembly Bill No. 1359 |

GREGORY P. SCHMIDT, Secretary of the Senate
By David Valverde, Assistant Secretary

Above bills ordered enrolled.

CONSIDERATION OF DAILY FILE
SENATE BILLS RETURNED TO SECOND READING FILE
PURSUANT TO THE RULES

Pursuant to the Assembly Rules, the following Senate bills were this day on the second reading file:

Senate Bills Nos. 2, 110, 137, 441, 621, and 1016, ordered to third reading.

SECOND READING OF SENATE BILLS

SENATE BILL NO. 851—An act to amend Section 20321 of, to add Article 22.5 (commencing with Section 20369.2) to Chapter 1 of Part 3 of Division 2 of, to repeal Article 9 (commencing with Section 20230) and Article 22 (commencing with Section 20360) of Chapter 1 of Part 3 of Division 2 of, the Public Contract Code, and to amend Sections 130051.7 and 130243 of the Public Utilities Code, relating to the Los Angeles County Metropolitan Transportation Authority.

Bill read second time; amendments proposed by the Committee on Appropriations read and adopted, bill ordered reprinted and to be returned to the second reading file, and to be placed upon the Consent Calendar.

SENATE BILL NO. 1102—An act to add Sections 473, 21720, and 21721 to the Vehicle Code, relating to vehicles.

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

BILLS RETURNED TO THIRD READING FILE

Pursuant to Assembly Rule 78, the following bill was withdrawn from the inactive file, and placed upon the third reading file.

Senate Bill No. 455, on request of Assembly Member Cohn.

ADJOURNMENT

At 3 p.m., the Assembly adjourned until 7 a.m., Wednesday, August 24, 2005.

FABIAN NUÑEZ, Speaker

SUE PARKER, Minute Clerk

**AMENDMENTS CONSIDERED BY THE
ASSEMBLY ON AUGUST 23, 2005**

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

ACA RN
15 0519112

SB RN
92 0519019
851 0518843
954 0519088
1102 0518624
1672 0518830

Daily Total: 6
Cumulative Total: 2532

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