

FIFTY-FOURTH DAY

Monday, April 23, 2012

The Senate of the Twenty-Sixth Legislature of the State of Hawai'i, Regular Session of 2012, convened at 11:38 a.m. with the President in the Chair.

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

The President announced that he had read and approved the Journal of the Fifty-Third Day.

DEPARTMENTAL COMMUNICATION

The following communication (Dept. Com. No. 80) was read by the Clerk and was placed on file:

Dept. Com. No. 80, from the Public Utilities Commission dated April 19, 2012, transmitting a Report on the Application of Hawaii Electric Light Company, Inc. for Approval of a General Rate Increase and Other Related Matters pursuant to Section 269-16(d), HRS.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 642 to 651) were read by the Clerk and were placed on file:

Hse. Com. No. 642, informing the Senate that on April 20, 2012, the House reconsidered its action taken on April 12, 2012, in disagreeing to the amendments proposed by the Senate to the following House bills:

H.B. No. 1524, H.D. 2 (S.D. 2);
H.B. No. 2242, H.D. 1 (S.D. 1);
H.B. No. 2264, H.D. 2 (S.D. 1);
H.B. No. 2266, H.D. 1 (S.D. 1);
H.B. No. 2273 (S.D. 1);
H.B. No. 2296, H.D. 1 (S.D. 1); and
H.B. No. 2491, H.D. 1 (S.D. 1).

Hse. Com. No. 643, informing the Senate that on April 20, 2012, the House reconsidered its action taken on March 27, 2012, in disagreeing to the amendments proposed by the Senate to H.B. No. 2429, H.D. 1 (S.D. 1).

Hse. Com. No. 644, informing the Senate that the House agreed to the amendments proposed by the Senate to the following House bills and said bills passed Final Reading in the House of Representatives on April 20, 2012:

H.B. No. 297, H.D. 1, S.D. 1;
H.B. No. 626, S.D. 1;
H.B. No. 1671, H.D. 2, S.D. 2;
H.B. No. 1754, H.D. 1, S.D. 1;
H.B. No. 1967, H.D. 2, S.D. 2;
H.B. No. 2169, H.D. 2, S.D. 1;
H.B. No. 2374, S.D. 1;
H.B. No. 2454, H.D. 1, S.D. 1; and
H.B. No. 2574, H.D. 1, S.D. 1.

Hse. Com. No. 645, returning S.C.R. No. 162, S.D. 1, which was adopted by the House of Representatives on April 20, 2012.

Hse. Com. No. 646, informing the Senate that on April 20, 2012, the Speaker appointed conferees on the part of the House for the consideration of amendments proposed by the Senate to the following House bill:

H.B. No. 2703, H.D. 2 (S.D. 2):

Representatives Tsuji, Oshiro, co-chairs; Riviere.

Hse. Com. No. 647, informing the Senate that on April 20, 2012, the House made the following changes to the conferees on the following bill:

H.B. No. 2319, H.D. 2 (S.D. 1):

Representative Yamashita added as a manager.

Hse. Com. No. 648, informing the Senate that on April 20, 2012, the House discharged all conferees to H.B. No. 2491, H.D. 1 (S.D. 1).

Hse. Com. No. 649, informing the Senate that on April 20, 2012, the House discharged all conferees to the following bills:

H.B. No. 1524, H.D. 2 (S.D. 2);
H.B. No. 2296, H.D. 1 (S.D. 1); and
H.B. No. 2429, H.D. 1 (S.D. 1).

Hse. Com. No. 650, informing the Senate that on April 20, 2012, the Speaker appointed conferees on the part of the House for the consideration of amendments proposed by the Senate to the following House bill:

H.B. No. 70, H.D. 2 (S.D. 1):

Representatives Cabanilla, Mizuno, Kawakami, co-chairs;
Pine.

Hse. Com. No. 651, informing the Senate that on April 20, 2012, the Speaker appointed conferees on the part of the House for the consideration of amendments proposed by the House to the following Senate bill:

S.B. No. 596, S.D. 2 (H.D. 1):

Representatives Yamane, Nishimoto, Morikawa, co-chairs;
Nakashima, Saiki, Pine.

CONFERENCE COMMITTEE REPORTS

Senator Dela Cruz, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 2594, H.D. 2, presented a report (Conf. Com. Rep. No. 26-12) recommending that H.B. No. 2594, H.D. 2, S.D. 1, as amended in C.D. 1, pass Final Reading.

By unanimous consent, action on Conf. Com. Rep. No. 26-12 and H.B. No. 2594, H.D. 2, S.D. 1, C.D. 1 was deferred until Tuesday, May 1, 2012.

Senator Dela Cruz, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 2595, H.D. 2, presented a report (Conf. Com. Rep. No. 27-12) recommending that H.B. No. 2595, H.D. 2, S.D. 2, as amended in C.D. 1, pass Final Reading.

By unanimous consent, action on Conf. Com. Rep. No. 27-12 and H.B. No. 2595, H.D. 2, S.D. 2, C.D. 1 was deferred until Tuesday, May 1, 2012.

STANDING COMMITTEE REPORTS
AND
ADOPTION OF RESOLUTIONS

Senator Green, for the Committee on Health, presented a report (Stand. Com. Rep. No. 3543) recommending that H.C.R. No. 154 be adopted.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 154, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH TO DEVELOP A STATE ACTION PLAN TO

COMBAT CHRONIC OBSTRUCTIVE PULMONARY DISEASE IN THE STATE," was adopted.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 3544) recommending that H.C.R. No. 9, as amended in S.D. 1, be adopted.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 9, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO ASSESS THE SOCIAL AND FINANCIAL EFFECTS OF REQUIRING HEALTH INSURANCE COVERAGE FOR FERTILITY PRESERVATION PROCEDURES FOR PERSONS OF REPRODUCTIVE AGE WHO HAVE BEEN DIAGNOSED WITH CANCER AND WILL UNDERGO TREATMENT THAT MAY ADVERSELY AFFECT FERTILITY," was adopted.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 3545) recommending that H.C.R. No. 58, H.D. 1, as amended in S.D. 1, be adopted.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 58, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE PUBLIC UTILITIES COMMISSION TO DIRECT ELECTRIC UTILITIES TO EXAMINE SPECIFIC RENEWABLE ENERGY STRATEGIES IN THE INTEGRATED RESOURCE PLANNING PROCESS," was adopted.

Senators Baker and Fukunaga, for the Committee on Commerce and Consumer Protection and the Committee on Economic Development and Technology, presented a joint report (Stand. Com. Rep. No. 3546) recommending that H.C.R. No. 118, H.D. 1, as amended in S.D. 1, be adopted.

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and H.C.R. No. 118, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A SUNRISE REVIEW OF REGULATIONS FOR ZIPLINES AND CANOPY TOURS," was adopted.

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3547) recommending that H.C.R. No. 178, H.D. 1, as amended in S.D. 1, be adopted.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 178, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A REPORT OF STATE EXPENDITURES RELATING TO ENERGY CONSERVATION CONTRACTS AND POWER PURCHASE AGREEMENTS," was adopted.

Senators Dela Cruz, Kim, and English, for the Committee on Water, Land, and Housing and the Committee on Tourism and the Committee on Transportation and International Affairs, presented a joint report (Stand. Com. Rep. No. 3548) recommending that H.C.R. No. 169, H.D. 1, as amended in S.D. 1, be adopted.

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and H.C.R. No. 169, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE ESTABLISHMENT OF KOREATOWN AND DEVELOPMENT OF A MASTER PLAN FOR THE DEVELOPMENT OF A KOREATOWN," was adopted.

Senator Fukunaga, for the Committee on Economic Development and Technology, presented a report (Stand. Com. Rep. No. 3549) recommending that H.C.R. No. 50, H.D. 1, as amended in S.D. 1, be adopted.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 50, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE GOVERNOR TO RECOGNIZE LOCAL KOREANS BY DIRECTING THE PLACEMENT OF COMMEMORATIVE PLAQUES DESIGNATING THE FORMER SITES OF THE KOREAN CHRISTIAN INSTITUTE," was adopted.

Senator Fukunaga, for the Committee on Economic Development and Technology, presented a report (Stand. Com. Rep. No. 3550) recommending that H.C.R. No. 51, H.D. 1, as amended in S.D. 1, be adopted.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 51, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE GOVERNOR TO RECOGNIZE LOCAL KOREANS BY DIRECTING THE PLACEMENT OF A COMMEMORATIVE PLAQUE DESIGNATING THE FORMER SITE OF THE KOREAN BOARDING SCHOOL FOR BOYS AND THE KOREAN METHODIST CHURCH," was adopted.

Senators Green and Baker, for the Committee on Health and the Committee on Commerce and Consumer Protection, presented a joint report (Stand. Com. Rep. No. 3551) recommending that H.C.R. No. 177, H.D. 2, as amended in S.D. 1, be adopted.

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and H.C.R. No. 177, H.D. 2, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY ON REQUIRING INSURANCE COVERAGE FOR THE DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM DISORDERS," was adopted.

STANDING COMMITTEE REPORTS

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 3552) recommending that the Senate advise and consent to the nomination of TRISTAN ALDEGUER to the Hoisting Machine Operators Advisory Board, in accordance with Gov. Msg. No. 798.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3552 and Gov. Msg. No. 798 was deferred until Tuesday, April 24, 2012.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 3553) recommending that the Senate advise and consent to the nominations to the Board of Registration of the Islands of Maui, Moloka'i, Lana'i and Kaho'olawe of the following:

BRANDON STARR, in accordance with Gov. Msg. No. 841; and

GENNARO ZARRO, JR., in accordance with Gov. Msg. No. 842.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3553 and Gov. Msg. Nos. 841 and 842 was deferred until Tuesday, April 24, 2012.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 3554) recommending that the Senate advise and consent to the nominations to the Language Access Advisory Council of the following:

MELBA BANTAY, in accordance with Gov. Msg. No. 843;
 JENNIFER DOTSON, in accordance with Gov. Msg. No. 844;
 MARGARITA HOPKINS, in accordance with Gov. Msg. No. 845;
 DOMINIC INOCELDA, in accordance with Gov. Msg. No. 846;
 GERALD OHTA, in accordance with Gov. Msg. No. 847;
 and
 MARY SANTA MARIA, in accordance with Gov. Msg. No. 848.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3554 and Gov. Msg. Nos. 843, 844, 845, 846, 847, and 848 was deferred until Tuesday, April 24, 2012.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 3555) recommending that the Senate advise and consent to the nominations to the Hoisting Machine Operators Advisory Board of the following:

DONALD GENTZLER, in accordance with Gov. Msg. No. 898; and
 PAUL JOHNSTON, JR., in accordance with Gov. Msg. No. 899.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3555 and Gov. Msg. Nos. 898 and 899 was deferred until Tuesday, April 24, 2012.

ORDER OF THE DAY

ADOPTION OF RESOLUTION

MATTER DEFERRED FROM FRIDAY, APRIL 20, 2012

Stand. Com. Rep. No. 3542 (H.C.R. No. 92, S.D. 1):

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 92, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE PRESIDENT AND CONGRESS OF THE UNITED STATES TO CREATE AND ADOPT AN APPROPRIATE FLAG HONORING VETERANS," was adopted.

MISCELLANEOUS BUSINESS

RECONSIDERATION OF ACTIONS TAKEN

S.B. No. 2534, S.D. 2 (H.D. 2):

Senator Tokuda moved that the Senate reconsider its action taken on April 12, 2012, in disagreeing to the amendments proposed by the House to S.B. No. 2534, S.D. 2, seconded by Senator Espero and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 2534, S.D. 2, on the following showing of Ayes and Noes:

Ayes, 3 (Tokuda, Dela Cruz, Ige). Noes, none. Excused, none.

Senator Tokuda then moved that the Senate agree to the amendments made by the House to S.B. No. 2534, S.D. 2, seconded by Senator Espero.

Senator Tokuda noted:

"The House made minor technical amendments and corrected the effective date. They've also added reporting requirements which only strengthen the overall intent and purpose of the measure."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2534, S.D. 2, and S.B. No. 2534, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SCHOOL FACILITIES," was placed on the calendar for Final Reading on Tuesday, April 24, 2012.

S.B. No. 2630 (H.D. 2):

Senator Espero moved that the Senate reconsider its action taken on April 12, 2012, in disagreeing to the amendments proposed by the House to S.B. No. 2630, seconded by Senator Baker and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 2630, on the following showing of Ayes and Noes:

Ayes, 2 (Espero, Baker). Noes, none. Excused, 1 (Slom).

Senator Espero then moved that the Senate agree to the amendments made by the House to S.B. No. 2630, seconded by Senator Baker.

Senator Espero noted:

"The House position would allow both dBA and dBC sound monitoring, and it would be a pilot program for community noise control. It also sunsets on 2017. FYI, dBA has to do with sound that the human ear can hear, and dBC has to do with vibrations. Thank you."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2630, and S.B. No. 2630, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO NOISE," was placed on the calendar for Final Reading on Tuesday, April 24, 2012.

At this time, Senator Ryan rose to speak on a point of personal privilege as follows:

"As the coordinator of the Hawai'i State Senate Hawai'i Foodbank, we'd like to express our appreciation to everyone who has participated. And for the enthusiastic participation of my colleagues, we now have a total of \$7,057.73, but I also want to share that Senator Gabbard is in the lead with a total of \$2,113.60 for his two projects for Foodbank. And I'd like to thank the Clerk's—obviously everyone in this building loves to eat—who raised \$1,400 on their bake sale, and Senator Ige for his salad sale for a total of \$1,106. Thank you! This is the last week for the push, and I believe we had gandule rice this morning courtesy of Senator Kidani, and stew bowl plate Thursday night for all of us who have to hang out here and work hard. Thank you everyone for all your participation, and especially the Foodbank appreciates it."

At this time, the Chair made the following announcements:

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

"Conferees are named in accordance with the action sheets to be distributed to your offices later today."

RE-REFERRAL OF A HOUSE CONCURRENT RESOLUTION

The Chair re-referred the following House concurrent resolution that was received:

H.C.R. No.: Re-referred to:

H.C.R. No. 32, H.D. 1 Committee on Health

APPOINTMENT AND DISCHARGE OF CONFEREES

S.B. No. 2235, S.D. 2 (H.D. 2):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 2235, S.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Fukunaga, chair; Ige, Baker, co-chairs; Slom as manager on the part of the Senate at such conference.

S.B. No. 2288, S.D. 1 (H.D. 1):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 2288, S.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Gabbard, chair; Espero, Ige, co-chairs; Kouchi as manager on the part of the Senate at such conference.

S.B. No. 2402, S.D. 1 (H.D. 1):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 2402, S.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Wakai, chair; Gabbard, Espero, co-chairs on the part of the Senate at such conference.

S.B. No. 2568 (H.D. 2):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 2568, and the request for a conference on the subject matter thereof, the President appointed Senators Chun Oakland, chair; Espero, co-chair; Ihara, Slom as managers on the part of the Senate at such conference.

S.B. No. 3002, S.D. 2 (H.D. 1):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 3002, S.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Baker, chair; Hee, co-chair; Slom as manager on the part of the Senate at such conference.

H.B. No. 108, H.D. 1 (S.D. 2):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 108, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Hee, chair; Kim, co-chair; Espero as manager on the part of the Senate at such conference.

H.B. No. 1033, H.D. 1 (S.D. 2):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 1033, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Gabbard, chair; Baker, Ige, co-chairs; Kidani, Kouchi as managers on the part of the Senate at such conference.

H.B. No. 1875, H.D. 2 (S.D. 2):

The President discharged Senator Galuteria as manager and appointed Senator Ihara as an additional manager on the part of the Senate at the conference to be held for the consideration of amendments proposed by the Senate to H.B. No. 1875, H.D. 2.

H.B. No. 2121, H.D. 2 (S.D. 1):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 2121, H.D. 2, and the request for a conference on the subject matter thereof,

the President appointed Senators Gabbard, chair; Baker, Ige, co-chairs; Kouchi, Slom as managers on the part of the Senate at such conference.

H.B. No. 2328, H.D. 1 (S.D. 1):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 2328, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Ige, chair; Fukunaga, Kidani, Slom as managers on the part of the Senate at such conference.

H.B. No. 2529, H.D. 1 (S.D. 1):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 2529, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Galuteria, chair; Espero, Kidani, co-chairs on the part of the Senate at such conference.

H.B. No. 2681, H.D. 1 (S.D. 1):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 2681, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Espero, chair; Dela Cruz, co-chair; Ryan, Slom as managers on the part of the Senate at such conference.

ADJOURNMENT

At 11:45 a.m., on motion by Senator Espero, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Tuesday, April 24, 2012.