

FIFTY-SECOND DAY

Thursday, April 19, 2007

The House of Representatives of the Twenty-Fourth Legislature of the State of Hawaii, Regular Session of 2007, convened at 12:05 o'clock p.m., with the Speaker presiding.

The invocation was delivered by Reverend George Noble of Ewa Community Church, after which the Roll was called showing all members present with the exception of Representatives Chong, M. Oshiro, Takai, Takamine, Takumi and Thielen, who were excused.

On motion by Representative B. Oshiro, seconded by Representative Meyer and carried, reading of the Journals was dispensed with and the Journals of the Forty-Second, Forty-Third, Forty-Fourth and Forty-Fifth Days were approved. (Representatives Chong, M. Oshiro, Takai, Takamine, Takumi and Thielen were excused.)

GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 338 through 341) were received and announced by the Clerk and was placed on file:

Gov. Msg. No. 338, informing the House that on April 18, 2007, the following bill was signed into law:

S.B. No. 1697, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEFINITION OF "CONTRACTOR" UNDER THE CONTRACTOR REPAIR ACT." (ACT 022)

Gov. Msg. No. 339, informing the House that on April 18, 2007, the following bill was signed into law:

H.B. No. 345, entitled: "A BILL FOR AN ACT RELATING TO HOLIDAYS." (ACT 023)

Gov. Msg. No. 340, informing the House that on April 18, 2007, the following bill was signed into law:

H.B. No. 421, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SHORT TERM INVESTMENT OF COUNTY MONEYS." (ACT 024)

Gov. Msg. No. 341, dated April 16, 2007, transmitting the Office of Youth Services' Report as required by Act 160, Section 91.1, Session Laws of Hawaii 2006.

The following message from the Governor (Gov. Msg. No. 342) was announced by the Clerk and was received for possible consideration at a later date:

Gov. Msg. No. 342, transmitting S.B. No. 14, SD 1, HD 1, without her approval and statement of objections relating to the measure as follows:

"EXECUTIVE CHAMBERS
HONOLULU
April 18, 2007

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 14

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 14, entitled "A Bill for an Act Relating to the University of Hawaii."

This bill attempts to implement the provisions of Article X, Section 6 of the State Constitution, approved in 2006. It establishes a seven-member Candidate Advisory Council, exempts this Council from the open meeting provisions of Chapter 92, Hawaii Revised Statutes, increases from twelve to fifteen the number of University of Hawaii Regents, and establishes geographic criteria for 12 of the Regent positions.

This bill is objectionable because it contradicts what public citizen trusteeship should be--that is, citizens who are independent in their individual and collective judgment and who serve the people of Hawaii, not special interest groups. Instead, Senate Bill No. 14 establishes a narrowly focused constituency-based selection council with each member appointed by seven separate interests, including the All Campus Council of Faculty Senate Chairs, the Executive Council of the University of Hawaii Student Caucus, the Association of Regents Emeritus, and the President of the Alumni Association.

These individuals can recommend as few as only two names to fill a vacancy on the Board of Regents, further contributing to the partisan and narrow focus of potential Regent candidates.

Three nationally recognized and well-respected organizations have expressed serious concerns about the selection process proposed in Senate Bill No. 14--the Association of Governing Boards of Universities and Colleges (AGB), the Western Association of Schools and Colleges (WASC), and the Accrediting Commission of Community and Junior Colleges (ACCJC). They have, on several occasions, pointed out that the process contained in this bill runs counter to national best practices in university governance.

I do not believe any governor, regardless of party, would agree to a process that is opposed by the President of the University of Hawaii and those very organizations that judge whether to accredit the State's premier institution of higher learning.

I am also troubled by the exemption of the selection council from Part 1, Chapter 92, of the Hawaii Revised Statutes covering open meetings, also known as the Sunshine Law. This blanket exemption would allow this council to conduct its proceedings behind closed doors away from public scrutiny. This increases the possibility of political or partisan overtones in the selection process being hidden from public view. Further, it makes it difficult for the selection council members to be held accountable for the recommendations they make since the public will be unable to observe how certain persons were selected, what qualifications were applied, and what screening process was used.

I affirmatively state that I respect the decision of the electorate in amending the State Constitution to change the method for selecting the Board of Regents. I have demonstrated my commitment to implement this Constitutional change by recommending legislation (House Bill No. 1431/Senate Bill No. 1517) to establish an advisory council to screen and propose candidates for appointment to the Board of Regents. This Administration bill does not create the kind of narrow, constituent approach that Senate Bill No. 14 creates and respects the importance of an open selection process.

Should the Legislature send me a bill that incorporates the unbiased and open approach embodied in House Bill No. 1431/Senate Bill No. 1517, then I would be able to sign that measure without hesitation.

For the foregoing reasons, I am returning Senate Bill No. 14 in its present form without my approval.

Respectfully,
/s/
LINDA LINGLE
Governor of Hawaii"

Representative Finnegan rose, stating:

"Mr. Speaker. A point of information. Thank you, Mr. Speaker. Will we have 24 hour notice of any action that we might take on the Governor's messages?"

The Chair responded, stating:

"At this point I believe it will be up to the respective Caucuses. This deals with the veto messages. So, there is no 24 hour requirement because you have it before you and it was received. But if there is a motion for override, you will be notified prior to, but not within a 24 hour time period."

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 832 through 834) were received and announced by the Clerk:

Sen. Com. No. 832, dated April 18, 2007, informing the House that the President has appointed as conferees on the part of the Senate, for consideration of amendments proposed by the Senate to the following House Bills:

119, SD1	Kokubun, Chair; Baker, Co-Chair; Tokuda, Slom
149, HD2, SD2	Inouye, Chair; Fukunaga/Baker, Co-Chairs; Whalen
338, HD2, SD1	Fukunaga, Chair; Baker, Co-Chair; Ige, Trimble
513, SD1	Baker, Chair; Tsutsui, Hemmings
567, HD1, SD2	Fukunaga, Chair; Tsutsui, Co-Chair; Slom
575, HD1, SD2	Nishihara, Chair; Inouye/Tsutsui, Co-Chairs; Kim, Trimble
869, HD1, SD2	English, Chair; Sakamoto/Menor/Baker, Co-Chairs; Gabbard
987, HD1, SD2	Hee, Chair; Kokubun, Nishihara, Gabbard
1005, HD2, SD1	Taniguchi, Chair; Baker, Co-Chair; Gabbard
1207, SD1	Baker, Chair; Tsutsui, Hemmings
1227, HD1, SD1	Baker, Chair; Tsutsui, Whalen
1289, HD2, SD3	Menor, Chair; Fukunaga/Baker, Co-Chairs; Hooser, Trimble
1338, HD2, SD1	Taniguchi, Chair; Baker, Co-Chair; Slom
1414, HD1, SD2	Inouye, Chair; Fukunaga/Baker, Co-Chairs; Trimble
1452, HD1, SD1	Inouye, Chair; Ige/Tsutsui, Co-Chairs; Trimble
1931, SD1	Baker, Chair; Tsutsui, Whalen

Sen. Com. No. 833, dated April 18, 2007, informing the House that the Senate has made the following changes to Senate Conferee assignments for the following bills:

H.B. No. 226, HD 2, SD 2	Senator Trimble discharged as conferee. Senator Hemmings added as conferee.
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H.B. No. 275, HD 1, SD 2	Senator Slom discharged as conferee. Senator Garbbard added as conferee.
H.B. No. 436, HD 1, SD 1	Senator Hemmings discharged as conferee. Senator Whalen added as conferee.
H.B. No. 483, HD 1, SD 1	Senator Slom discharged as conferee. Senator Trimble added as conferee.
H.B. No. 507, HD 2, SD 1	Senator Slom discharged as conferee. Senator Whalen added as conferee.
H.B. No. 639, HD 2, SD 1	Senator Trimble discharged as conferee. Senator Gabbard added as conferee.
H.B. No. 652, HD 2, SD 2	Senator Slom discharged as conferee. Senator Hemmings added as conferee.
H.B. No. 667, HD 1, SD 2	Senator Slom discharged as conferee. Senator Whalen added as conferee.
H.B. No. 718, SD 2	Senator Slom discharged as conferee. Senator Hemmings added as conferee.
H.B. No. 760, HD 2, SD 2	Senator Gabbard discharged as conferee.
H.B. No. 791, HD 1, SD 1	Senator Trimble discharged as conferee. Senator Slom added as conferee.
H.B. No. 831, HD 2, SD 1	Senator Hemmings added as conferee.
H.B. No. 835, HD 2, SD 1	Senator Slom discharged as conferee. Senator Whalen added as conferee.
H.B. No. 859, HD 2, SD 2	Senator Gabbard discharged as conferee.
H.B. No. 895, HD 2, SD 1	Senator Hemmings discharged as conferee.
H.B. No. 936, HD 2, SD 1	Senator Slom discharged as conferee. Senator Gabbard added as conferee.
H.B. No. 1001, HD 2, SD 2	Senator Slom discharged as conferee. Senator Hemmings added as conferee.
H.B. No. 1034, SD 1	Senator Slom discharged as conferee. Senator Whalen added as conferee.
H.B. No. 1220, HD 1, SD 2	Senator Slom discharged as conferee. Senator Whalen added as conferee.
H.B. No. 1270, HD 2, SD 2	Senator Slom discharged as conferee. Senator Whalen added as conferee.
H.B. No. 1277, HD 2, SD 3	Senator Trimble discharged as conferee. Senator Slom added as conferee.
H.B. No. 1356, HD 2, SD 2	Senator Hemmings discharged as conferee. Senator Whalen added as conferee.
H.B. No. 1516, HD 2, SD 2	Senator Slom discharged as conferee. Senator Whalen added as conferee.
H.B. No. 1670, HD 2, SD 2	Senator Slom discharged as conferee. Senator Gabbard added as conferee.
H.B. No. 1950, HD 1, SD 2	Senator Hemmings discharged as conferee. Senator Gabbard added as conferee.

S.B. No. 1931, Senator Tokuda added as conferee.
SD 2, HD 3

Sen. Com. No. 834, dated April 19, 2007, informing the House that the Senate has made the following changes to Senate Conferee assignments for the following bill:

H.B. No. 1004, Senator Fukunaga discharged as conferee;
HD 2, SD 1 added as Co-Chair.

74, Jointly to the Committee on Education and the Committee
SD1 on Legislative Management

209 Jointly to the Committee on Health and the Committee on
Consumer Protection & Commerce

The Chair then stated:

"Members, please refer to your Yellow Action Sheets. At this time, the Chair has discharged the House Conferees previously appointed to H.B. No. 1414, H.D. 1, S.D. 2, on page 42. Also, on page 52, H.B. 1818, H.D. 2, S.D. 1.

"At this time, the House will now proceed to reconsider its disagreement to the Senate amendments to the aforementioned House Bills, those two bills."

DEPARTMENTAL COMMUNICATION

The following departmental communication (Dept. Com. No. 58) was received by the Clerk and was placed on file:

Dept. Com. No. 58, dated April 18, 2007, from Mark E. Rectktenwald, Director, Department of Commerce and Consumer Affairs, transmitting the Report in Compliance with Act 160, Section 8(16), SLH 2006, Regarding the Establishment of Positions Pursuant to Explicit Statutory Authorization.

INTRODUCTIONS

The following introductions were made to the members of the House:

Representative Cabanilla introduced Hawaii Pacific University students promoting peace in Uganda: Duda Breseey, Sara Ortiz, Haile Belin, Jennifer Zondlo and Sophia Palange.

Representative Waters introduced the 'Mayor of Mekia Street', Mr. Al Lewis, Friends of Waimanalo member.

Representative Morita, on behalf of Representatives Tokioka, Sagum and herself, congratulated and introduced newly confirmed judge for the Fifth Circuit, Judge Randal Valenciano. He was accompanied by his wife, Mrs. Debbie Valenciano; and their children, Randon, Marisa and Dreana.

Representative Tokioka also congratulated Judge Valenciano and introduced Judge Valenciano's sister, Ms. Marilyn Billingsley. Accompanying the Valenciano family was Ms. Pat Griffin of Senator Hooser's office.

Representative Sagum further honored and congratulated Judge Valenciano and his family.

ORDER OF THE DAY

COMMITTEE REASSIGNMENTS

The following resolution was re-referred to committee by the Speaker:

<u>H.R.</u> <u>No.</u>	<u>Re-referred to:</u>
176	Jointly to the Committee on Legislative Management and the Committee on Judiciary

The following concurrent resolutions were re-referred to committee by the Speaker:

<u>S.C.R.</u> <u>Nos.</u>	<u>Re-referred to:</u>
17	Jointly to the Committee on Health and the Committee on Education

SUSPENSION OF RULES

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the rules were suspended for the purpose of reconsidering action previously taken in disagreeing to amendments proposed by the Senate to certain House bills. (Representatives Chang, Takai, Takamine, Takumi and Thielen were excused.)

At 12:18 o'clock p.m., Representative Finnegan requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:21 o'clock p.m.

RECONSIDERATION OF ACTION TAKEN

Representative M. Oshiro moved that the House reconsider its action previously taken in disagreeing to the amendments proposed by the Senate, and gave notice of intent to agree to such amendments for the following House bills, seconded by Representative B. Oshiro and carried. (Representatives Chang, Takai, Takamine, Takumi and Thielen were excused.)

H.B. No. 1414, HD 1, SD 2
H.B. No. 1818, HD 2, SD 1

The Chair then stated:

"Members, the motion was for the reconsideration and to give notice of the intention to agree 24 hours later, which is tomorrow at 12:20. So you are all aware."

ANNOUNCEMENTS

Representative Waters: "Mr. Speaker. Thank you. I'd like to send a special mahalo and aloha to the Chief Clerk's Office, Data Entry, and Proofing staff: Ryan Kagimoto, Diane Yukimoto, Haylee Sinton-Hewitt, and Jill Takamatsu. Thank you."

Representative McKelvey for the Committee on Consumer Protection and Commerce requested a waiver of the 48-hour advanced notice requirement to hear the following resolutions, tomorrow, April 20th at 9:00 a.m. in Conference Room 229, and the Chair "so ordered."

S.C.R. 3, S.D. 1, Requesting the Public Utilities Commission to Study the Rate Structures of Private Entities that Furnish Water Use for Agricultural Purposes; and

S.C.R. 102, S.D. 1, Requesting the Department of Agriculture to Study Labor Requirements Relating to the Use of Hawaiian Grown Coffee Names, and Study the Effectiveness of the Administrative Rules Relating to Inspections for Certification and Audit Requirements for Hawaiian Grown Coffee.

Representative Berg: "Thank you, Mr. Speaker. I'd just like to remind the Members that tomorrow in celebration of Earth Day on Sunday, Members are invited to wear hemp shirts and any natural fibers tomorrow. Thank you."

Speaker Say: "The Chair would like to commend all the Conferees who have opened up their Conferences. Please realize that this being Thursday, non-fiscal bill deadline will be next week Thursday. The deadline for fiscal bills will be next week Friday. So, please conference over the weekend in order to get the people's work done."

ADJOURNMENT

At 12:25 o'clock p.m. on motion by Representative B. Oshiro, seconded by Representative Meyer and carried, the House of Representatives adjourned until 12:00 o'clock noon tomorrow, Friday, April 20, 2007. (Representatives Chang, Takai, Takamine, Takumi and Thielen were excused.)

HOUSE COMMUNICATION

House Communication dated April 19, 2007, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has made the following changes to the conferees on the following measures:

- H.B. No. 149, HD 2, SD 2 Added Representative Chong as a member.
- H.B. No. 154, HD 1, SD 1 Representative B. Oshiro replaced Representative Waters as Co-Chair.
- H.B. No. 317, HD 2, SD 2 Added Representative Chong as a member.
- H.B. No. 356, HD 2, SD 1 Representative B. Oshiro replaced Representative Waters as Co-Chair.
- H.B. No. 375, HD 1, SD 2 Representative B. Oshiro replaced Representative Waters as Co-Chair.
- H.B. No. 1289, HD 2, SD 3 Added Representative Chong as a member.
- H.B. No. 1411, HD 2, SD 1 Added Representative Chong as a member.
- H.B. No. 1608, SD 3 Representative B. Oshiro replaced Representative Waters as Co-Chair.
- H.B. No. 1757, HD 1, SD 3 Representative B. Oshiro replaced Representative Waters as Co-Chair.
- S.B. No. 139, SD 1, HD 1 Added Representative Chong as a member.
- S.B. No. 148, SD 2, HD 1 Added Representative Chong as a member.
- S.B. No. 678, SD 1, HD 1 Added Representative Chong as a member.

- S.B. No. 784, SD 1, HD 2 Representative B. Oshiro replaced Representative Waters as Co-Chair.
- S.B. No. 1034, SD 2, HD 1 Added Representative Chong as a member.
- S.B. No. 1515, SD 2, HD 2 Representative B. Oshiro replaced Representative Waters as Co-Chair.
- S.B. No. 1928, SD 2, HD 3 Representative B. Oshiro replaced Representative Waters as Co-Chair.

House Communication dated April 19, 2007, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House reconsidered its action taken in disagreeing to the amendments made by the Senate on April 12, 2007 on the following House Bills:

- H.B. No. 1414, HD 1, SD 2
- H.B. No. 1818, HD 2, SD 1

House Communication dated April 19, 2007, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has made the following changes to the conferees on the following measures:

- H.B. No. 831, HD 2, SD 1 Added Representative Manahan as a member.
- H.B. No. 1270, HD 2, SD 2 Added Representative Chong as Co-Chair.
- H.B. No. 1277, HD 2, SD 3 Added Representative Shimabukuro as Co-Chair.