

TWENTY-SECOND DAY

Tuesday, February 20, 2007

The Senate of the Twenty-Fourth Legislature of the State of Hawai'i, Regular Session of 2007, convened at 11:42 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Pastor Darren Reed, Kāne'ohe Church of the Nazarene and Windward Nazarene Academy, after which the Roll was called showing all Senators present with the exception of Senators Hemmings and Menor who were excused.

The President announced that she had read and approved the Journal of the Twenty-First Day.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 15 to 17) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 15, transmitting H.B. No. 1248, H.D. 1, which passed Third Reading in the House of Representatives on February 16, 2007, was placed on file.

On motion by Senator Ige, seconded by Senator Whalen and carried, H.B. No. 1248, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NAME CHANGES," passed First Reading by title and was deferred.

Hse. Com. No. 16, transmitting H.B. No. 1249, H.D. 1, which passed Third Reading in the House of Representatives on February 16, 2007, was placed on file.

On motion by Senator Ige, seconded by Senator Whalen and carried, H.B. No. 1249, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO APPEALS," passed First Reading by title and was deferred.

Hse. Com. No. 17, transmitting H.B. No. 1513, H.D. 1, which passed Third Reading in the House of Representatives on February 16, 2007, was placed on file.

On motion by Senator Ige, seconded by Senator Whalen and carried, H.B. No. 1513, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTION OFFENSES," passed First Reading by title and was deferred.

STANDING COMMITTEE REPORTS

Senators Espero and Chun Oakland, for the Committee on Public Safety and the Committee on Human Services and Public Housing, presented a joint report (Stand. Com. Rep. No. 627) recommending that S.B. No. 1444, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Ige, seconded by Senator Whalen and carried, the joint report of the Committees was adopted and S.B. No. 1444, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PURPOSE OF THE HAWAII YOUTH CORRECTIONAL FACILITY," passed Second Reading and was placed on the calendar for Third Reading on Thursday, March 1, 2007.

Senator Fukunaga, for the Committee on Economic Development and Taxation, presented a report (Stand. Com.

Rep. No. 628) recommending that S.B. No. 994, as amended in S.D. 1, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 628 and S.B. No. 994, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SEAWATER AIR CONDITIONING DISTRICT COOLING SYSTEMS," was deferred until Thursday, March 1, 2007.

Senator Menor, for the Committee on Energy and Environment, presented a report (Stand. Com. Rep. No. 629) recommending that S.B. No. 1702, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 1702, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPOSIT BEVERAGE CONTAINER PROGRAM," passed Second Reading and was placed on the calendar for Third Reading on Thursday, March 1, 2007.

Senator Baker, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 630) recommending that S.B. No. 586, as amended in S.D. 1, pass Second Reading and be recommitted to the Committee on Ways and Means.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 586, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," passed Second Reading and was recommitted to the Committee on Ways and Means.

ORDER OF THE DAY

THIRD READING

S.B. No. 1147, S.D. 1:

Senator Sakamoto moved that S.B. No. 1147, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Tokuda.

Senator Trimble rose in opposition to the measure and said:

"Madam President, I rise in opposition to S.B. No. 1147.

"Yes, it is broken. We all admit the DOE is not working the way it should, but you don't improve a bureaucracy by expanding it and that's what this bill does. It creates another body, another group and puts it within DOE to fix a problem that should be able to be fixed without increasing the size of the bureaucracy.

"Thank you."

Senator Sakamoto rose to speak on the measure and said:

"Madam President, just to clear up a point, perhaps there's some concern over the Department of Education. The teacher standards board . . ."

The Chair interjected:

"Senator, for what purpose do you rise?"

Senator Sakamoto responded:

"I speak in support of the measure.

"The teacher standards board is tasked to administer tests, oversee requirements, and determine which teachers can be licensed as opposed to the Department of Education. I believe with our shortage of 1,500 teachers, we can get exemplary teachers that have been award winners in other states and this committee could help assist in the process to get highly qualified teachers via mechanisms of other state or national awards.

"So I ask our members to support the measure."

The motion was put by the Chair and carried, S.B. No. 1147, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TEACHING LICENSURE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 3 (Gabbard, Slom, Trimble). Excused, 2 (Hemmings, Menor).

S.B. No. 948, S.D. 1:

Senator Hee moved that S.B. No. 948, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Slom rose in opposition to the measure and said:

"Madam President, I rise in opposition to this proposal.

"In the committee report, the Committee states that reducing the amount of nominees who would, quote, 'minimize the politicization of the appointment process and would allow for the most qualified to be selected,' unquote. First of all, one can argue back and forth whether or not we're talking about politicization of the process, but by reducing the number to a finite number of three and forcing the Governor or the Chief Justice to make a decision among those three really excludes a number of attorneys and highly qualified individuals who should be taken into the process. I think the attorney general made this remark. We've heard this statement before, regarding attorneys, and so I don't think we're either improving the situation or depoliticizing it by reducing it to three.

"Thank you."

Senator Hee rose to speak in favor of the measure as follows:

"Madam President, I rise to speak in favor of the matter before the Senate Floor.

"Members, I would ask that you folks support this measure. This is a measure that is wholly supported by the American Judicature Society who's the ethical watchdog of judicial systems nationwide. They have said time and again that by lowering the number by the Judicial Selection Commission, you raise the quality and in fact you depoliticize the system because the JSC, the Judicial Selection Commission, must review and recommend a lesser number so the fringe players would more likely not be included as they may at this time.

"This is a measure that was first introduced by me in 1987 when the governor was a Democrat. And I couldn't care less because this is about improving the system and the process, regardless of what political party affiliation may or may not be presiding on the fifth floor.

"The American Judicature Society was proudly represented by its president, Larry Okinaga, some years ago, and it was

Larry that called me. Many of you know Larry, who restated what the Committee on Judiciary, your Committee, is recommending today.

"So I hope that the members will consider this as an effort to raise the quality of nominees for the consideration by the Governor, regardless of political party affiliation.

"Thank you."

Senator Slom rose in rebuttal and said:

"Just a very brief rebuttal.

"First of all, I didn't see any testimony in support this year this time for this bill, number one. Number two, I think that many of the fine qualified individuals that would be considered if the numbers were larger might object to being referred to as fringe candidates. And finally, if the objective is to reduce the numbers and thereby reducing choice, we could only have to go as far as the educational system in Hawaii to find out that we reduce that like no other state to only one school board and we see what that lack of choice and what that number has done in terms of the quality of education.

"Thank you, Madam President."

The motion was put by the Chair and carried, S.B. No. 948, S.D. 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION TO REDUCE THE NUMBER OF NOMINEES FOR JUDICIAL VACANCIES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 2 (Slom, Trimble). Excused, 2 (Hemmings, Menor).

S.B. No. 1665:

Senator Hee moved that S.B. No. 1665, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Espero rose in support of the measure as follows:

"Madam President, I'd like to rise in support of this measure.

"There was an article in the newspaper recently which addressed a study that showed a connection between animal cruelty and future serial killers. So colleagues, I believe we are definitely taking a step in the right direction as we look at those who injure animals and abuse animals and could possibly transfer that violence to our society in the future.

"The irony in this measure I'd like to point out is that there is also a section, Section 5, which addresses and acknowledges the danger of having an animal ride in the back of a pickup truck in a non-secured carrier and untethered. I'm hoping maybe this will shed light on the fact that we also allow human beings to ride in the back of pickup trucks who are over 12 years old who are unsecured. Over the past few years, we have had many individuals killed and die after being thrown from a pickup truck.

"So I support this measure and hopefully we can look at other ways to provide safety for not only animals, but for ourselves. Thank you."

The motion was put by the Chair and carried, S.B. No. 1665, entitled: "A BILL FOR AN ACT RELATING TO ANIMALS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Hemmings, Menor).

S.B. No. 1954, S.D. 1:

Senator Hee moved that S.B. No. 1954, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Trimble rose in opposition to the measure and stated:

“Madam President, I rise in opposition to S.B. No. 1954.

“Colleagues, on this particular issue, we’re shooting in the dark – that is because we do not know what the court system is doing in terms of judicial discipline. If we are to make good law, then we have to know what is the current practice and what is considered, nationwide, best practices. And to do that, the appropriate process would be to ask somebody – like people from the UH Law School – to examine the current practices in the court system and then make recommendations to this Body for an effective law.

“Thank you.”

Senator Hee rose to support the measure and said:

“Madam President, I rise in support.

“For the very reasons the previous speaker articulated is the reason that we’re passing this bill. Presently, judges and justices are reviewed when disciplinary issues arise on the Commission on Judicial Discipline, a group of people picked by the Chief Justice. No one in the public knows what happens whether or not justices or judges are sanctioned, admonished, or criticized by the Commission on Judicial Discipline.

“This bill will require that any sanctions, admonishments, or disciplinary actions taken be made public to everyone so that the public has the confidence of those who preside over others in judgment. That’s specifically and precisely the reason for this measure.

“Thank you.”

Senator Trimble rose again and said:

“Madam President, I rise with brief comments.

“My concern is that when the process becomes totally open, what might happen is that there is less discipline done of the judicial system or judges because it is made public.

“Thank you.”

The motion was put by the Chair and carried, S.B. No. 1954, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO JUSTICES AND JUDGES,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Trimble). Excused, 2 (Hemmings, Menor).

S.B. No. 1957, S.D. 1:

On motion by Senator Hee, seconded by Senator Kokubun and carried, S.B. No. 1957, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CODE OF ETHICS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Hemmings, Menor).

S.B. No. 68, S.D. 1:

On motion by Senator Ige, seconded by Senator Fukunaga and carried, S.B. No. 68, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO HEALTH,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Hemmings, Menor).

S.B. No. 1828:

By unanimous consent, action on S.B. No. 1828, entitled: “A BILL FOR AN ACT RELATING TO THE CRIME VICTIM COMPENSATION COMMISSION,” was deferred until Wednesday, February 21, 2007.

RE-REFERRAL OF SENATE BILLS

The Chair re-referred the following Senate bills that were introduced:

Senate Bill	Referred to:
No. 72	Jointly to the Committee on Human Services and Public Housing and the Committee on Ways and Means
No. 247	Committee on Tourism and Government Operations
No. 1877, S.D. 1	Jointly to the Committee on Water, Land, Agriculture and Hawaiian Affairs and the Committee on Ways and Means

RE-REFERRAL OF GOVERNOR’S MESSAGES

The Chair re-referred the following governor’s messages that were received:

Governor’s Message	Referred to:
No. 304	Committee on Water, Land, Agriculture and Hawaiian Affairs
No. 305	Committee on Water, Land, Agriculture and Hawaiian Affairs

ADJOURNMENT

At 11:58 o’clock a.m., on motion by Senator Ige, seconded by Senator Whalen and carried, the Senate adjourned until 11:30 o’clock a.m., Wednesday, February 21, 2007.