

## CALIFORNIA LEGISLATURE

2005–06 REGULAR SESSION

---

---

# SENATE DAILY JOURNAL

THIRTY-THIRD LEGISLATIVE DAY

---

## IN SENATE

---

Senate Chamber, Sacramento  
Monday, February 28, 2005

The Senate met at 2 p.m.  
Hon. Don Perata, of the 9th District, presiding.  
Secretary Greg Schmidt at the Desk.  
Assistant Secretary Kipchoge Randall reading.

### QUORUM CALL OF THE SENATE

Without objection, a quorum call was placed upon the Senate.  
The President directed the Sergeant at Arms to close the doors and to bring in the absent Members.

### PROCEEDINGS UNDER QUORUM CALL OF THE SENATE ROLL CALL

The roll was called and the following Senators answered to their names:  
Aanestad, Ackerman, Alquist, Ashburn, Battin, Bowen, Campbell, Cedillo, Chesbro, Cox, Denham, Ducheny, Dunn, Dutton, Escutia, Figueroa, Florez, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Margett, McClintock, Migden, Morrow, Murray, Ortiz, Perata, Poochigian, Romero, Runner, Scott, Soto, Speier, Torlakson, and Vincent—38.

Quorum present.

*(NOTE: Senator Alarcón will be excused this day on legislative business and Senator Simitian will be excused this day on personal business.)*



**PRAYER**

Prayer was offered by the Chaplain, Rev. Canon James Richardson:

*O Eternal God*, The foundation of all wisdom and the source of all courage: Enlighten with Your grace the lawmakers of our state, and so rule their minds and guide their counsel that in all things they may promote the well-being of our people and the prosperity of our land.—AMEN.

**PLEDGE OF ALLEGIANCE TO THE FLAG**

Senator Runner led the Senate in the pledge of allegiance to the Flag.

**MESSAGES FROM THE GOVERNOR**

Governor's Office, State Capitol  
February 25, 2005

*To the Senate of the State of California:*

I have the honor to transmit to you herewith the following appointments heretofore made by me to offices which by law are to be filled by the Governor. These appointments are subject to Senate confirmation and consent. I hereby nominate these appointees to you and request your confirmation and consent.

Sincerely,

ARNOLD SCHWARZENEGGER, Governor

Sophie C. Wong, President of Sophie Wong & Associates, Co-Founder and Director of Golden Security Bank and Principal of American Realty; former member for three terms of the Alhambra Unified School District Board. Appointed 02/11/05. Effective 02/23/05.

Member, Alcoholic Beverage Control Appeals Board vice Karen A. Getman, being replaced, term ending at the Pleasure of the Governor.

Patrick Roland Adams, Director, Consulting Services, Teleca USA and former Vice President and Director of Marketing, GenSys Software. Appointed 02/14/05. Effective 02/23/05.

Member, Fair Employment and Housing Commission vice Anne C. Ronce, term expired, term ending on 09/18/07.

Linda Ng, Housing Representative, the Housing and Community Development Department and former Associate Auditor, the Department of Consumer Affairs. Appointed 02/14/05. Effective 02/22/05.

Member, Fair Employment and Housing Commission vice Helen R. Mars, withdrawn from Senate, term ending 09/18/07.



Heidi J. Harris, lecturer in range development and improvements, California State University, Humboldt; range consultant for the United States Department of Agriculture's Natural Resource Conservation Service. Appointed 02/04/05. Effective 02/21/05.

Member, California Regional Water Quality Control Board, North Coastal Region vice Daniel F. Crowley, withdrawn from Senate, term ending 09/30/06.

Dennis Angelo Leonardi, Owner and Manager, Leonardi Dairy; member of the Humboldt Creamery Association. Appointed 02/04/05. Effective 02/15/05.

Member, California Regional Water Quality Control Board, North Coastal Region vice Christopher J. Neary, withdrawn from Senate, term ending 09/18/06.

Clifford L. Marshall, Tribal Chairman, the Hoopa Valley Tribe; former lecturer of law, the University of California, Los Angeles. Appointed 02/07/05. Effective 02/23/05.

Member, California Regional Water Quality Control Board, North Coastal Region vice John W. Corbett, term expired, term ending 09/30/08.

Sari J. Sommarstrom, Principal, Sari Sommarstrom and Associates; Co-Owner, GrowPro, Inc.; member, the Watershed Management Council and the American Water Resources Association. Appointed 02/04/05. Effective 02/14/05.

Member, California Regional Water Quality Control Board, North Coastal Region vice Dina J. Moore, term expired, term ending 09/30/08.

Above appointments referred to the Committee on Rules.

Governor's Office, State Capitol  
February 25, 2005

*To the Senate of the State of California:*

I hereby respectfully withdraw from consideration the nomination of the following appointee heretofore submitted and now before your honorable body for confirmation.

Ryan John Alsop

Member, California Regional Water  
Quality Control Board, Los Angeles  
Region

Sincerely,

ARNOLD SCHWARZENEGGER, Governor

Above transmitted to the Committee on Rules.



**REPORTS OF STANDING COMMITTEES****Committee on Rules**

Senate Chamber, February 25, 2005

Mr. President: The Committee on Rules has examined:

SB 16

SB 22

And reports that the same have been correctly enrolled, and presented to the Governor on the 25th day of February, 2005, at 11:30 a.m.

PERATA, Chair

**Committee on Energy, Utilities and Communications**

Senate Chamber, February 28, 2005

Mr. President: The Chair of the Committee on Energy, Utilities and Communications, to which was referred:

SB 1

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

ESCUTIA, Chair

**Second Reading of Bills—Author's Amendments**

**Senate Bill 1**—An act to amend Section 25744 of, and to add Sections 25407, 25744.4, and 25744.5 to, the Public Resources Code, and to amend Sections 399.6, 399.8, and 2827 of, and to add Section 379.8 to, the Public Utilities Code, relating to energy, and making an appropriation therefor.

Bill read second time.

The amendments were read and adopted and the measure ordered printed and re-referred to the committee.

**RECESS**

At 2:08 p.m., the Senate recessed in order to convene in extraordinary session.

**REASSEMBLED**

At 2:10 p.m., the Senate reconvened.

Hon. Jackie Speier, of the 8th District, presiding.

**CONSIDERATION OF DAILY FILE****UNFINISHED BUSINESS****Consideration of Assembly Amendments**

**Senate Bill 29**—An act relating to public health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

Bill presented by Senator Perata.

The question being: Shall the Senate concur in the Assembly amendments to SB 29?



**Roll Call**

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

AYES (37)—Senators Aanestad, Ackerman, Alquist, Ashburn, Battin, Bowen, Campbell, Cedillo, Chesbro, Cox, Denham, Ducheny, Dunn, Dutton, Escutia, Figueroa, Florez, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Margett, Migden, Morrow, Murray, Ortiz, Perata, Poochigian, Romero, Runner, Scott, Soto, Speier, Torlakson, and Vincent.

NOES (1)—Senator McClintock.

Above bill ordered enrolled.

**Consideration of Governor's Appointment**

Senator Perata placed the following Governor's appointment before the Senate:

Ronald L. Diedrich, Director, Office of Administrative Hearings.

The President put the question: "Will the Senate advise and consent to the appointment by the Governor?"

**Roll Call**

The roll was called and the appointment was confirmed by the following vote:

AYES (38)—Senators Aanestad, Ackerman, Alquist, Ashburn, Battin, Bowen, Campbell, Cedillo, Chesbro, Cox, Denham, Ducheny, Dunn, Dutton, Escutia, Figueroa, Florez, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Margett, McClintock, Migden, Morrow, Murray, Ortiz, Perata, Poochigian, Romero, Runner, Scott, Soto, Speier, Torlakson, and Vincent.

NOES (0)—None.

**Consideration of Governor's Appointments**

Senator Perata placed the following Governor's appointments before the Senate:

Peter N. Carey, Member, California Housing Finance Agency, Board of Directors.

John A. Courson, Member, California Housing Finance Agency, Board of Directors.

John G. Morris, Member, California Housing Finance Agency, Board of Directors.

The President put the question: "Will the Senate advise and consent to the appointments by the Governor?"

**Roll Call**

The roll was called and the appointments were confirmed by the following vote:

AYES (38)—Senators Aanestad, Ackerman, Alquist, Ashburn, Battin, Bowen, Campbell, Cedillo, Chesbro, Cox, Denham, Ducheny, Dunn,



Dutton, Escutia, Figueroa, Florez, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Margett, McClintock, Migden, Morrow, Murray, Ortiz, Perata, Poochigian, Romero, Runner, Scott, Soto, Speier, Torlakson, and Vincent.

NOES (0)—None.

#### **LEAVES OF ABSENCE FOR THE DAY**

The following Senator was granted leave of absence for the day due to legislative business: Senator Alarcón.

The following Senator was granted leave of absence for the day due to personal business: Senator Simitian.

#### **FURTHER PROCEEDINGS UNDER QUORUM CALL OF THE SENATE DISPENSED WITH**

At 2:14 p.m., on motion of Senator Perata, further proceedings under the quorum call of the Senate were dispensed with.

#### **MOTION TO ADJOURN**

Senator Perata moved that the Senate stand in recess until the hour of 3:30 p.m. The Desk shall remain open to receive communications and to conduct the business of the day. At 3:30 p.m., the Senate will adjourn until Tuesday, March 1, 2005.

Motion carried.

#### **REPORTS OF STANDING COMMITTEES**

##### **Committee on Banking, Finance and Insurance**

Senate Chamber, February 28, 2005

Madam President: The Chair of the Committee on Banking, Finance and Insurance, to which was referred:

SB 20

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

SPEIER, Chair

#### **Second Reading of Bills—Author's Amendments**

**Senate Bill 20**—An act to amend Sections 11629.7, 11629.71, 11629.72, 11629.73, 11629.731, 11629.74, 11629.75, 11629.76, 11629.77, 11629.78, 11629.79, 11629.8, 11629.81, and 11629.85 of, to amend the heading of Article 5.5 (commencing with Section 11629.7) of, and to repeal Section 11629.84 of, and to repeal Article 5.6 (commencing with Section 11629.9) of Chapter 1 of Part 3 of Division 2 of, the Insurance Code, and to amend Sections 4000.37 and 16056.1 of, and to repeal Sections 16020.1 and 16020.2 of, the Vehicle Code, relating to auto insurance.

Bill read second time.

The amendments were read and adopted and the measure ordered printed and re-referred to the committee.



**MEASURES WITHDRAWN AND RE-REFERRED TO COMMITTEE**

Without objection, **SB 347** was withdrawn from the Committee on Transportation and Housing and re-referred to the Committee on Natural Resources and Water; and

**SB 339** was withdrawn from the Committee on Public Safety and re-referred to the Committee on Rules.

**REPORTS AND LETTERS OF TRANSMITTAL**

The following communications were ordered printed in the Journal:

An annual report relating to Madera County EMS Fund, FY 2003–04, was received from the Madera County Department of Health and transmitted to the Committee on Health.

A report dated: October 7, 2005, relating to the Contracting Report for FY: 2003–04 was received from the Department of Pesticide Regulation and transmitted to the Committee on Government Modernization, Efficiency and Accountability.

An annual report dated: February 3, 2005, relating to Faculty Compensation was received from the California State University and transmitted to the Committee on Budget and Fiscal Review.

A Title Summary report dated: February 3, 2005, relating to Reapportionment. Initiative Constitutional Amendment. was received from the Department of Justice and transmitted to the Committee on Rules.

A report dated: February 4, 2005, relating to Regulations to Control Greenhouse Gas Emissions from Motor Vehicles, was received from the Air Resources Board and transmitted to the Committee on Environmental Quality.

An annual report dated: February 4, 2005, was received from the Employment Training Panel, and transmitted to the Committee on Labor and Industrial Relations.

An annual report dated: February 4, 2005, relating to Special Funds Expenditures for FY 2003–04 was received from the Judicial Council of California and transmitted to the Committee on Budget and Fiscal Review.

An annual report dated: February 5, 2005, relating to the Annual Financial Report for Fiscal Year ending June 30, 2004, was received from the California State Teachers' Retirement System and transmitted to the Committee on Public Employment and Retirement.

A quarterly report dated: February 8, 2005, relating to the Progress Report on Bilingual Services was received from the Labor & Workforce Development Agency and transmitted to the Committee on Labor and Industrial Relations.



Annual report dated: February 8, 2005, relating to Mariposa County EMS Fund, FY 2003–04, was received from the Mariposa County Public Health Department and transmitted to the Committee on Health.

A quarterly report dated: February 8, 2005, relating to the Hazardous Waste Fee Revenue was received from the Board of Equalization and transmitted to the Committee on Budget and Fiscal Review.

A report dated: February 8, 2005, relating to the Environmental Health Conditions in California's Portable Classrooms, was received from the Air Resources Board and transmitted to the Committee on Environmental Quality.

A report dated: February 8, 2005, relating to the Use of Interpreters in the California Courts, was received from the Judicial Council of California and transmitted to the Committee on Budget and Fiscal Review.

A report dated: February 10, 2005, relating to the Ranking Criteria for Proposition 50 Projects, was received from the Department of Health Services and transmitted to the Committee on Budget and Fiscal Review.

A report dated: February 10, 2005, relating to the 2003–04 Small Business/DVOBE's Contract Activity, was received from the Department of Health Services and transmitted to the Committee on Government Modernization, Efficiency and Accountability.

A report dated: February 10, 2005, relating to the Consultant Contracts for FY 2003–04, was received from the Department of Health Services and transmitted to the Committee on Government Modernization, Efficiency and Accountability.

A report dated: February 14, 2005, relating to the U.S. Companies and Investments in Northern Ireland was received from CalPers and transmitted to the Committee on Public Employment and Retirement.

A report dated: February 14, 2005, relating to the California Witness Protection Program, was received from the Department of Justice and transmitted to the Committee on Public Safety.

A report dated: February 14, 2005, relating to the Hazard Evaluation System & Information Services (HESIS) was received from the Labor & Workforce Development Agency and transmitted to the Committee on Labor and Industrial Relations.

A report dated: February 14, 2005, relating to the 2004 Discrimination Complaint Report was received from the Labor & Workforce Development Agency and transmitted to the Committee on Labor and Industrial Relations.





An annual report dated: February 14, 2005, relating to the Effectiveness of Bureau of Field Enforcement was received from the Labor & Workforce Development Agency and transmitted to the Committee on Labor and Industrial Relations.

A supplemental report dated: February 14, 2005, relating to the fee structure was received from the Resources Agency and transmitted to the Committee on Budget and Fiscal Review.

A report dated: February 15, 2005, relating to the Electronic Absentee Ballot Application Program, was received from the Secretary of State and transmitted to the Committee on Elections and Reapportionment and Constitutional Amendments.

A report dated: February 15, 2005, relating to the Transportation Rate Fund was received from the Public Utilities Commission and transmitted to the Committee on Budget and Fiscal Review.

A report dated: February 15, 2005, relating to the Fiscal Years 2002 and 2004 annual Census of State Employees in the State Civil Service was received from the California State Personnel Board and transmitted to the Committee on Government Modernization, Efficiency and Accountability.

A report dated: February 16, 2005, relating to the Deferred Maintenance Program was received from the Hollister School District and transmitted to the Committee on Education.

An annual report dated: February 17, 2004, relating to the 2004 Annual Report of Activities was received from the California Urban Waterfront Area Restoration Financing Authority and transmitted to the Committee on Budget and Fiscal Review.

An annual report dated: February 17, 2005, relating to the 2004 Annual Report of Activities was received from the California Alternative Energy and Advanced Transportation Authority and transmitted to the Committee on Budget and Fiscal Review.

A report dated: February, 17, 2005, relating to the 2003–04 Small Business/DVOBE's Contract Activity was received from the Department of Real Estate and transmitted to the Committee on Government Modernization, Efficiency and Accountability.

A report dated: February 18, 2005, relating to the Early Intervention Program for 2003, was received from the Department of Health Services and transmitted to the Committee on Health.

A report dated: February 22, 2005, relating to the 2005–06 Budget: Perspectives and Issues, was received from the Legislative Analysts Office and transmitted to the Committee on Budget and Fiscal Review.



A Title Summary report dated: February 23, 2005, relating to State Government Reorganization Plans. Legislative Vote Requirement. Initiative Statute. was received from the Department of Justice and transmitted to the Committee on Rules.

A Title Summary report dated: February 23, 2005, relating to Public Service Contracts with Private Parties. Initiative Constitutional Amendment. was received from the Department of Justice and transmitted to the Committee on Rules.

A report dated: February 24, 2005, relating to the Taxpayers' Bill of Rights, was received from the Franchise Tax Board and transmitted to the Committee on Revenue and Taxation.

Second and third quarterly reports dated: February 25, 2005, relating to the Metropolitan State Hospital was received from the California Department of Mental Health and transmitted to the Committee on Health.

#### **REQUESTS TO ADJOURN IN MEMORIAM**

Senator Cox requested that when the Senate adjourns this day it do so in memory of Wing Fat of Sacramento.

Senator Dunn requested that when the Senate adjourns this day it do so in memory of David Arujo.

Senator Poochigian requested that when the Senate adjourns this day it do so in memory of Wilhelmina Virginia Ruiz of San Jose, Jose Carlos Rangel, Zaruhi Mae "Zee" Baxter and Belle Normart of Fresno, and Nish Haroian of Sanger.

Senator Soto requested that when the Senate adjourns this day it do so in memory of Lewis (L.S.) Gooden Jr.

#### **ADJOURNMENT**

At 3:30 p.m., on motion of Senator Perata, the Senate adjourned pursuant to the Senators' requests until 9 a.m., Tuesday, March 1, 2005.

PAULA K. ROSSETTO, Minute Clerk

