

## FIFTIETH DAY

**Thursday, April 15, 2010**

The House of Representatives of the Twenty-Fifth Legislature of the State of Hawaii, Regular Session of 2010, convened at 11:37 o'clock a.m., with Vice Speaker Magaoyay presiding.

The invocation was delivered by Mr. Renwick "Uncle Joe" Tassill, after which the Roll was called showing all Members present with the exception of Representatives Har, M. Oshiro and Souki, who were excused.

On motion by Representative Evans, seconded by Representative Pine and carried, reading of the Journal was dispensed with and the Journals of the Twenty-Fourth, Twenty-Fifth, Twenty-Sixth, Twenty-Seventh, Twenty-Eighth, Twenty-Ninth, Thirtieth, Thirty-First, Thirty-Second, Thirty-Third, Thirty-Fourth, Thirty-Fifth, Thirty-Sixth, Thirty-Seventh, Thirty-Eighth, Thirty-Ninth and Fortieth Days were approved. (Representatives Har, M. Oshiro and Souki were excused.)

### GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 232 and 233) were received and announced by the Clerk:

Gov. Msg. No. 232, informing the House that on April 14, 2010, the following bill was signed into law:

H.B. No. 2596, entitled: "A BILL FOR AN ACT RELATING TO TAX CREDITS." (ACT 021)

Gov. Msg. No. 233, informing the House that on April 14, 2010, the following bill was signed into law:

H.B. No. 2600, entitled: "A BILL FOR AN ACT RELATING TO TAX ADMINISTRATION." (ACT 022)

The following message from the Governor (Gov. Msg. Nos. 234) was announced by the Clerk and received for possible future consideration:

Gov. Msg. No. 234, transmitting her statement of objections to H.B. No. 1868, HD 1, as follows:

"EXECUTIVE CHAMBERS  
HONOLULU  
April 14, 2010

### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1868

Honorable Members  
Twenty-Fifth 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, House Bill No. 1868, entitled "A Bill for an Act Relating to Civil Service."

The purpose of this bill is to prohibit all civil service employees not covered by collective bargaining agreements from taking leaves of absence to serve for more than one year in certain appointed positions in the executive and judicial branches. The one-year leave of absence would also apply to civil service employees whose collective bargaining agreements do not provide for the granting of longer leaves for the purpose of serving in appointed positions.

This bill is objectionable for the following reasons. First, this measure provides unfair and disparate treatment between career civil servants depending on whether they are covered by collective bargaining agreements. Because there are a number of collective bargaining agreements covering Hawaii Government Employees Association and United Public Worker employees that provide for four-year leaves of absence to serve in appointed positions, this bill conflicts with section

89C-3, Hawaii Revised Statutes, which requires employers to provide employees not covered by collective bargaining agreements with compensation and benefit packages that are at least equal to compensation and benefit packages provided under collective bargaining agreements for counterparts or subordinates within the employer's jurisdiction. Section 89C-3 was recently interpreted by the State Circuit Court to mean that a vacation leave or temporary assignment program offered by a public employer only to civil service employees through a collective bargaining agreement constituted a distinct "benefit" that must be offered equally to all of that employer's civil service employees. As such, we believe, this bill is in conflict with current law. Given that section 89C-6 allows chapter 89C to take precedence over all other statutes, including chapter 76 as amended by this bill, we also note House Bill No. 1868 is for all practical purposes unenforceable.

Second, the net effect of this measure will be to impose severe practical constraints on the ability of various appointing authorities, including the Governor, to fill certain appointed positions such as department directors, deputies, and board and commission members. The number of career civil servants willing to take these types of appointments would be severely reduced without assurances that they will be able to keep their hard earned benefits by returning to their previous positions after the end of an appointment. Although this bill will not affect my administration, it will have a significant impact on the next administration.

Third, this measure needlessly limits valuable opportunities for career civil servants to serve in higher level appointed leadership positions in our government. By specifically targeting civil servants not covered by collective bargaining agreements—who often tend to be managerial and supervisory employees—the State will lose out on the valuable knowledge and expertise that these civil servants will bring to their appointed positions.

For the foregoing reasons, I am returning House Bill No. 1868 without my approval.

Respectfully,  
/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

### SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 580 through 583) were received and announced by the Clerk:

Sen. Com. No. 580, transmitting H.C.R. No. 64, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION RECOGNIZING MARCH AS "ADULT RESIDENTIAL CARE HOME AND ADULT FOSTER HOME OPERATORS MONTH"," which was adopted by the Senate on April 14, 2010.

Sen. Com. No. 581, dated April 14, 2010, informing the House that the Senate has on April 12, 2010, reconsidered its action taken on April 7, 2010, in disagreeing to the amendments proposed by the House to the following Senate Bill and has moved to agree to the amendments, and that said bill has this day passed Final Reading:

S.B. No. 2159, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC ABSTRACT FEE."

Sen. Com. No. 582, dated April 14, 2010, informing the House that the following bills have this day passed Final Reading:

H.B. No. 1985, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION."

H.B. No. 2421, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT."

H.B. No. 2866, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION."

S.B. No. 2405, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION."

S.B. No. 2650, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF HUMAN SERVICES."

Sen. Com. No. 583, dated April 14, 2010, informing the House that the Senate has made the following changes to the Senate Conferee assignments for the following bills:

H.B. No. 865, HD 1, SD 1      Senator(s) Kim discharged as Chair; Added as Co-Chair.  
 Senator(s) English discharged as Co-Chair; Added as Chair.

H.B. No. 2267, HD 1, SD 1      Senator(s) Kim discharged as Chair; Added as Co-Chair.  
 Senator(s) Sakamoto discharged as Co-Chair; Added as Chair.

**INTRODUCTIONS**

The following introduction was made to the Members of the House:

Representative C. Lee introduced Uncle Joe Tassill who gave today's invocation, and the many *kupuna* of Alu Like Kumu Kahi Elderly Services from Windward Oahu, Waimanalo, Kailua and Kaneohe.

**ORDER OF THE DAY**

**COMMITTEE REASSIGNMENTS**

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

<u>S.C.R. Nos.</u>	<u>Re-referred to:</u>
93, SD1	Jointly to the Committee on Housing and the Committee on Water, Land, & Ocean Resources
183, SD1	Committee on Energy & Environmental Protection
206, SD1	Committee on Housing
239, SD1	Jointly to the Committee on Human Services and the Committee on Health

**STANDING COMMITTEE REPORTS**

Representative Cabanilla, for the Committee on Housing presented a report (Stand. Com. Rep. No. 1353-10), recommending that S.C.R. No. 117, SD 1, be referred to the Committee on Economic Revitalization, Business, & Military Affairs.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.C.R. No. 117, SD 1, entitled: "SENATE CONCURRENT RESOLUTION SUPPORTING THE BUILDING OF MODULAR AND FACTORY MANUFACTURED HOMES IN HAWAII," was referred to the Committee on Economic Revitalization, Business, & Military Affairs, with Representatives Har and Souki being excused.

Representative Cabanilla, for the Committee on Housing presented a report (Stand. Com. Rep. No. 1354-10), recommending that S.C.R. No. 206, SD 1, be referred to the Committee on Finance.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.C.R. No. 206, SD 1, be referred to the Committee on Finance, seconded by Representative Evans.

Representative Pine rose to disclose a potential conflict of interest, stating:

"I'd like a ruling on a potential conflict. I occasionally work at a homeless shelter and I have worked in the past with the Waianae Coast Homeless Task Force," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.C.R. No. 206, SD 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE ESTABLISHMENT OF THE WAIANAE COAST HOMELESSNESS TASK FORCE TO DEVELOP A COMPREHENSIVE PLAN TO ADDRESS THE IMMEDIATE, SHORT-, AND LONG-TERM NEEDS OF THE HOMELESS AND THOSE AT-RISK OF BECOMING HOMELESS," was referred to the Committee Finance, with Representatives Har and Souki being excused.

Representative Cabanilla, for the Committee on Housing presented a report (Stand. Com. Rep. No. 1355-10), recommending that S.C.R. No. 218, SD 1, be referred to the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.C.R. No. 218, SD 1, entitled: "SENATE CONCURRENT RESOLUTION EXPRESSING LEGISLATIVE SUPPORT FOR THE RIGHT TO DISPLAY THE UNITED STATES FLAG," was referred to the Committee on Judiciary, with Representatives Har and Souki being excused.

**SUSPENSION OF RULES**

On motion by Representative Evans, seconded by Representative Pine and carried, the rules were suspended for the purpose of considering a certain House Bill for Final Reading by consent calendar. (Representatives Har and Souki were excused.)

**FINAL READING**

Representative B. Oshiro moved to agree to the amendments made by the Senate to the following House Bill, seconded by Representative Evans and carried: (Representatives Har and Souki were excused.)

H.B. No. 2058, HD 1, (SD 1)

The Chair addressed the Clerk who announced that the record of votes for said measure had been received which indicated that a quorum was present at decision making, and that the requisite number of House Conferees appointed had cast affirmative votes to report said measure to the Floor.

**H.B. No. 2058, HD 1, SD 1:**

In accordance with the Conference Committee Procedures agreed upon by the House of Representatives and the Senate, the managers on the part of the House recommended that the House agree to the amendments proposed by the Senate to H.B. No. 2058, HD 1, on the following showing of Ayes and Noes:

Ayes, 4 (McKelvey, Choy, Evans and Ward). Noes, none. Excused, none.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 2058, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC PROPERTY," passed Final Reading

by a vote of 48 ayes to 1 no, with Representative Hanohano voting no, and with Representatives Har and Souki being excused.

At 11:48 o'clock a.m., the Chair noted that the following bill passed Final Reading:

H.B. No. 2058, HD 1, SD 1

#### SUSPENSION OF RULES

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the rules were suspended for the purpose of reconsidering action previously taken in disagreeing to amendments made by the Senate to a certain House Bill. (Representatives Har and Souki were excused.)

#### RECONSIDERATION OF ACTION TAKEN

Representative B. Oshiro moved that the House reconsider its action previously taken in disagreeing to the amendments made by the Senate, and give notice of intent to agree to such amendments for the following House Bill, seconded by Representative Evans:

H.B. No. 2351, (SD 1)

The motion was put to vote by the Chair and carried, and the House reconsidered its action previously taken in disagreeing to the amendments made by the Senate, and gave notice of intent to agree to such amendments for the noted House Bill. (Representatives Har and Souki were excused.)

#### ANNOUNCEMENTS

Representative M. Lee, for the Committee on Finance requested a waiver of the 48-hour advanced notice requirement for the purpose of hearing the following measures on Friday, April 16, 2010, at 11:00 a.m. in Conference Room 308, and the Chair "so ordered."

S.C.R. No. 110, SD 2;  
S.C.R. No. 78, SD 1;  
S.C.R. No. 179, SD 2;  
S.C.R. No. 167, SD 2; and

Decision making only on the following measures:  
S.C.R. No. 206, SD 1; and  
S.C.R. No. 79, SD 1.

Representative Coffman, for the Committee on Energy and Environmental Protection requested a waiver of the 48-hour advanced notice requirement for the purpose of hearing the following measure on Friday, April 16, 2010, at 9:05 a.m. in Conference Room 225, and the Chair "so ordered."

S.C.R. No. 183, SD 1.

Representative Ward: "Mr. Speaker, just a reminder that today is April 15. We have until midnight to file our taxes. And to remind the Body that between 4:00 and 7:00 there will be a tea party at the Capitol, but fear not, no elected officials are able to be spokespersons for this event so everybody is welcome, 4:00 to 7:00. Thank you."

Vice Speaker Magaoay: "So have you filed your taxes Representative Ward?"

Representative Ward: "I have. Turbo Tax helped me a lot."

#### ADJOURNMENT

At 11:51 o'clock p.m. on motion by Representative Evans, seconded by Representative Pine and carried, the House of Representatives adjourned until 11:30 o'clock a.m. tomorrow, Friday, April 16, 2010. (Representative Har and Souki were excused.)

#### HOUSE COMMUNICATIONS

House Communication dated April 15, 2010, 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. 1808, HD 3, SD 1	Discharged Representative Souki
H.B. No. 2548, HD 1, SD 1	Discharged Representative Souki
H.B. No. 2583, SD 2	Discharged Representative Souki
H.B. No. 2721, HD 1, SD 1	Discharged Representative Souki
H.B. No. 2724, HD 1, SD 1	Discharged Representative Souki
H.B. No. 2725, HD 1, SD 1	Discharged Representative Souki
H.B. No. 2784, HD 1, SD 1	Discharged Representative Souki
H.B. No. 2897, HD 1, SD 1	Discharged Representative Souki
S.B. No. 506, SD 1, HD 3	Discharged Representative Souki
S.B. No. 950, SD 2, HD 3	Discharged Representative Souki
S.B. No. 2045, SD 1, HD 1	Representative B. Oshiro replaced Representative Souki as conferee.
S.B. No. 2150, HD 1	Discharged Representative Souki
S.B. No. 2154, SD 1, HD 1	Discharged Representative Souki
S.B. No. 2454, SD 2, HD 1	Discharged Representative Souki
S.B. No. 2472, SD 2, HD 1	Discharged Representative Souki
S.B. No. 2491, SD 2, HD 1	Discharged Representative Souki
S.B. No. 2534, SD 2, HD 1	Discharged Representative Souki
S.B. No. 2726, SD 2, HD 2	Discharged Representative Souki
S.B. No. 2859, SD 2, HD 1	Discharged Representative Souki

House Communication dated April 15, 2010, 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 reconsidered its action taken in disagreeing to the amendments made by the Senate on March 30, 2010, and gives notice of intent to agree to the following House Bill:

H.B. No. 2351, SD 1