

CALIFORNIA LEGISLATURE
2007-08 REGULAR SESSION

SENATE DAILY JOURNAL

ONE HUNDRED FIFTY-SEVENTH LEGISLATIVE DAY

IN SENATE

Senate Chamber, Sacramento
Friday, September 19, 2008

The Senate met at 4 p.m.
Hon. Gloria Romero, of the 24th 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, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Margett, McClintock, Negrete McLeod, Oropeza, Padilla, Perata, Ridley-Thomas, Romero, Runner, Scott, Steinberg, Torlakson, Vincent, Wiggins, Wyland, and Yee—37.

Quorum present.

(NOTE: Senators Harman and Simitian will be excused this day on legislative business and Senator Migden will be excused this day due to family illness.)



PRAYER

Prayer was offered by the Chaplain, Rabbi Mona Alfi:

As we come closer to the end of a legislative term, let us take a moment to pause and reflect on all that has been accomplished by those who serve our community and our state.

Serving the community is a sacred calling. It asks of us to be mindful of the needs and concerns of all of our citizens, to be ever watchful in guarding the trust that has been given us, and to strive to find the common ground where we can come together for the sake of the common good.

May the Holy One judge us with kindness and compassion in all that we do in caring for the well-being of the great State of California, and all of her inhabitants. May this be God's will.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

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

MESSAGES FROM THE GOVERNOR

Governor's Office, State Capitol
September 19, 2008

To the Senate of the State of California:

I have the honor to transmit to you herewith the following appointment or reappointment heretofore made by me to an office which by law is to be filled by the Governor. This appointment is subject to Senate confirmation and consent. I hereby nominate this appointee to you and request your confirmation and consent.

Sincerely,

ARNOLD SCHWARZENEGGER, Governor

Michael R. Wilkening, former program budget manager of the health and human services unit, Department of Finance (DOF) since 2006; and former assistant program budget manager in the health and human services unit for the DOF from 2004 to 2006. Appointed 09/17/08. Effective 09/17/08.

Undersecretary, Program and Fiscal Affairs, Health and Human Services Agency, vice, Ann L. Boynton, resigned, term ending at the Pleasure of the Governor.

Above appointment referred to the Committee on Rules.



Senate Chamber, September 17, 2008

Madam President: The Committee on Rules has examined:

SB 29	SB 447	SB 1186	SB 1167
SB 31	SB 986	SB 1246	SB 1168
SB 146	SB 1110	SB 1279	SB 1235
SB 155	SB 1111	SB 1303	SB 1260
SB 187	SB 1135	SB 1491	SB 1276
SB 302	SB 1208	SB 1509	SB 1326
SB 325	SB 1268	SB 1562	SB 1329
SB 377	SB 1277	SB 1666	SB 1353
SB 413	SB 1334	SB 1778	SB 1359
SB 535	SB 1338	SB 301	SB 1371
SB 553	SB 1361	SB 348	SB 1401
SB 561	SB 1395	SB 441	SB 1467
SB 731	SB 1452	SB 634	SB 1503
SB 775	SB 1455	SB 974	SB 1548
SB 890	SB 1549	SB 1065	SB 1638
SB 891	SB 1589	SB 1102	SB 1686
SB 997	SB 1641	SB 1117	SB 1767
SB 1007	SB 1646	SB 1136	SB 1772
SB 1055	SB 1701	SB 1160	SB 947
SB 1062	SB 1731	SB 1162	SB 1166
SB 1097	SB 61	SB 1245	SB 1178
SB 1105	SB 157	SB 1296	SB 1211
SB 1112	SB 567	SB 1322	SB 1241
SB 1132	SB 593	SB 1370	SB 1280
SB 1141	SB 640	SB 1396	SB 1311
SB 1147	SB 697	SB 1567	SB 1461
SB 1158	SB 911	SB 1691	SB 1495
SB 1161	SB 967	SB 1720	SB 1531
SB 1171	SB 1140	SB 361	SB 1534
SB 1174	SB 1173	SB 1104	SB 1675
SB 37	SB 1184	SB 1124	SB 1774
SB 111			

And reports that the same have been correctly enrolled, and presented to the Governor on the 17th day of September, 2008, at 1 p.m.

PERATA, Chair



Senate Chamber, September 17, 2008

Madam President: The Committee on Rules has examined:

SB 1180	SB 1457	SB 68	SB 1271
SB 1190	SB 1486	SB 107	SB 1302
SB 1213	SB 1499	SB 127	SB 1307
SB 1218	SB 1505	SB 133	SB 1330
SB 1233	SB 1511	SB 153	SB 1354
SB 1237	SB 1519	SB 286	SB 1386
SB 1247	SB 1537	SB 356	SB 1394
SB 1250	SB 1538	SB 360	SB 1469
SB 1251	SB 1546	SB 380	SB 1475
SB 1253	SB 1553	SB 404	SB 1502
SB 1257	SB 1556	SB 483	SB 1518
SB 1262	SB 1557	SB 491	SB 1524
SB 1274	SB 1583	SB 585	SB 1584
SB 1282	SB 1585	SB 623	SB 1607
SB 1284	SB 1586	SB 780	SB 1613
SB 1285	SB 1595	SB 899	SB 1623
SB 1293	SB 1637	SB 973	SB 1629
SB 1298	SB 1662	SB 977	SB 1634
SB 1316	SB 1668	SB 992	SB 1645
SB 1355	SB 1681	SB 1016	SB 1660
SB 1360	SB 1689	SB 1093	SB 1694
SB 1376	SB 1690	SB 1115	SB 1700
SB 1387	SB 1699	SB 1149	SB 1726
SB 1388	SB 1723	SB 1187	SB 1729
SB 1402	SB 1737	SB 1198	SB 1735
SB 1415	SB 1776	SB 1214	SB 1738
SB 1428	SB 1777	SB 1217	SB 1754
SB 1441	SB 1781	SB 1230	SB 1764
SB 1442	SB 28	SB 1240	SB 1779

And reports that the same have been correctly enrolled, and presented to the Governor on the 17th day of September, 2008, at 3 p.m.

PERATA, Chair



**CONSIDERATION OF DAILY FILE
UNFINISHED BUSINESS**

**Consideration of Appointments by the Governor
Division of Question Demanded**

Senator Battin demanded that the question be divided and that the confirmation of the appointment of: Elizabeth Rogers be taken up separately.

Consideration of Governor's Appointment

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

Kathleen R. Brugger, Member, Teachers' Retirement Board.

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 (31)—Senators Aanestad, Ackerman, Alquist, Ashburn, Battin, Calderon, Cedillo, Cogdill, Corbett, Cox, Denham, Ducheny, Dutton, Florez, Hollingsworth, Kehoe, Kuehl, Lowenthal, Maldonado, Margett, McClintock, Negrete McLeod, Padilla, Perata, Ridley-Thomas, Romero, Runner, Steinberg, Torlakson, Wiggins, and Wyland.

NOES (0)—None.

Consideration of Governor's Appointment

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

Elizabeth D. Rogers, Member, Teachers' Retirement Board.

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 (21)—Senators Ackerman, Alquist, Calderon, Cedillo, Corbett, Ducheny, Florez, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Negrete McLeod, Padilla, Perata, Ridley-Thomas, Romero, Steinberg, Torlakson, Vincent, and Wiggins.

NOES (10)—Senators Aanestad, Battin, Cogdill, Cox, Denham, Dutton, Hollingsworth, McClintock, Runner, and Wyland.



Consideration of Governor's Appointments

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

Michael J. Sobek, Member, Commission on Peace Officer Standards and Training.

Ting L. Sun, Ph.D., Member, Commission on Teacher Credentialing.

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 (31)—Senators Aanestad, Ackerman, Alquist, Battin, Calderon, Cedillo, Cogdill, Corbett, Cox, Denham, Ducheny, Dutton, Florez, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Margett, McClintock, Negrete McLeod, Padilla, Perata, Ridley-Thomas, Romero, Steinberg, Torlakson, Vincent, Wiggins, and Wyland.

NOES (0)—None.

Consideration of Governor's Appointment

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

Michael J. Hersek, State Public Defender.

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 (31)—Senators Aanestad, Ackerman, Alquist, Battin, Calderon, Cedillo, Cogdill, Corbett, Cox, Denham, Ducheny, Dutton, Florez, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Margett, McClintock, Negrete McLeod, Padilla, Perata, Ridley-Thomas, Romero, Steinberg, Torlakson, Vincent, Wiggins, and Wyland.

NOES (0)—None.

Consideration of Governor's Appointment

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

Daniel W. Richards, Member, Fish and Game Commission.

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 (31)—Senators Aanestad, Ackerman, Alquist, Battin, Calderon, Cedillo, Cogdill, Corbett, Cox, Denham, Ducheny, Dutton, Florez,



Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Margett, McClintock, Negrete McLeod, Padilla, Perata, Ridley-Thomas, Romero, Steinberg, Torlakson, Vincent, Wiggins, and Wyland.

NOES (0)—None.

Consideration of Governor's Appointment

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

Jerome S. Moss, Member, California Horse Racing Board.

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 (31)—Senators Aanestad, Ackerman, Alquist, Battin, Calderon, Cedillo, Cogdill, Corbett, Cox, Denham, Ducheny, Dutton, Florez, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Margett, McClintock, Negrete McLeod, Padilla, Perata, Ridley-Thomas, Romero, Steinberg, Torlakson, Vincent, Wiggins, and Wyland.

NOES (0)—None.

Consideration of Governor's Appointment

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

Douglas W. Metz, Member, Boating and Waterways Commission The President put the question: "Will the Senate advise and consent to the appointment by the Governor?"

The roll was called.

CALL OF THE SENATE

Pending the announcement of the vote, Senator Perata moved a call of the Senate.

Motion carried.

CONSIDERATION OF DAILY FILE (RESUMED)

UNFINISHED BUSINESS (RESUMED)

Consideration of Governor's Appointments

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

Lenora S. Clark, Member, Boating and Waterways Commission

Erin D. Garner, Member, State Mining and Geology Board

Robert E. Tepel, Member, State Mining and Geology Board

Francis X. Johnston III, Member, Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun

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 (31)—Senators Aanestad, Ackerman, Alquist, Ashburn, Battin, Calderon, Cedillo, Cogdill, Corbett, Cox, Denham, Ducheny, Dutton, Florez, Hollingsworth, Kehoe, Kuehl, Lowenthal, Maldonado, Margett, McClintock, Negrete McLeod, Padilla, Perata, Ridley-Thomas, Romero, Runner, Steinberg, Torlakson, Wiggins, and Wyland.

NOES (0)—None.

Consideration of Governor's Appointments

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

Robert "Bobby" V. McDonald, Member, Board of Governors, California Community Colleges.

Alice D. Perez, Member, Board of Governors, California Community Colleges.

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 (31)—Senators Aanestad, Ackerman, Alquist, Ashburn, Battin, Calderon, Cedillo, Cogdill, Corbett, Cox, Denham, Ducheny, Dutton, Florez, Hollingsworth, Kehoe, Kuehl, Lowenthal, Maldonado, Margett, McClintock, Negrete McLeod, Padilla, Perata, Ridley-Thomas, Romero, Runner, Steinberg, Torlakson, Wiggins, and Wyland.

NOES (0)—None.

Consideration of Governor's Appointments

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

Marko C. Mlikotin, Member, California Exposition and State Fair, Board of Directors

Kathleen K. Nakase, Member, California Exposition and State Fair, Board of Directors

Amparo P. Perez-Cook, Member, California Exposition and State Fair, Board of Directors

Tomas A. Arciniega, Ph.D., Member, Student Aid Commission.

Lynne De Bie, Member, Student Aid Commission.

Patricia A. Kushida, Member, Student Aid Commission.

Bonaparte H. Liu, Member, Student Aid Commission.

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 (31)—Senators Aanestad, Ackerman, Alquist, Ashburn, Battin, Calderon, Cedillo, Cogdill, Corbett, Cox, Denham, Ducheny, Dutton, Florez, Hollingsworth, Kehoe, Kuehl, Lowenthal, Maldonado, Margett, McClintock, Negrete McLeod, Padilla, Perata, Ridley–Thomas, Romero, Runner, Steinberg, Torlakson, Wiggins, and Wyland.

NOES (0)—None.

Consideration of Governor’s Appointment

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

Rosalie Mule, Member, California Integrated Waste Management Board.

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 (31)—Senators Aanestad, Ackerman, Alquist, Ashburn, Battin, Calderon, Cedillo, Cogdill, Corbett, Cox, Denham, Ducheny, Dutton, Florez, Hollingsworth, Kehoe, Kuehl, Lowenthal, Maldonado, Margett, McClintock, Negrete McLeod, Padilla, Perata, Ridley–Thomas, Romero, Runner, Steinberg, Torlakson, Wiggins, and Wyland.

NOES (0)—None.

INTRODUCTION AND FIRST READING OF SENATE MEASURE

The following measure was introduced and read the first time:

Senate Constitutional Amendment 30: By Senator Ashburn—A resolution directing the Secretary of State to make amendments in Senate Constitutional Amendment No. 13 (Resolution Chapter 144 of the Statutes of 2008).

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

The following request was presented by Senator Ashburn:

Senate Chamber, September 19, 2008

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

SENATOR ASHBURN

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, SCA 30 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, presented by Senator Ashburn, and adopted without objection.

RESOLUTION TO DISPENSE WITH CONSTITUTIONAL PROVISION

The following resolution was offered by Senator Ashburn:

Resolved, That SCA 30 presents a case of urgency as that term is used in Article IV, Section 8(b), of the Constitution, and the provision of that section requiring that the bill be read on three several days in each house is hereby dispensed with, and it is ordered that said resolution be read the second and third times and placed upon its adoption.

Resolution read, presented by Senator Ashburn, and adopted without objection.

REQUEST FOR UNANIMOUS CONSENT (SCA 30)

Senator Ashburn asked for, and was granted, unanimous consent to take up SCA 30 at this time for purpose of consideration.

Consideration of Senate Constitutional Amendment 30

Senate Constitutional Amendment 30—A resolution directing the Secretary of State to make amendments in Senate Constitutional Amendment No. 13 (Resolution Chapter 144 of the Statutes of 2008).

Resolution read second time.

Senate Constitutional Amendment 30—A resolution directing the Secretary of State to make amendments in Senate Constitutional Amendment No. 13 (Resolution Chapter 144 of the Statutes of 2008).

Resolution read third time and presented by Senator Ashburn.

The roll was called.

CALL OF THE SENATE

Pending the announcement of the vote, Senator Ashburn moved a call of the Senate.

Motion carried.

RECESS

At 4:25 p.m., on motion of Senator Romero the Senate recessed in order to convene the first extraordinary session.

REASSEMBLED

At 4:35 p.m., the Senate reconvened.

Hon. Gloria Romero, of the 24th District, presiding.



**FURTHER PROCEEDINGS UNDER CALL OF THE SENATE
DISPENSED WITH ON GOVERNOR'S APPOINTMENT**

On motion of Senator Perata, further proceedings under the call of the Senate were dispensed with.

Douglas W. Metz, Member, Boating and Waterways Commission The President put the question: "Will the Senate advise and consent to the appointments by the Governor?"

Roll Call

The names of the absentees were called and the Governor's appointment confirmed by the following vote:

AYES (23)—Senators Alquist, Calderon, Cedillo, Corbett, Correa, Ducheny, Florez, Kehoe, Kuehl, Lowenthal, Machado, Negrete McLeod, Oropeza, Padilla, Perata, Ridley-Thomas, Romero, Scott, Steinberg, Torlakson, Vincent, Wiggins, and Yee.

NOES (11)—Senators Aanestad, Ackerman, Battin, Cox, Denham, Hollingsworth, Maldonado, Margett, McClintock, Runner, and Wyland.

**FURTHER PROCEEDINGS UNDER CALL OF THE SENATE
DISPENSED WITH (SCA 30)**

On motion of Senator Ashburn, further proceedings under the call of the Senate were dispensed with.

Roll Call

The names of the absentees were called and SCA 30 was adopted by the following vote:

AYES (30)—Senators Aanestad, Ackerman, Alquist, Ashburn, Battin, Calderon, Cedillo, Cogdill, Corbett, Correa, Cox, Denham, Dutton, Florez, Hollingsworth, Kuehl, Lowenthal, Machado, Maldonado, Margett, McClintock, Oropeza, Padilla, Perata, Ridley-Thomas, Runner, Steinberg, Vincent, Wiggins, and Wyland.

NOES (0)—None.

Above resolution ordered transmitted to the Assembly.

RECESS

At 4:38 p.m., on motion of Senator Romero the Senate recessed in order to convene the first extraordinary session.

REASSEMBLED

At 4:40 p.m., the Senate reconvened.

Hon. Gloria Romero, of the 24th District, presiding.



LETTER TO THE JOURNAL

Without objection, the following letter was printed in the Journal.

August 31, 2008

The Honorable Don Perata

President pro Tempore of the Senate

Re: SB 375

Dear Senator Perata:

Questions have been raised about how effectively the CEQA provisions in SB 375, if enacted, will assist in the achievement of greenhouse gas emission reduction goals. I am committed to convening an appropriate legislative forum next year to address these and other CEQA issues, including the extent to which CEQA incentives such as those in SB 375 should be extended to various projects that are consistent with a California Air Resources Board approved strategy for achieving the regional targets. I will invite the participation of all stakeholders.

Sincerely,

DARRELL STEINBERG
Senator, 6th District

LEAVES OF ABSENCE FOR THE DAY

The following Senators were granted leaves of absence for the day due to legislative business: Senators Harman and Simitian.

The following Senator was granted leave of absence for the day due to family illness: Senator Migden.

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

At 4:40 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 adjourned.

Motion carried.



REQUESTS TO ADJOURN IN MEMORIAM

Senator Aanestad requested that when the Senate adjourns this day it do so in memory of Curtis Hillman, Sr. of Happy Camp.

Senator Cogdill requested that when the Senate adjourns this day it do so in memory of Matthew Scott Brockett of Reedley.

Senator Ducheny requested that when the Senate adjourns this day it do so in memory of Carlos Marin of El Paso, Texas and Arturo Herrera Solis of Ciudad Juarez, Chihuahua.

Senator Machado requested that when the Senate adjourns this day it do so in memory of James Arlyn Ferrill of Stockton.

Senator Simitian requested that when the Senate adjourns this day it do so in memory of David Hahn of Palo Alto.

ADJOURNMENT

At 4:40 p.m., September 19, 2008, the President declared the Senate adjourned.

PAULA K. ROSSETTO, Minute Clerk

O

