

CALIFORNIA LEGISLATURE

2007–08 REGULAR SESSION

SENATE DAILY JOURNAL

TWENTY-FIFTH LEGISLATIVE DAY

IN SENATE

Senate Chamber, Sacramento
Tuesday, February 13, 2007

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, Calderon, Cedillo, Cogdill, Corbett, Correa, Cox, Denham, Ducheny, Dutton, Florez, Harman, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, McClintock, Migden, Negrete McLeod, Oropeza, Padilla, Perata, Ridley-Thomas, Romero, Runner, Scott, Simitian, Steinberg, Wiggins, Wyland, and Yee—37.

Quorum present.

(NOTE: Senator Torlakson will be excused this day on legislative business and Senators Margett and Vincent will be excused this day due to illness.)



PRAYER

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

O God, Giver of Life and Freedom, We give thanks for the opportunity to serve Your people here in this place. Inspire our lawmakers to be agents of hope and instruments of Your peace in our hurting world, and may they find joy in their service. Give them the strength and courage to do the work that is theirs to do, this day and always.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

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

REPORTS OF STANDING COMMITTEES**Committee on Local Government**

Date of Hearing, February 7, 2007

Mr. President: The Committee on Local Government, to which was referred:

SB 10

Reports the same back with the recommendation: Do pass as amended, but first amend, and re-refer to the Committee on Appropriations.

NEGRETE McLEOD, Chair

Above measure ordered to second reading.

MEASURE WITHDRAWN FROM COMMITTEE

Without objection, **SCR 5** was withdrawn from Committee and placed on the Special Consent Calendar.

**REQUEST TO CONSIDER AND ACT ON BILLS
WITHIN 30 CALENDAR DAYS**

The following request was presented by Senator Hollingsworth:

Senate Chamber, February 13, 2007

Mr. Secretary: I request permission to introduce a resolution providing that **SB 148** and **SB 149** may be considered and acted upon within 30 days after introduction and prior to being in print for 30 days.

SENATOR HOLLINGSWORTH

Recommendation of Rules Committee

The Committee on Rules recommends that permission be granted to introduce a resolution as requested.

PERATA, Chair

**RESOLUTION TO DISPENSE WITH
ARTICLE IV, SEC. 8(a) OF THE CONSTITUTION
AND SUSPEND JOINT RULE 55**

Resolved, That, pursuant to Article IV, Section 8(a) of the Constitution, the above measures may be heard in committee and acted upon by the Senate before 30 calendar days have elapsed since introduction and that



Joint Rule 55 be suspended to permit such hearing and action prior to being in print for 30 days.

Resolution read and presented by Senator Ashburn.

Roll Call

The roll was called and the resolution was adopted by the following vote:

AYES (36)—Senators Aanestad, Ackerman, Alquist, Ashburn, Battin, Calderon, Cedillo, Cogdill, Corbett, Correa, Cox, Denham, Ducheny, Dutton, Florez, Harman, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, McClintock, Migden, Negrete McLeod, Oropeza, Padilla, Perata, Ridley-Thomas, Romero, Runner, Scott, Simitian, Steinberg, Wyland, and Yee.

NOES (0)—None.

CONSIDERATION OF DAILY FILE THIRD READING OF SENATE BILLS

Senate Bill 40—An act to amend, repeal, and add Section 1170 of the Penal Code, relating to sentencing and declaring the urgency thereof, to take effect immediately.

Bill read third time and presented by Senator Romero.

Urgency Clause

Urgency clause read and adopted by the following vote:

AYES (36)—Senators Aanestad, Ackerman, Alquist, Ashburn, Battin, Calderon, Cedillo, Cogdill, Corbett, Correa, Cox, Denham, Ducheny, Dutton, Florez, Harman, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Migden, Negrete McLeod, Oropeza, Padilla, Perata, Ridley-Thomas, Romero, Runner, Scott, Simitian, Steinberg, Wiggins, Wyland, and Yee.

NOES (1)—Senator McClintock.

Roll Call

The roll was called and the bill was passed by the following vote:

AYES (36)—Senators Aanestad, Ackerman, Alquist, Ashburn, Battin, Calderon, Cedillo, Cogdill, Corbett, Correa, Cox, Denham, Ducheny, Dutton, Florez, Harman, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Migden, Negrete McLeod, Oropeza, Padilla, Perata, Ridley-Thomas, Romero, Runner, Scott, Simitian, Steinberg, Wiggins, Wyland, and Yee.

NOES (1)—Senator McClintock.

Bill ordered transmitted to the Assembly.

Senate Bill 113—An act to amend Sections 1000, 1001, 1201, and 1202 of the Elections Code, relating to elections.

Bill read third time and presented by Senator Calderon.



Roll Call

The roll was called and the bill was passed by the following vote:

AYES (31)—Senators Ackerman, Alquist, Ashburn, Battin, Calderon, Cedillo, Corbett, Correa, Denham, Ducheny, Dutton, Florez, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Migden, Negrete McLeod, Oropeza, Padilla, Perata, Ridley-Thomas, Romero, Runner, Scott, Simitian, Steinberg, Wiggins, Wyland, and Yee.

NOES (5)—Senators Aanestad, Cogdill, Cox, Hollingsworth, and McClintock.

Bill ordered transmitted to the Assembly.

Senator Romero Presiding**UNFINISHED BUSINESS****Consideration of Governor's Appointment**

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

Linda L. Shelton, Commissioner, Board of Parole 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 (26)—Senators Aanestad, Ackerman, Alquist, Ashburn, Calderon, Cedillo, Corbett, Ducheny, Dutton, Florez, Kehoe, Kuehl, Lowenthal, Machado, Migden, Negrete McLeod, Oropeza, Padilla, Perata, Ridley-Thomas, Romero, Scott, Simitian, Steinberg, Wiggins, and Yee.

NOES (11)—Senators Battin, Cogdill, Correa, Cox, Denham, Harman, Hollingsworth, Maldonado, McClintock, Runner, and Wyland.

Consideration of Governor's Appointment

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

James R. Davis, Commissioner, Board of Parole 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 (30)—Senators Aanestad, Ackerman, Alquist, Ashburn, Battin, Calderon, Cogdill, Corbett, Cox, Denham, Dutton, Florez, Harman, Hollingsworth, Machado, Maldonado, McClintock, Migden, Negrete McLeod, Padilla, Perata, Ridley-Thomas, Romero, Runner, Scott, Simitian, Steinberg, Wiggins, Wyland, and Yee.

NOES (2)—Senators Correa and Kuehl.



SPECIAL CONSENT CALENDAR

Senate Concurrent Resolution 5—Relative to California Museum Month.

Resolution read.

Consent Calendar Roll Call

The roll was called and the resolution was adopted by the following vote:

AYES (37)—Senators Aanestad, Ackerman, Alquist, Ashburn, Battin, Calderon, Cedillo, Cogdill, Corbett, Correa, Cox, Denham, Ducheny, Dutton, Florez, Harman, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, McClintock, Migden, Negrete McLeod, Oropeza, Padilla, Perata, Ridley-Thomas, Romero, Runner, Scott, Simitian, Steinberg, Wiggins, Wyland, and Yee.

NOES (0)—None.

Resolution ordered transmitted to the Assembly.

REQUEST FOR UNANIMOUS CONSENT (SJR 1)

Senator Migden asked for, and was granted, unanimous consent that SJR 1 be withdrawn from committee and taken up at this time, without reference to file.

Consideration of Senate Joint Resolution 1

Senate Joint Resolution 1—Relative to the war in Iraq.

Resolution read third time and presented by Senator Migden.

Roll Call

The roll was called and the measure was adopted by the following vote:

AYES (22)—Senators Alquist, Calderon, Cedillo, Corbett, Ducheny, Florez, Kehoe, Kuehl, Lowenthal, Machado, Migden, Negrete McLeod, Oropeza, Padilla, Perata, Ridley-Thomas, Romero, Scott, Simitian, Steinberg, Wiggins, and Yee.

NOES (15)—Senators Aanestad, Ackerman, Ashburn, Battin, Cogdill, Correa, Cox, Denham, Dutton, Harman, Hollingsworth, Maldonado, McClintock, Runner, and Wyland.

Resolution ordered transmitted to the Assembly

REQUEST TO BE ADDED TO ROLL CALL

February 13, 2007

Mr. Secretary: Pursuant to the provisions of Senate Rule 44, I request to be recorded as voting on the following measure taken up on this day:

SJR 1—No

DICK ACKERMAN, Minority Floor Leader

LEAVES OF ABSENCE FOR THE DAY

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

The following Senators were granted leaves of absence for the day due to illness: Senators Margett and Vincent.

FURTHER PROCEEDINGS UNDER QUORUM CALL OF THE SENATE DISPENSED WITH

At 3:40 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 4:30 p.m. The Desk shall remain open to receive communications and to conduct the business of the day. At 4:30 p.m., the Senate will adjourn until Wednesday, February 14, 2007.

Motion carried.

INTRODUCTION AND FIRST READING OF SENATE MEASURES

The following measures were introduced, read the first time and transmitted to the Committee on Rules for assignment:

Senate Bill 222: By Senator Cogdill—An act to amend Section 5000 of the Penal Code, relating to the Department of Corrections and Rehabilitation.

Senate Bill 223: By Senator Machado—An act relating to real estate appraisals.

Senate Bill 224: By Senator Battin—An act to amend Section 379 of the Streets and Highways Code, relating to highways.

Senate Bill 225: By Senator Cedillo—An act relating to state employees, and declaring the urgency thereof, to take effect immediately.

Senate Bill 226: By Senator Negrete McLeod—An act to amend Section 10153.2 of, and to repeal and add Section 10150.6 of, the Business and Professions Code, relating to real estate brokers.

Senate Bill 227: By Senator Harman—An act to add Section 51225.2 to the Education Code, relating to high school graduation.

Senate Bill 228: By Senator Denham—An act to amend Sections 1202a, 3600, 3602, and 3603 of, and to add Section 3603.5 to, the Penal Code, relating to prisons, and declaring the urgency thereof, to take effect immediately.

Senate Bill 229: By Senator Margett—An act to amend Section 35782 of the Vehicle Code, relating to vehicles.



SENATE COMMITTEE ROLL CALLS**Committee on Local Government**

SB 10—Do pass as amended and re-refer to Committee on Appropriations

AYES (3)—Senators Kehoe, Machado, and Negrete McLeod.

NOES (0)—None.

Date of Hearing: 2/7/2007

Negrete McLeod (Chair)

LETTERS OF TRANSMITTAL

The following communications were ordered printed in the Journal:

A report dated: December 6, 2006, relating to the Deferred Maintenance Fund, was received from the Palermo Union School District and transmitted to the Committee on Education.

A report dated: December 20, 2006, relating to the 2006 California Physical Fitness Test, was received from the California Department of Education and transmitted to the Committee on Education.

An annual report dated: December 29, 2006, relating to the Sonoma County Indian Gaming Local Community Benefit Committee (IGLCBC), was received from the County of Sonoma and transmitted to the Committee on Governmental Organization.

A semi-annual report dated: December 29, 2006, relating to Energy Settlements and Energy Litigation and Investigation Expenses, was received from the Department of Justice and transmitted to the Committee on Judiciary.

An annual report dated: December 29, 2006, relating to the Comprehensive Annual Financial Report, Fiscal Year 2005–06, was received from the California Lottery and transmitted to the Committee on Budget and Fiscal Review.

An annual report dated: December 31, 2006, relating to Veterans Benefits, was received from the Department of Veterans Affairs and transmitted to the Committee on Veterans Affairs.

An annual report dated: January 2007, relating to the Program Performance and Statistical Report, was received from the Department of Child Support Services and transmitted to the Committee on Health.

A report dated: January 4, 2007, relating to the 21st Century Community Learning Centers for High Schools, Fiscal Year 2005–06, was received from the California Department of Education and transmitted to the Committee on Education.



A report dated: January 4, 2007, relating to the California State University, San Bernardino Center for the Study of Correctional Education Report on Deliverables to the California Department of Education, was received from the California Department of Education and transmitted to the Committee on Education.

A report dated: January 4, 2007, relating to Local Assessment Procedures, was received from the Board of Equalization and transmitted to the Committee on Revenue and Taxation.

An annual report dated: January 5, 2007, relating to the Loan and Grant Program, was received from the Department of Housing and Community Development and transmitted to the Committee on Budget and Fiscal Review.

A report dated: January 8, 2007, relating to California Community College Design Build Contracts, was received from the Legislative Analyst's Office and transmitted to the Committee on Education.

A report dated: January 10, 2007, relating to the Plan for the Closure of Agnews Developmental Center, was received from the Department of Developmental Services and transmitted to the Committee on Health.

An annual report dated: January 10, 2007, relating to the Budget Act of 2005 was received from the Department of Corporations and transmitted to the Committee on Budget and Fiscal Review.

A report dated: January 10, 2007, relating to the Law Revision Commission Recommendations, was received from the California Law Revision Commission and transmitted to the Committee on Judiciary.

A report dated: January 10, 2007, relating to the Correcting Weaknesses in the Budget Process, was received from the Department of Veterans Affairs and transmitted to the Committee on Budget and Fiscal Review.

An annual report dated: January 10, 2007, relating to Safe at Home, was received from the Secretary of State and transmitted to the Committee on Health.

A supplemental report dated: January 11, 2007, relating to the Administrative Office of Courts Information Technology Procurements, was received from the Judicial Council of California and transmitted to the Committee on Budget and Fiscal Review.



An annual report dated: January 16, 2007, relating to the Yuba County DNA Fund, for year 2006, was received from the County of Yuba and transmitted to the Committee on Public Safety.

An annual report dated: January 16, 2007, relating to the Loan Guarantee Program for Fiscal year 2005–06, was received from the Business, Transportation and Housing Agency and transmitted to the Committee on Local Government.

A report dated: January 10, 2007, relating to the Electronic Waste Recycling Program, was received from the Board of Equalization and transmitted to the Committee on Environmental Quality.

An annual report dated: January 12, 2007, relating to Court Reporter Fees, Fiscal Year 2005–06, was received from the Judicial Council of California and transmitted to the Committee on Judiciary.

A report dated: January 18, 2007, relating to the Licensing and Certification Program Plan for Hiring Position, was received from the Department of Health Services and transmitted to the Committee on Health.

A report dated: January 18, 2007, relating to the Renewable Portfolio Standard, was received from the Public Utilities Commission and transmitted to the Committee on Energy, Utilities and Communications.

A report dated: January 19, 2007, relating to the Regional Blueprint Planning Program, was received from the Department of Transportation and transmitted to the Committee on Transportation and Housing.

A report dated: January 19, 2007, relating to the California Public Employee Retirement System (CalPERS), was received from the Office of Administrative Law and transmitted to the Committee on Judiciary.

A Title Summary report dated: January 22, 2007, relating to Government Acquisition, Regulation of Private Property. Initiative Constitutional Amendment. Initiative Statute, was received from the Department of Justice and transmitted to the Committee on Rules.

A report dated: January 22, 2007, relating to California Sex Offender Information—Megan’s Law, was received from the Department of Justice and transmitted to the Committee on Judiciary.

A quarterly report dated: January 22, 2007, relating to Medi-Cal Fraud Abuse for quarter ending September 30, 2006, was received from the Department of Justice and transmitted to the Committee on Judiciary.



A supplemental report dated: January 23, 2007, relating to Tax Agency Information and Data Exchange, was received from the Legislative Analyst's Office and transmitted to the Committee on Budget and Fiscal Review.

An audit report dated: January 23, 2007, relating to the California Postsecondary Educational Institution, was received from the California State Auditor and transmitted to the Committee on Rules.

An annual report dated: January 24, 2007, relating to the Lake County DNA Fund, for year 2006, was received from the County of Lake and transmitted to the Committee on Public Safety.

A supplemental report dated: January 25, 2007, relating to the Budget Act of 2006, was received from the California State Teachers' Retirement System and transmitted to the Committee on Budget and Fiscal Review.

A quarterly report dated: January 26, 2007, relating to Non-Mortality Special Incidents, was received from the Department of Developmental Services and transmitted to the Committee on Health.

An annual report dated: January 27, 2007, relating to the Contra Costa County EMS Fund, FY 2005–06, was received from the County of Contra Costa and transmitted to the Committee on Health.

A quarterly report dated: January 30, 2007, relating to Hazardous Waste Fees, Fourth Quarter of 2006, was received from the Board of Equalization and transmitted to the Committee on Environmental Quality.

An audit report dated: January 30, 2007, relating to the Operations of The Department of Corporations, was received from the California State Auditor and transmitted to the Committee on Rules.

An annual report dated: January 30, 2007, relating to Higher Education Compact Performance Measures, was received from the University of California and transmitted to the Committee on Education.

A report dated: January 31, 2007, relating to the Programmatic Environmental Impact Report for the Water System Improvement Program (WSIP), was received from the San Francisco Public Utilities Commission and transmitted to the Committee on Environmental Quality.

An annual report dated: January 31, 2007, relating to alleged unethical, unauthorized or illegal activities, was received from the Metropolitan Water District of Southern California and transmitted to the Committee on Natural Resources and Water.



A report dated: January 31, 2007, relating to Timely Resolution of Proceedings and Commissioner Presence of Hearings, was received from the Public Utilities Commission and transmitted to the Committee on Energy, Utilities and Communications.

An annual report dated: January 31, 2007, was received from the Public Utilities Commission and transmitted to the Committee on Energy, Utilities and Communications.

A report dated: January 31, 2007, relating to The Evaluation Program For Commercial On-Line Access To The Department Of Motor Vehicles, was received from the Department of Motor Vehicles and transmitted to the Committee on Transportation and Housing.

A report dated: January 31, 2007, relating to the Performance Data for 2005–2006, was received from the Department of Rehabilitation and transmitted to the Committee on Health.

An annual report dated: February 1, 2007, relating to the cost-effective conservation, recycling and groundwater recharge programs, was received from the Metropolitan Water District of Southern California and transmitted to the Committee on Natural Resources and Water.

A report dated: February 1, 2007, relating to Strategies to Improve California's Itemization of Veteran Benefits, was received from the Department of Veterans Affairs and transmitted to the Committee on Veterans Affairs.

A report dated: February 1, 2007, relating to the Implementation of County Centralized Eligibility Lists, was received from the California Department of Education and transmitted to the Committee on Budget and Fiscal Review.

A report dated: February 2, 2007, relating to State Mandates, was received from the Commission on State Mandates and transmitted to the Committee on Budget and Fiscal Review.

A quarterly report dated: February 5, 2007, relating to Timeliness Hearings for Second Quarter of 2006, was received from the Department of Industrial Relations and transmitted to the Committee on Labor and Industrial Relations.

A report dated: February 6, 2007, relating to the Prostate Cancer Treatment Program, 2005–06, was received from the Department of Health Services and transmitted to the Committee on Health.



A report dated: February 2, 2007, relating to Local Educational Agency Medi-Cal Billing Option Program, was received from the Department of Health Services and transmitted to the Committee on Health.

A report dated: February 5, 2007, relating to the Department of Corrections and Rehabilitation, was received from the Office of Administrative Law and transmitted to the Committee on Judiciary.

A report dated: February 6, 2007, relating to the California Low Cost Automobile Insurance Program, was received from the California automobile Assigned Risk Plan and transmitted to the Committee on Insurance.

A biennial report dated: February 7, 2007, relating to the School Facility Program Costs Avoided Per Pupil by Use of Year-Round Education, was received from the State Allocation Board and transmitted to the Committee on Education.

A Title Summary report dated: February 5, 2007, relating to Tangible Ballots. Direct-Recording Electronic Devices. Initiative Statute was received from the Department of Justice and transmitted to the Committee on Rules.

REQUESTS TO ADJOURN IN MEMORIAM

Senator Alquist requested that when the Senate adjourns this day it do so in memory of Agnes Frances Lachapelle and Henry J. Quilici of Mountain View.

Senators Battin and Ducheny requested that when the Senate adjourns this day it do so in memory of Ray Patencio of Palm Springs.

Senator Cox requested that when the Senate adjourns this day it do so in memory of Patricia Davidson of Fair Oaks.

Senators Ducheny and Battin requested that when the Senate adjourns this day it do so in memory of John F. Menvielle of El Centro.

Senator Perata requested that when the Senate adjourns this day it do so in memory of Professor Nelson Polsby of Berkeley.

Senator Ridley-Thomas requested that when the Senate adjourns this day it do so in memory of Ronald Scott of Los Angeles.

Senator Scott requested that when the Senate adjourns this day it do so in memory of Effie Sapp of Pasadena.

Senators Steinberg and Cox requested that when the Senate adjourns this day it do so in memory of Carl Otto of Sacramento.



ADJOURNMENT

At 4:30 p.m., on motion of Senator Perata, the Senate adjourned pursuant to the Senators' requests until 9 a.m., Wednesday, February 14, 2007.

PAULA K. ROSSETTO, Minute Clerk

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