

## TWENTY-SECOND DAY

**Wednesday, February 20, 2008**

The Senate of the Twenty-Fourth Legislature of the State of Hawai'i, Regular Session of 2008, convened at 11:40 a.m. with the President in the Chair.

The Divine Blessing was invoked by Pastor Anne Findlay-Chamberlain, Manoa Valley Church, after which the Roll was called showing all Senators present with the exception of Senators Hee and Kim who were excused.

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

At this time, Senator Bunda congratulated Brian Ching of the Houston Dynamos on becoming Hawai'i's first professional major league soccer player. Accompanying him was his mother Stephanie Whalen.

At 11:48 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:56 a.m.

**MESSAGES FROM THE GOVERNOR**

The following messages from the Governor (Gov. Msg. Nos. 445 to 449) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 445, dated February 13, 2008, transmitting a Report on the Development and Maintenance of a Secure Statewide Comprehensive Health Care Workforce Map and Database, prepared by the Department of Health, State Health Planning and Development Agency, pursuant to Act 213, Section 52, SLH 2007, was placed on file.

Gov. Msg. No. 446, dated February 14, 2008, transmitting the Interim Report on Hawaii-Grown Coffee Labeling and Inspection, and the Economic Impact of Potential Changes to Minimum Content Requirements, prepared by the Department of Agriculture pursuant to S.C.R. No. 102 (2007), was placed on file.

Gov. Msg. No. 447, dated February 15, 2008, transmitting a Report on the Feasibility and Cost of Establishing a Team of Specialists to Assist Departments in the Review of Business Processes and Procedures that Could Benefit from the Application of Technological Enhancements, prepared by the Department of Accounting and General Services pursuant to Act 213, Section 124, SLH 2007, was placed on file.

Gov. Msg. No. 448, dated February 12, 2008, transmitting the Annual Report of the Hawai'i State Foundation on Culture and the Arts for Fiscal Year 2006-2007, pursuant to Section 9-3, HRS, was placed on file.

Gov. Msg. No. 449, advising the Senate of the withdrawal of the nomination of PAULA A. ZINA to the Board of Registration of the Islands of Kaua'i and Ni'ihau, under Gov. Msg. No. 408, dated February 5, 2008, was placed on file.

In compliance with Gov. Msg. No. 449, the nomination listed under Gov. Msg. No. 408 was returned.

**STANDING COMMITTEE REPORTS**

Senator Chun Oakland, for the Committee on Human Services and Public Housing, presented a report (Stand. Com. Rep. No. 2544) recommending that S.B. No. 2408, 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. 2408, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC HOUSING," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 28, 2008.

Senator English, for the Committee on Transportation and International Affairs, presented a report (Stand. Com. Rep. No. 2545) recommending that S.B. No. 3248, 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. 3248, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 28, 2008.

Senators Nishihara and Kokubun, for the Committee on Tourism and Government Operations and the Committee on Commerce, Consumer Protection and Affordable Housing, presented a joint report (Stand. Com. Rep. No. 2546) recommending that S.B. No. 1815, 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. 1815, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 28, 2008.

Senators Menor and Sakamoto, for the Committee on Energy and Environment and the Committee on Education, presented a joint report (Stand. Com. Rep. No. 2547) recommending that S.B. No. 3170, 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. 3170, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PESTICIDES," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 28, 2008.

Senator Chun Oakland, for the Committee on Human Services and Public Housing, presented a report (Stand. Com. Rep. No. 2548) recommending that S.B. No. 2103, 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. 2103, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CAREGIVER RECOGNITION DAY," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 28, 2008.

Senator Chun Oakland, for the Committee on Human Services and Public Housing, presented a report (Stand. Com. Rep. No. 2549) recommending that S.B. No. 435, as amended in S.D. 1, pass Second Reading and be recommitted to the Committee on Human Services and Public Housing.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 435, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC HOUSING," passed Second Reading and was

recommitted to the Committee on Human Services and Public Housing.

### ORDER OF THE DAY

#### THIRD READING

S.B. No. 2841:

Senator Menor moved that S.B. No. 2841, having been read throughout, pass Third Reading, seconded by Senator Hooser.

Senator Slom rose in opposition and said:

“Madam President, I rise in opposition to this bill.

“This bill is a bad bill on many counts. First of all, it is an anti-business bill. But more than that, it perpetuates this program—which is a tax, the beverage tax—and puts additional costs on businesses. I think everybody in this room supports the idea of recycling and certainly, I think, prefers county recycling. We’ve gotten just a taste of curbside recycling in Mililani and Hawai‘i Kai; we know it works. This is a proper venue for the counties. We want to see this occur.

“We don’t want to see the State continue to profit on this tax program, and they will continue to do that. And also I think it’s wrong to require businesses to give up more of their high-priced and valued space in Hawai‘i to provide for redemption centers, especially as I say since the State is still involved, heavily involved in this. And it starts off now by discriminating against businesses by size, taking 75,000 square feet.

“But every bill that we’ve ever looked at in the past that has had size limits or personnel limits or whatever eventually reduces those limits and those benchmarks so that we’re talking about small neighborhood businesses who have been very active in terms of testifying about the costs and the problems if they were forced to do this. Some businesses, if they want to do it voluntarily, that’s great. But again I think that the real issue here is the type of recycling. And we should all be pushing the city and the counties to do the curbside recycling. Thank you, Madam President.”

Senator Inouye requested her vote be cast “aye, with reservations,” and the Chair so ordered.

Senator Trimble rose to speak in opposition as follows:

“Madam President, I stand in opposition to S.B. No. 2841.

“Colleagues, this is bad public policy. In the beginning when we started the beverage container program, I thought it was about recycling. But if it truly was about recycling, we would have seen that the program was simple, that it was efficient, and it was effective. Every time every year we come back and we piddle a little bit more with this program. If we were truly interested in getting more businesses into the program, we would make sure that the Department of Health paid the vendors much sooner.

“The \$20 or \$30 million that we now consider surplus and are looking at ways to spend, to a large degree is really float money collected or beverage containers taxed and then refunded, half of which when the containers are taken to the container yard for shipment, and half when it arrives at its final destination for being recycled. But we don’t do that.

“We could also, since we have created a business, study to see if the business is operating effectively. We could look and see what is more effective—beverage recycling or curbside recycling. And then we could reach a reasoned conclusion about the most efficient way to spend our resources.

“But if we continue to tax beverages in this manner and then continue to mandate or start to mandate curbside recycling by the counties, when you take away the portion of the waste stream that has value, then you’re going to wind up with a program where the counties are going to operate at a larger deficit or a more costly alternative than if the waste stream had beverage containers in it. That in turn will lead to higher taxes on the part of the county. So we’re taxing the consumer when they buy the beverage container and then in the end, by this mechanism that we have created that’s so inefficient, the consumers will again get to pay for it again in terms of higher property tax.

“I suggest that this bill is a continuation of poor public policy. I ask that you oppose it. Thank you.”

Senator Menor rose to speak in support of the measure and said:

“Madam President, I’d like to offer some brief remarks in support of S.B. No. 2841.

“Madam President, this bill would require the big box retailers—the Costcos and the Walmarts—to participate in our redemption program. I believe that this bill is pro-consumer, pro-environment, and it is also a bill about corporate responsibility. I’m gratified to say that this bill was included in our joint Majority package. The measure is also similar to a key bill, an important bill, that the Senate passed last Session, which would have required the big box retailers and large grocery stores and supermarkets to set up redemption centers for beverage containers. This bill of course narrows the scope of that approach by applying only to big box retailers in an attempt to address the concerns raised by the representatives of the retail organizations.

“There are several key reasons why I believe that this bill is justified. First of all, it would bring our bottle law into line with the laws of other states. It should be emphasized that most of the other states that have bottle laws require retailers to participate in the redemption process. And they’ve been able to achieve redemption rates for beverage containers that are higher than Hawai‘i’s. And there’s no reason why large retailers in Hawai‘i should be given preferential treatment and exempted from participating in a program that’s designed to encourage the recycling of beverage containers that they’ve put in the hands of consumers.

“Finally, although our deposit beverage container program has been generally working, it can and should be improved. I’d like to share with my colleagues the fact that at present there are at least one-quarter of a billion bottles and cans that are not being recycled and continue to enter the waste stream annually here in Hawai‘i. We can and must do better for the environment. I believe that this bill would significantly address this problem by making the redemption process fairer and more convenient for consumers. And for all of these reasons I would respectfully ask my colleagues to vote in favor of this bill. Thank you.”

The motion was put by the Chair and carried, S.B. No. 2841, entitled: “A BILL FOR AN ACT RELATING TO THE DEPOSIT BEVERAGE CONTAINER PROGRAM,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Ayes with Reservations, 1 (Inouye). Noes, 4 (Hemmings, Slom, Trimble, Whalen). Excused, 2 (Hee, Kim).

At 12:05 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:12 p.m.

**ADJOURNMENT**

At 12:12 p.m., on motion by Senator Ige, seconded by Senator Whalen and carried, the Senate adjourned until 11:30 a.m., Thursday, February 28, 2008.