Simitian deserves applause

As for Simitian, he was paid the ultimate compliment by his colleagues: a standing ovation for moving them to do the right thing.

Simitian's move comes at a time of increasingly partisan politics in both the stagnant state and federal arenas. His selfless politicking is a refreshing reminder that popular representation is about people and that politicians represent us in government.

Since joining the state assembly in 2000, Simitian has worked to increase commercial privacy for Internet users and push for better environmental standards. He's also an avid defender of health care and better education.

For cynical and jaded Californian voters, Joe Simitian might just be the Jimmy Stewart (remember "Mr. Smith Goes to Washington?"?) of our time.
Sun breaks through for minute in state Assembly

Partisan squabbles set aside for wrongly convicted man

By Harriet Chiang
Chronicle Legal Affairs Writer

For once, the politicians said, to their utter surprise, the system worked.

After a brutal, marathon session, the Legislature had ground to a halt late Friday night. Republicans fuming over budget issues were killing all bills requiring a two-thirds vote as time elapsed on this year's term.

But then Assemblyman Joe Simitian, D-Palo Alto, stood up and made an impassioned plea for Rick Walker, who had filed a claim of more than $400,000 with the state after spending 12 years in prison for a murder he didn't commit.

In a move that stunned even veteran lawmakers, Republicans and Democrats momentarily put aside their political differences — all the more intense because of the recall election — and approved the bill authorizing payment for the East Palo Alto man who had been released from prison in June.

It took two rounds of votes, but ultimately the bill broke the logjam, the only bill that passed with a two-thirds vote.

"There are times when you've got to stand up for what is right," said Assemblyman Alan Nakasone of Lodi, one of two Republican freshmen who initially broke ranks and voted for the bill. "It shows the integrity of the people in the Assembly.'

Dario Frommer, D-Glendale (Los Angeles County), said he had never seen anything like it in 20 years in politics.

"It's pretty incredible," he said.

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Partisanship rests for a shining moment in state Assembly

**WALKER**

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"It's rare that a floor speech would change anyone's vote."

An exhausted Simitian said it was not often that the Legislature had the opportunity to right a wrong. "People just wanted to do the right thing and were able to put a difficult day and a difficult year behind them and end on a decent, human note."

'They did the right thing'

Walker, 47, who got a call shortly after the session ended at 4 a.m. on Saturday, said Sunday he had broken out in a smile even before his lawyer told him the good news. 'They did the right thing,' he said.

Walker was convicted in 1991 of killing his ex-girlfriend at her Cupertino home. After he had exhausted his appeals, his attorney, Alson Tucker, came up with evidence earlier this year convincing prosecutors they had put the wrong man behind bars. A judge declared Walker innocent and ordered his release.

In July, Walker filed a claim against the state for $428,000 under a law that entitles him to receive $100 for every day of freedom he lost. The law requires the Legislature to authorize the payment.

Despite the support of state and local prosecutors, it soon became clear the Victim Compensation and Government Claims Board would not be able to approve Walker's claim until a week after the Legislature ended its session.

That meant that Walker would have to wait up to a year before he received a dime. Tucker called on Simitian for help.

Simitian introduced an amendment to the state claims bill setting aside money for Walker once his claim was approved. The bill passed the Assembly Budget Committee but stalled when state Sen. Dede Alpert, D-San Diego, and chair of the Senate Appropriations Committee, called it an unprecedented move and questioned why Walker's claim should be bumped ahead of hundreds of others.

Victim of bad timing

Simitian noted that only two former inmates have filed similar claims since the statute was passed in 2001. Walker's request, he said, simply was a victim of bad timing.

Facing a legislative roadblock, Simitian decided to try a different strategy and made Walker's claim a separate bill.

The approach worked. By Friday evening, the Senate had approved the bill. Now, it was up to the Assembly.

The outlook was bleak. With the clock ticking away, bills were stuck in a legislative quagmire because of the budget debate between Republicans and Democrats.

By 10 p.m., Assembly Speaker Herb Wesson, D-Los Angeles, could only shake his head when Simitian asked him whether there was any hope for the Walker bill. By the time Simitian took the floor to introduce the bill, it was 2:30 a.m., and lawmakers were ready to go home.

But when Simitian began to speak of the travesty done to the auto mechanic, the packed chamber suddenly turned silent.

"The system has already made him a victim once," Simitian told them. "Let's not make him a victim twice."

Cheers and applause

On the first round, the measure fell five votes short of the 54 needed to pass. After some frantic lobbying, Simitian got the votes he needed and then some. When 62 lawmakers voted for the bill, the chambers broke out in cheers and applause.

"It shouldn't take a full court press to get compensation to an innocent person who's been sent away to prison," Tucker said. "But it did. I'm thrilled."

Jenny Oropeza, D-Carson (Los Angeles County), chair of the Assembly Budget Committee, called it a "minor miracle."

"We forgot about the red tape and forgot about the bureaucracy and remembered about people and their lives," she said.

Wesson said he thought the bill had no chance of passing. "This will make me come back to politics," he said. "This was a moment when the system worked."

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Examiner View

Simitian scores a breathtaking Assembly win

ASSEMBLYMAN JOE SIMITIAN has always said he is an effective legislator who works well with his colleagues. We could appreciate his standing with fellow Democrats, but now we look upon him as one who also works well with his colleagues on the other side of the aisle.

What he did the other morning — persuading seven GOP Assembly members to break ranks with their party and vote for a $400,000 appropriation — was nothing short of breathtaking. The seven Republicans were needed for a two-thirds vote to compensate Rick Walker, who had been wrongly imprisoned for 12 years.

Simitian took the floor of the Assembly at 2:30 a.m. to speak to an agitated legislative body anxious to go home. It was the only hope Walker had that his claim against the state would be honored in a timely fashion.

Simitian’s speech stopped the Legislature in its tracks as it listened to his plea that the East Palo Alto man be compensated immediately and not have to wait another year before action was taken on his claim. Walker had been wrongfully convicted in 1991 for killing his ex-girlfriend at her Cupertino home. After a number of unsuccessful appeals, his attorney uncovered evidence this year proving that prosecutors had convicted the wrong man.

The prosecutors became convinced that Walker was innocent and a judge ordered his release, declaring him innocent. Once freed, Walker filed a claim to the Victim Compensation and Government Claims Board for $428,000. The board would not have approved the claim until a week after the Legislature ended its session.

In the wee hours of the morning everyone in the Legislature was trying to move appropriation measures. Simitian was stalled by state Sen. Dede Alpert, D-San Diego, chair of the Senate Appropriations Committee, who called the move unprecedented.

Facing this obstacle from the leadership, Simitian put Walker’s claim into a separate bill and then proceeded to speak of this terrible injustice to an auto mechanic who, he said, should not now become a victim a second time.

After the speech he worked the floor and was able to move Republican votes behind the bill. On the first vote the measure fell five votes short, but he then succeeded in persuading five members to switch their votes. When he passed the measure, the Assembly broke out in cheers and applause.

This may not have been the Legislature’s finest hour, but it was close to it.
Palo Alto Man to Get Payment for Prison Time

Last-minute action by Legislature clears the way for him to start over, after being wrongly held for 12 years.

By KAREN ALEXANDER
Special to The Times

H.J. "Rick" Walker is used to waiting for the things he deserves. He spent 12 years in prison for a murder he didn't commit, until a judge ordered him released in June and declared his innocence.

And he thought he was going to have to wait at least another four months for a $428,000 state compensation, when the Legislature appeared to have squashed its approval. But about 2:30 a.m. Saturday, in what Rep. Joe Simitian (D-Palo Alto) described as "a desperation, Hail Mary move," the disbursement of Walker's money — $100 for every day he was wrongly imprisoned — was approved.

"Finally, something went right," said Walker, who learned of the approval in a 4 a.m. phone call from his attorney.

Living with his mother in East Palo Alto, working as an auto mechanic, and striving to rebuild a life for himself, Walker had learned last week that his claim was not supposed to be on the docket until lawmakers reconvened in January. His claim for damages was filed under a state law that entitles him to compensation for the time he spent wrongly imprisoned.

Despite his supporters' efforts to move Walker's claim forward before lawmakers adjourned Friday night, Sen. Dede Alpert (D-San Diego), who heads the Senate Appropriations Committee, refused to amend an appropriations bill to include Walker's claim.

Walker worried that he would miss out on a promising business opportunity, and a chance to become self-sufficient, if he didn't receive the payment soon. Moved by Walker's story, a Palo Alto auto mechanic had offered to sell Walker his business at a below-market price when he retires. But the seller couldn't wait long, and was going to put the business up for sale if Walker didn't act quickly.

"In all sincerity, I think I deserve this opportunity," said Walker as his case seemed to falter late last week. "My mother is living on a fixed income and shouldn't have to support a 47-year-old man."

Falsely accused by a drug dealer who struck a plea agreement with prosecutors, Walker was convicted in 1991 for the murder of an ex-girlfriend in Cupertino. He served much of his sentence in Pelican Bay State Prison.

"Rick was watching his back in Pelican Bay when he should have been fixing cars and fishing with his son and saying goodbye to his dying father," said his attorney Alison Tucher, a family friend and former U.S. Supreme Court clerk who took up his case and won his freedom after all of his appeals had been exhausted.

The state attorney general approved Walker's compensation claim in August, and even took the rare step of suggesting that he also be compensated for additional time he spent in jail awaiting trial.

The Victim's Compensation and Government Claims Board is scheduled to consider Walker's claim next week, but that would mean he couldn't be paid until the next legislative go-around in January.

With the claims board's blessing, Simitian, who represents Walker's district, had introduced an amendment to set aside the money for Walker's claim so he could be paid as soon as the board hears his case.

But Alpert, whose appropriations committee controls the compensation fund, said those who wanted to help Walker's case move swiftly through the system were overlooking others who might be even more deserving. Claims bills are brought to the Legislature twice a year.

But Simitian persisted in the Legislature's final hours. He separated Walker's claim from the rest of the appropriations bill and introduced it as an amendment to an unrelated bill about traffic schools.

There were all sorts of procedural hurdles to clear, to say nothing of the task of convincing a group of tired, grumpy lawmakers that this bill was worthy of their urgent attention.

Simitian worked the Senate to round up enough votes, and then faced near-certain defeat in the Assembly as Republican leaders vowed that their party would not vote for any bills requiring a two-thirds majority, as the Walker bill required, until their lingering concerns about the budget were addressed.

About 2:30 in the morning, two freshmen Republicans broke ranks and added their names to the bill's supporters. Simitian picked up two more votes by walking the floor, pleading with his colleagues. He was still three votes shy.

But when the vote was called, Simitian watched in wonder as an additional 11 lawmakers joined the cause. The bill passed 73-0.

Walker said he spoke with Simitian, whom he has never met, Saturday afternoon.

Now, he said, he will plan for the grand opening of his auto shop.