

THIRTY-SIXTH DAY

Wednesday, March 21, 2012

The Senate of the Twenty-Sixth Legislature of the State of Hawai'i, Regular Session of 2012, convened at 11:33 a.m. with the President in the Chair.

The Roll was called showing all Senators present with the exception of Senator Taniguchi who was excused.

The President announced that he had read and approved the Journal of the Thirty-Fifth Day.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 863 to 865) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 863, submitting for consideration and confirmation to the Board of Directors of the Agribusiness Development Corporation, the nomination of PATRICK KOBAYASHI, term to expire June 30, 2016, was referred to the Committee on Agriculture.

Gov. Msg. No. 864, submitting for consideration and confirmation to the Board of Directors of the Agribusiness Development Corporation, the nomination of DEREK KURISU, term to expire June 30, 2015, was referred to the Committee on Agriculture.

Gov. Msg. No. 865, submitting for consideration and confirmation to the Board of Directors of the Agribusiness Development Corporation, the nomination of LETITIA UYEHARA, term to expire June 30, 2016, was referred to the Committee on Agriculture.

HOUSE COMMUNICATION

The following communication from the House (Hse. Com. No. 328) was read by the Clerk and was placed on file:

Hse. Com. No. 328, informing the Senate that on March 20, 2012, the House disagreed to the amendments proposed by the Senate to H.B. No. 2030, H.D. 2 (S.D. 1).

STANDING COMMITTEE REPORTS

Senator Baker, for the majority of the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 2863) recommending that H.B. No. 1968, H.D. 1, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the majority of the Committee was adopted and H.B. No. 1968, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CIGARETTES," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Espero, for the Committee on Public Safety, Government Operations, and Military Affairs, presented a report (Stand. Com. Rep. No. 2864) recommending that H.B. No. 2226, H.D. 2, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 2226, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AN AUTOMATED VICTIM NOTIFICATION SYSTEM," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Espero, for the Committee on Public Safety, Government Operations, and Military Affairs, presented a report (Stand. Com. Rep. No. 2865) recommending that H.B. No. 1974, H.D. 2, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 1974, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO VETERANS," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Tokuda and English, for the majority of the Committee on Education and the majority of the Committee on Transportation and International Affairs, presented a joint report (Stand. Com. Rep. No. 2866) recommending that H.B. No. 2626, H.D. 2, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the majority of the Committees was adopted and H.B. No. 2626, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SAFE ROUTES TO SCHOOL," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 2867) recommending that H.B. No. 2127 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 2127, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR HAWAII PREPARATORY ACADEMY," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 2868) recommending that H.B. No. 2248, H.D. 2, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 2248, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR HAWAII PACIFIC UNIVERSITY," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Tokuda and Green, for the Committee on Education and the Committee on Health, presented a joint report (Stand. Com. Rep. No. 2869) recommending that H.B. No. 2273 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and H.B. No. 2273, entitled: "A BILL FOR AN ACT RELATING TO CONCUSSIONS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 2870) recommending that H.B. No. 2368, H.D. 1 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 2368, H.D. 1, entitled: "A BILL FOR AN ACT

RELATING TO THE UNIVERSITY OF HAWAII AT HILO," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 2871) recommending that H.B. No. 2513, H.D. 1, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 2513, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 2872) recommending that H.B. No. 2533, H.D. 2 pass Second Reading and be referred to the Committee on Judiciary and Labor.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 2533, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE DEFINITION OF AGGRAVATED CIRCUMSTANCES IN THE CHILD PROTECTIVE ACT," passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 2873) recommending that H.B. No. 2685, H.D. 2, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 2685, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HUMAN SERVICES," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Dela Cruz and English, for the Committee on Water, Land, and Housing and the Committee on Transportation and International Affairs, presented a joint report (Stand. Com. Rep. No. 2874) recommending that H.B. No. 2613, H.D. 1 pass Second Reading and be referred to the Committee on Judiciary and Labor.

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and H.B. No. 2613, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senators Tokuda and Nishihara, for the Committee on Education and the Committee on Agriculture, presented a joint report (Stand. Com. Rep. No. 2875) recommending that H.B. No. 2100, H.D. 2 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and H.B. No. 2100, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO BEES," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 2876) recommending that H.B. No. 2007, H.D. 1 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B.

No. 2007, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INSTRUCTIONAL TIME," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Tokuda and Hee, for the Committee on Education and the Committee on Judiciary and Labor, presented a joint report (Stand. Com. Rep. No. 2877) recommending that H.B. No. 2527, H.D. 2 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and H.B. No. 2527, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 2878) recommending that H.B. No. 2439, H.D. 1 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 2439, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYER-UNION HEALTH BENEFITS TRUST FUND," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 2879) recommending that H.B. No. 2491, H.D. 1 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 2491, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 2880) recommending that H.B. No. 2179 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 2179, entitled: "A BILL FOR AN ACT RELATING TO THE AUDITOR," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 2881) recommending that H.B. No. 2578, H.D. 1 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 2578, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ADVISORY COUNCIL FOR COMMUNITY SERVICES," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Hee, for the majority of the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 2882) recommending that H.B. No. 2655, H.D. 2 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the majority of the Committee was adopted and H.B. No. 2655, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO LABOR," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 2883) recommending that H.B. No. 1755, H.D. 2, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 1755, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO VOTER REGISTRATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 2884) recommending that H.B. No. 1892, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 1892, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE REAPPORTIONMENT COMMISSION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 2885) recommending that H.B. No. 2574, H.D. 1, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 2574, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NOTIFICATION OF CHAPTER 91 HEARINGS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 2886) recommending that H.B. No. 1754, H.D. 1, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 1754, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," passed Second Reading and was placed on the calendar for Third Reading on Friday, March 23, 2012.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 2887) recommending that H.B. No. 2573, H.D. 1 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 2573, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO APPRENTICESHIP," passed Second Reading and was placed on the calendar for Third Reading on Thursday, March 22, 2012.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 2888) recommending that H.B. No. 2576, H.D. 2 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 2576, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY LAW," passed Second Reading and was placed on the calendar for Third Reading on Thursday, March 22, 2012.

ORDER OF THE DAY
AGREE/DISAGREE

MATTERS DEFERRED FROM
TUESDAY, MARCH 20, 2012

S.B. No. 2508, S.D. 2 (H.D. 1):

By unanimous consent, action on S.B. No. 2508, S.D. 2 (H.D. 1), entitled "A BILL FOR AN ACT RELATING TO CAMPAIGN REPORTING LAWS," was deferred until Thursday, March 22, 2012.

S.B. No. 3024, S.D. 1 (H.D. 1):

Senator Baker moved that the Senate agree to the amendments proposed by the House to S.B. No. 3024, S.D. 1, seconded by Senator Espero.

Senator Baker noted:

"Mr. President, colleagues, we passed this measure unanimously. The purpose is to allow our corporations, our kama'āina corporations, who had been disadvantaged by the new corporation act to more effectively deal with any mergers or dissolutions; and the House made perfecting amendments requested by the five corporations that are affected by this measure."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 3024, S.D. 1, and S.B. No. 3024, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CORPORATIONS," was placed on the calendar for Final Reading on Thursday, March 22, 2012.

ADVISE AND CONSENT

Stand. Com. Rep. No. 2862 (Gov. Msg. No. 647):

Senator Baker moved that Stand. Com. Rep. No. 2862 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Baker then moved that the Senate advise and consent to the nomination of LORRAINE AKIBA to the Public Utilities Commission, term to expire June 30, 2018, seconded by Senator Espero.

Senator Baker rose to speak in strong support of the nominee as follows:

"Colleagues, Ms. Akiba has had a distinguished career as an attorney. Having obtained her law degree from the University of California Hastings College of Law, she came to Hawai'i to practice. Throughout her career she has taken on many different leadership roles, and she is currently the head of her firm's environmental litigation practice. In this capacity she has undertaken many cases that require a thorough understanding of technical issues, and by all accounts, she has excelled. Working in environmental law has also made her familiar with independent power purchase agreements, interconnection studies, and many other issues that will be of assistance to her in her position as Commissioner at the PUC. She knows the jargon and the concepts; her learning curve won't be very steep at all.

"As the director of the Department of Industrial Relations she has displayed a dedication to public service and gained a familiarity and understanding of the working of government, very important when you're working inside. Ms. Akiba has shown the ability to handle difficult situations while maintaining a high level of efficiency and insight.

"Throughout her career, Lorraine Akiba has demonstrated strong analytical abilities and a tireless work ethic. I used to think of her as the 'Energizer bunny' of the Department of Labor and Industrial Relations. The combination of these two qualities sets her apart and will really make her a fine addition

to the PUC. Her legal background will also be a strong asset in dealing with particular issues like power purchase agreements, all of the other items that come before the PUC as they chart our path towards renewable energy.

“Ms. Akiba’s experience and legal background will complement the technical and regulatory expertise of Commissioner Champley, who we recently confirmed, and the policy knowledge of Chair Morita. Her addition will give the PUC the type of varied background and skills necessary to confront the issues awaiting the state as we move away from oil dependence and a dependence on imported oil.

“Colleagues, I ask you to join me in providing a unanimous confirmation to Lorraine Akiba to be our third commissioner to the Public Utilities Commission. Mahalo.”

Senator Solomon rose to speak in strong support of the nominee as follows:

“Thank you very much, Mr. President. I just would like to support the remarks of the previous speaker, and I’m very much in support, strong support. It is very rare that you get to be in a position such as I am in today where I can confirm Ms. Akiba to this position when I actually confirmed her, at the time, for the Department of Labor chair, so I am very pleased today. I think Hawai’i will be in a much better place, and I feel very confident with her leadership and influence on PUC. We can see that cable coming from Hawai’i with geothermal energy. Mahalo. Aloha.”

Senator Dela Cruz rose to speak in support of the nominee as follows:

“Thank you, Mr. President. I want to support the Chair of Consumer Protection’s recommendation. I have known Ms. Akiba for many years. She understands how business works and its challenges. She understands how government works at all levels, its limitations, and its potential. She understands the community needs; she understands middle-class working families’ needs, and she’ll know how to get it done. She’s going to create a wonderful environment that we really need at the PUC. So, I support the recommendation of the committee chair.”

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Taniguchi).

At this time, Senator Baker introduced Lorraine Akiba, who was accompanied by her husband Robert Penebacker, PUC Chair Hermina Morita, Commissioner Michael Champley, and staff assistant Shawn Michael who were seated in the gallery.

At 11:42 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:46 a.m.

At this time, the Chair made the following announcement:

“Referrals and re-referrals are made in accordance with the listing on the Order of the Day and the Supplemental Order of the Day that may be distributed to your offices later this afternoon.”

RE-REFERRAL OF SENATE CONCURRENT RESOLUTIONS

The Chair re-referred the following Senate concurrent resolutions that were offered:

- S.C.R. No.: Re-referred to:
- S.C.R. No. 73 Committee on Transportation and International Affairs

S.C.R. No. 156 Jointly to the Committee on Transportation and International Affairs and the Committee on Education

S.C.R. No. 162 Committee on Transportation and International Affairs

S.C.R. No. 169 Committee on Transportation and International Affairs

RE-REFERRAL OF SENATE RESOLUTIONS

The Chair re-referred the following Senate resolutions that were offered:

- S.R. No.: Re-referred to:
- S.R. No. 32 Committee on Transportation and International Affairs
- S.R. No. 99 Committee on Transportation and International Affairs

Senator Hee, Chair of the Committee on Judiciary and Labor, requested a waiver of the notice requirement pursuant to Senate Rule 21 for H.B. No. 1295, H.D. 3.

Senator Hee noted:

“The title of the bill is ‘RELATING TO BUSINESS,’ and the problem here is dealing with unlicensed contractors, Mr. President—like in ‘Ewa Beach, there’s Will’s stone wall building, and in Kāne’ohe, there’s Aunty Jill’s educational facility. These are unlicensed contractors that the Senate needs to deal with, and hence the request for the waiver.”

The Chair granted the waiver.

ADJOURNMENT

At 11:50 a.m., on motion by Senator Espero, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Thursday, March 22, 2012.