

CALIFORNIA LEGISLATURE
2007-08 REGULAR SESSION

ASSEMBLY DAILY JOURNAL

Tuesday, September 9, 2008

**TWO HUNDRED FORTY-SECOND SESSION DAY
SIX HUNDRED FORTY-SIXTH 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, September 9, 2008

The Assembly met at 10:05 a.m.
Hon. Sally J. Lieber, Speaker pro Tempore of the Assembly,
presiding.
Chief Clerk E. Dotson Wilson at the Desk.
Assistant Clerk Elizabeth Potter reading.

ROLL CALL

The roll was called.

Quorum Call of the Assembly

Assembly Member Cook moved a quorum call of the Assembly.
Motion carried.
The Speaker pro Tempore directed the Sergeant at Arms to close the
doors, and to bring in the absent Members.

Quorum Present

At 10:29 a.m., Speaker pro Tempore Lieber declared a quorum of the
Assembly present.

The roll call was completed, and the following answered to their
names—74:

Adams	Dymally	Jones	Price
Aghazarian	Emmerson	Karnette	Runner
Anderson	Eng	Keene	Ruskin
Arambula	Evans	Krekorian	Salas
Beall	Feuer	La Malfa	Saldaña
Berg	Fuentes	Laird	Silva
Blakeslee	Fuller	Leno	Smyth
Brownley	Furutani	Levine	Solorio
Caballero	Gaines	Lieber	Spitzer
Calderon	Galgiani	Lieu	Strickland
Carter	Garcia	Ma	Swanson
Cook	Garrick	Maze	Torrico
Coto	Hancock	Mendoza	Tran
Davis	Hayashi	Mullin	Villines
De La Torre	Horton	Nakanishi	Walters
De León	Houston	Nava	Wolk
DeSaulnier	Huff	Niello	Mme. Speaker
DeVore	Huffman	Núñez	
Duvall	Jeffries	Portantino	

PRAYER

Upon invitation of Speaker pro Tempore Lieber, the following prayer was offered by Hon. Ira Ruskin, Assembly Member, District 21:

Creator, We live in a world of great confusion, despair, and problems. We need, therefore, the strength to recognize our weaknesses and the vision to identify what needs to be done. Give us the wisdom to do that which is right, the will and the determination to stand for truth even though it may be at times unpopular. But above all, help us serve with dignity and honor the good people of this great state.

Ba'ruch atah adonoi, eloheynu melech ha'olom. Sh'hecheyanu, v'keyema'nu, v'hegeya'nu, la'z'man hazeh.

Blessed are you Creator of the Universe, who has given us life, sustained us and brought us to this time and place.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker pro Tempore Lieber, Assembly Member Adams 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 De León, seconded by Assembly Member Emmerson.

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 Benoit, Hernandez, Parra, and Plescia.

Because of illness: Assembly Member Soto.

Because of jury duty: Assembly Member Berryhill.

COMMUNICATIONS

The following communications were presented by the Chief Clerk, and ordered printed in the Journal:

September 8, 2008

The Honorable Karen Bass

Speaker, California State Assembly

State Capitol, Room 219

Sacramento, California

Dear Mme. Speaker: I respectfully request to waive my per diem effective September 1, 2008 through the remainder of the current legislative session November 30, 2008.

If you have any questions or concerns please contact Jalene Romo in my office at 319-2031.

Sincerely,

JUAN ARAMBULA, Assembly Member
Thirty-first District

September 5, 2008

*The Honorable Karen Bass
Speaker of the Assembly
State Capitol, Room 219
Sacramento, California*

Dear Mme. Speaker,

Please direct the Chief Clerk to calculate my per diem in such a way that I receive payment for only days on which I am in Sacramento, or traveling between Sacramento and my home in Eureka, on official state business. I waive all other accrual of per diem pay.

Respectfully,

PATTY BERG, Assembly Member
First District

September 8, 2008

*The Honorable Ted Lieu
Chair, Assembly Rules Committee
State Capitol, Room 3016
Sacramento, California*

Dear Chairman Lieu: Due to the fact that legislators are meeting for the sole purpose of solving a budget stalemate that is more than two months past due, I am writing to waive per diem effective August 31st, until a budget is enacted.

As you know, legislators do not generally receive per diem during summer periods, and while schools and state programs face such uncertainty during the impasse, I do not feel comfortable profiting from the Legislature's inability to reach a consensus.

Please feel free to contact me at 319-2033 with any questions.

Sincerely,

SAM BLAKESLEE, Assembly Member
Thirty-third District

September 5, 2008

*The Honorable Karen Bass
Speaker of the Assembly
State Capitol, Room 219
Sacramento, California*

Dear Speaker Bass: In light of the severe budget deficit, I am writing to voluntarily waive my per diem until the state budget is passed. I cannot in good conscience accept per diem, knowing that our seniors, poor and disabled are currently being asked to live with less than what they need.

Thank you for taking the time to process my request. If you or your staff have any questions, please have them call Julio Martinez in my Capitol office at (916) 319-2049.

Kind regards,

MIKE ENG, Assembly Member
Forty-ninth District

September 8, 2008

Dotson Wilson
Assembly Chief Clerk
State Capitol, Room 3196
Sacramento, California

Dear Chief Clerk Wilson: This letter is to officially notify you of my intention to decline per diem for the remainder of the current state budget impasse.

Please withhold all per diem, effective September 1st, 2008, until further notice.

Please do not hesitate to contact me or my Chief of Staff, Steve Davey, at 319-2004 should you have any questions regarding this request.

Sincerely,

TED GAINES, Assembly Member
Fourth District

September 8, 2008

The Honorable Karen Bass
Speaker, California State Assembly
State Capitol, Room 219
Sacramento, California

Dear Speaker Bass: At this time, our State Budget has not yet been adopted as the Legislature enters into the post session period, which began September 1, 2008.

I understand that generally the period of time beyond August 31st is a time in which legislators do not receive per diem. However, I am also aware that should the Budget issues continue to be stalemated, legislators may continue to receive per diem that would not otherwise be available during this period.

Although I am hopeful that our Budget impasse may find a resolution, I am disturbed by the notion that we as legislators continue to stand to gain by the ongoing impasse of the Budget delay.

It is for the outlined reasons that I respectfully waive any per diem for the period beginning September 1, 2008 and going through the end of this legislative session as we continue to work on resolving this budget dilemma.

Sincerely,

ED HERNANDEZ, O.D., Assembly Member
Fifty-seventh District

September 8, 2008

*The Honorable Karen Bass
Speaker, California State Assembly
State Capitol, Room 219
Sacramento, California*

Dear Mme. Speaker: I respectfully request to waive my per diem effective September 1. I will resume collecting per diem when the budget is signed by the Governor. If you have any questions or concerns please contact Jeanette Garcia in my office at 319-2053.

Sincerely,

TED W. LIEU
Chair, Assembly Rules Committee

September 1, 2008

*Mr. Jon Waldie, Chief Administrative Officer
Assembly Rules Committee
State Capitol
Sacramento, California*

Dear Mr. Waldie: Upon the conclusion of session, August 31, 2008, until such a time as the budget is adopted I will not be accepting or accruing "per diem" payments for that period.

Thank you for your attention to this request. If you have any questions, please do not hesitate to contact me.

Sincerely,

ANTHONY J. PORTANTINO, Assembly Member
Forty-fourth District

September 5, 2008

*Hon. Ted Lieu, Chair
Assembly Rules Committee
State Capitol, Room 3016
Sacramento, California*

Dear Assemblymember Lieu: I would like to waive my per diem beginning August 31, 2008, through November 30, 2008. I will not be requesting a per diem reimbursement for this time period.

Thank you for your prompt attention to this matter. If you have any questions please do not hesitate to contact Gayl Jaaskelainen, my Chief of Staff, at (619) 409-7979.

Sincerely,

MARY SALAS, Assembly Member
Seventy-ninth District

September 8, 2008

The Honorable Ted W. Lieu
Chair, Assembly Committee on Rules
State Capitol, Room 3016
Sacramento, California

Dear Chairman Lieu: Given the fact legislators are meeting for the sole purpose of solving a budget stalemate that is more than two months past due, I am waiving per diem effective immediately until a budget is enacted. While the State Controller is already withholding checks, I will not expect to receive compensation for this time when payments are eventually made to legislators.

As you know, legislators generally do not receive per diem during summer periods. For every week the Assembly holds session beyond the legislative deadline, members earn \$1,190—money we wouldn't be receiving if the budget situation was resolved and the Legislature was adjourned until the next legislative session.

While schools and state programs face times of uncertainty during the impasse, I do not feel comfortable profiting from the Legislature's inability to reach a consensus.

Should you have any questions, please do not hesitate to contact me at (916) 319-2071.

Sincerely,

TODD SPITZER, Assembly Member
 Seventy-first District

SPECIAL COMMITTEE MEETINGS

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

Health to convene a joint informational hearing with the Senate Committee on Health, on Tuesday, September 16, 2008, at 1:30 p.m., in Room 4202.

CAUCUS ANNOUNCEMENTS

At 10:32 a.m., Speaker pro Tempore Lieber was granted unanimous consent that the Democratic Caucus be permitted to meet in the Assembly Lounge.

Assembly Member Huff was granted unanimous consent that the Republican Caucus be permitted to meet in the Tom Bane Rules Committee Room.

RECONVENED

At 11:23 a.m., the Assembly reconvened.

Hon. Sally Lieber, Speaker pro Tempore of the Assembly, presiding.

CONSIDERATION OF DAILY FILE THIRD READING OF SENATE BILLS

SENATE BILL NO. 1087 (Committee on Budget and Fiscal Review)—An act relating to the Budget Act of 2008.

Bill read third time.

Motion to Amend

Assembly Member Laird moved the adoption of amendments.

Amendments read and adopted; bill ordered reprinted, and to be returned to the third reading file.

CONSIDERATION OF SENATE BILL NO. 1087 BY UNANIMOUS CONSENT

Assembly Member Niello was granted unanimous consent to take up Senate Bill No. 1087, as amended, without reference to file, for purpose of consideration.

SENATE BILL NO. 1087 (Committee on Budget and Fiscal Review)—An act to amend and supplement the Budget Act of 2008 by amending Items 0250-001-0001, 0250-001-0159, 0250-101-0932, 0250-111-0001, 0552-001-0001, 0650-001-0001, 0690-001-0001, 0690-002-0001, 0690-101-0890, 0690-102-0001, 0820-001-0001, 0840-001-0001, 0855-111-0367, 0860-001-0001, 0860-001-0004, 0860-001-0022, 0860-001-0061, 0860-001-0070, 0860-001-0080, 0860-001-0230, 0860-001-0320, 0860-001-0387, 0860-001-0439, 0860-001-0465, 0860-001-0623, 0860-001-0965, 0860-001-3015, 0860-001-3058, 0860-001-3065, 0950-001-0001, 1100-001-0001, 1700-001-0001, 1730-001-0001, 1760-001-0001, 1760-001-0666, 1880-001-0001, 1955-001-9730, 2240-101-0001, 2240-105-0001, 2640-101-0046, 2660-001-0042, 2660-104-6059, 2660-304-6059, 2660-492, 3340-001-0001, 3340-001-0318, 3540-001-0001, 3540-001-1014, 3560-001-0001, 3600-001-0001, 3720-001-0001, 3720-001-3123, 3790-490, 3860-001-0001, 3900-001-0044, 3940-001-0001, 4170-101-0001, 4200-001-0001, 4200-001-3019, 4200-101-0001, 4200-102-0001, 4200-103-0001, 4200-105-0001, 4260-001-0001, 4260-101-0001, 4260-101-0890, 4260-111-0001, 4260-111-0890, 4265-111-0001, 4280-101-0001, 4280-101-0890, 4280-102-0001, 4280-102-0890, 4300-101-0001, 4440-101-0001, 4440-103-0001, 5180-001-0001, 5180-101-0001, 5180-001-0890, 5180-101-0001, 5180-101-0890, 5180-111-0001, 5180-141-0001, 5180-141-0890, 5180-151-0001, 5180-151-0890, 5180-153-0001, 5225-001-0001, 5225-002-0001, 5225-101-0001, 5225-301-0001, 5225-301-0660, 6110-001-0001, 6110-001-0890, 6110-101-0349, 6110-103-0001, 6110-104-0001, 6110-105-0001, 6110-107-0001, 6110-108-0001, 6110-111-0001, 6110-119-0001, 6110-122-0001, 6110-123-0890, 6110-124-0001, 6110-125-0001, 6110-126-0890, 6110-128-0001, 6110-130-0001, 6110-134-0890, 6110-136-0890, 6110-140-0001, 6110-150-0001, 6110-151-0001, 6110-156-0001, 6110-158-0001, 6110-161-0001, 6110-167-0001, 6110-181-0001, 6110-189-0001, 6110-190-0001, 6110-193-0001, 6110-196-0001, 6110-198-0001, 6110-201-0890, 6110-202-0001, 6110-203-0001, 6110-204-0001, 6110-209-0001, 6110-211-0001, 6110-224-0001, 6110-228-0001, 6110-232-0001, 6110-234-0001, 6110-240-0001, 6110-243-0001, 6110-244-0001, 6110-245-0001, 6110-246-0001, 6110-247-0001, 6110-248-0001, 6110-260-0001, 6110-265-0001, 6110-267-0001, 6110-488, 6120-150-0001, 6120-160-0001, 6120-211-0001, 6120-213-0001, 6120-221-0001, 6420-001-0001, 6440-001-0001, 6440-302-6041, 6440-304-6048, 6870-001-0001, 6870-101-0001, 7980-001-0001, 7980-001-0890, 7980-101-0001, 7980-101-0890, 7100-001-0514, 8380-001-0001, 8570-001-0001, 8570-001-0111, 8620-001-0001, 8640-001-0001, 8660-001-0042, 8660-001-0046, 8660-001-0412, 8660-001-0461, 8660-001-0462, 8860-001-0001, 8880-001-9737, 8940-001-0001, and 9210-101-0001 of, by adding Items 0820-012-0378, 0820-495, 0855-101-0367, 3790-494, 8660-011-0470, 8660-011-0471, 8660-011-0483, 9210-105-0001, and 9350-104-6065 to, and by repealing Items 0520-490, 0690-001-1014, 0690-011-0214, 1100-301-0001, 1100-301-0267, 3940-490, 4260-001-8040, 4260-006-0001, 4260-119-8040, 4700-001-0001, 4700-101-0001, 6110-135-0890, 7300-001-0001, and 8940-001-1014 of, Section 2.00 of, and by amending Sections 4.07, 12.40, 24.85, and 35.50 of, and by adding Section 35.20 to, that act, relating to the State Budget, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

Bill read third time, and presented by Assembly Member Niello.

Urgency Clause

Urgency clause read.

Assembly Rule 112 Suspended

Assembly Members DeVore, Huff, and Speaker Bass were granted unanimous consent that Assembly Rule 112 be suspended to permit them to read a paper on the Floor of the Assembly.

Further Consideration of Senate Bill No. 1087

The urgency clause to Senate Bill No. 1087 refused adoption by the following vote:

AYES—27

Adams	Gaines	Keene	Smyth
Anderson	Garcia	La Malfa	Spitzer
Cook	Garrick	Maze	Strickland
DeVore	Horton	Nakanishi	Tran
Duvall	Houston	Niello	Villines
Emmerson	Huff	Runner	Walters
Fuller	Jeffries	Silva	

NOES—45

Arambula	Dymally	Krekorian	Price
Beall	Eng	Laird	Ruskin
Berg	Evans	Leno	Salas
Brownley	Feuer	Levine	Saldaña
Caballero	Fuentes	Lieber	Solorio
Calderon	Furutani	Lieu	Swanson
Carter	Galgiani	Ma	Torrico
Coto	Hancock	Mendoza	Wolk
Davis	Hayashi	Mullin	Mme. Speaker
De La Torre	Huffman	Nava	
De León	Jones	Núñez	
DeSaulnier	Karnette	Portantino	

REQUEST FOR UNANIMOUS CONSENT TO SUSPEND THE RULES

Assembly Member Blakeslee requested unanimous consent that the Rules be suspended for the purpose of taking up Senate Bill No. 1072 for the purpose of consideration.

Assembly Member De León withheld unanimous consent.

Motion to Suspend the Rules

Assembly Member Blakeslee moved that the Rules be suspended for the purpose of taking up Senate Bill No. 1072 for the purpose of consideration.

Assembly Member Garrick seconded the motion.

Motion for suspension of the Rules lost by the following vote:

AYES—30

Adams	Emmerson	Jeffries	Smyth
Aghazarian	Fuller	Keene	Spitzer
Anderson	Gaines	La Malfa	Strickland
Arambula	Garcia	Maze	Tran
Blakeslee	Garrick	Nakanishi	Villines
Cook	Horton	Niello	Walters
DeVore	Houston	Runner	
Duvall	Huff	Silva	

NOES—43

Beall	Dymally	Karnette	Núñez
Berg	Eng	Krekorian	Portantino
Brownley	Evans	Laird	Price
Caballero	Feuer	Leno	Ruskin
Calderon	Fuentes	Levine	Salas
Carter	Furutani	Lieber	Saldaña
Coto	Galgiani	Lieu	Swanson
Davis	Hancock	Ma	Torrico
De La Torre	Hayashi	Mendoza	Wolk
De León	Huffman	Mullin	Mme. Speaker
DeSaulnier	Jones	Nava	

REQUEST FOR UNANIMOUS CONSENT TO SUSPEND THE RULES

Assembly Member Houston requested unanimous consent to Recess the Regular Session for the purpose of convening the Third Extraordinary Session.

Assembly Member Torrico withheld unanimous consent.

Motion to Recess

Assembly Member Houston moved that the Rules be suspended in order to Recess the Regular Session for the purpose of convening the Third Extraordinary Session.

Assembly Member Huff seconded the motion.

Parliamentary Inquiry

Assembly Member Spitzer arose to the following parliamentary inquiry:

Is Assembly Member Torrico allowed to object to a motion without stating on the record why he is objecting?

Reply by Speaker pro Tempore Lieber

The Speaker pro Tempore replied that Assembly Member Torrico does not have to explain why he is objecting. He is simply objecting to the motion to recess.

Motion for suspension of the Rules lost by the following vote:

AYES—29

Adams	Fuller	Keene	Spitzer
Aghazarian	Gaines	La Malfa	Strickland
Anderson	Garcia	Maze	Tran
Blakeslee	Garrick	Nakanishi	Villines
Cook	Horton	Niello	Walters
DeVore	Houston	Runner	
Duvall	Huff	Silva	
Emmerson	Jeffries	Smyth	

NOES—43

Beall	Dymally	Krekorian	Portantino
Berg	Eng	Laird	Price
Brownley	Evans	Leno	Ruskin
Caballero	Feuer	Levine	Salas
Calderon	Fuentes	Lieber	Saldaña
Carter	Furutani	Lieu	Solorio
Coto	Hancock	Ma	Swanson
Davis	Hayashi	Mendoza	Torrico
De La Torre	Huffman	Mullin	Wolk
De León	Jones	Nava	Mme. Speaker
DeSaulnier	Karnette	Núñez	

ADJOURN IN MEMORY

Assembly Member DeSaulnier was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of William John Hooy, of Concord and Carole Schroder, Sgt. Paul Starzyk, and Catalina Torres, of Martinez.

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 Val Shearer, of Sandy, Oregon and Arthur Roy Smith, of Camp Verde, Arizona.

Assembly Member Wolk was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Gayle Madeline Sandy, of Woodland.

CONSIDERATION OF DAILY FILE (RESUMED)**UNFINISHED BUSINESS (RESUMED)****MOTION TO RECONSIDER BILLS CONTINUED**

By unanimous consent, the motions to reconsider the votes on Assembly Constitutional Amendment No. 8, Assembly Bill No. 1840, and Assembly Constitutional Amendment No. 15 were continued until the next legislative day.

ANNOUNCEMENTS

Speaker pro Tempore Lieber announced the following session schedule:

Wednesday, September 10, 2008, Floor Session, at 9 a.m.

CAUCUS ANNOUNCEMENTS

Speaker pro Tempore Lieber announced that the Democratic Caucus would meet in the Assembly Lounge and the Republican Caucus would meet in the Tom Bane Rules Committee Room, upon adjournment at Floor session.

MOTION TO ADJOURN

At 12:58 p.m., Assembly Member De León moved that the Assembly do now adjourn.

Assembly Member Blakeslee seconded the motion.

Motion carried.

QUORUM CALL OF THE ASSEMBLY DISPENSED WITH

At 12:58 p.m., Speaker pro Tempore Lieber declared the quorum call of the Assembly dispensed with.

ADJOURNMENT

At 3 p.m., pursuant to the motion by Assembly Member De León the Assembly adjourned until 9 a.m., Wednesday, September 10, 2008, out of respect to the memory of William John Hooy, Carole Schroder, Sgt. Paul Starzyk, and Catalina Torres, on motion of Assembly Member DeSaulnier; out of respect to the memory of Val Shearer and Arthur Roy Smith, on motion of Assembly Member Runner; and out of respect to the memory of Gayle Madeline Sandy, on motion of Assembly Member Wolk.

KAREN BASS, Speaker

TRESHA PETIT-PHAR, Assistant Minute Clerk

**AMENDMENTS CONSIDERED BY THE
ASSEMBLY ON SEPTEMBER 9, 2008**

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

SB RN
1087 0827704

Daily Total: 1
Cumulative Total: 5761

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