

TWENTY-SECOND DAY

Wednesday, February 24, 2016

The Senate of the Twenty-Eighth Legislature of the State of Hawai'i, Regular Session of 2016, convened at 11:37 a.m. with the President in the Chair.

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

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

MESSAGE FROM THE GOVERNOR

The following message from the Governor (Gov. Msg. No. 1101) was read by the Clerk and was placed on file:

Gov. Msg. No. 1101, informing the Senate that on February 23, 2016, the Lieutenant Governor, in his capacity as Acting Governor, signed into law House Bill No. 2720 as Act 1, entitled: "MAKING APPROPRIATIONS TO PROVIDE FOR THE EXPENSES OF THE LEGISLATURE, THE AUDITOR, THE LEGISLATIVE REFERENCE BUREAU, THE OMBUDSMAN, AND THE ETHICS COMMISSION."

HOUSE COMMUNICATION

The following communication from the House (Hse. Com. No. 14) was read by the Clerk and was disposed of as follows:

Hse. Com. No. 14, transmitting H.B. No. 2331, H.D. 1, which passed Third Reading in the House of Representatives on February 23, 2016, was placed on file.

On motion by Senator Green, seconded by Senator Slom and carried, H.B. No. 2331, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BOARD MEMBER TERMS FOR THE BOARD OF NURSING AND THE BOARD OF SPEECH PATHOLOGY AND AUDIOLOGY," passed First Reading by title and was deferred.

SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 39 and 40) were read by the Clerk and were deferred:

S.C.R. No. 39 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION TO ENSURE THAT ANY PERSON IT HIRES OR CAUSES TO BE HIRED, INCLUDING PRIVATE SECURITY GUARDS, TO PROVIDE ARMED SECURITY SERVICES AT AIRPORTS PRESENTS PROOF OF PROPER EDUCATION, EXPERIENCE, TRAINING, AND CREDENTIALS AS DETERMINED BY THE SHERIFF DIVISION."

Offered by: Senators Espero, Baker, Chun Oakland, Slom.

S.C.R. No. 40 "SENATE CONCURRENT RESOLUTION PETITIONING CONGRESS FOR A LIMITED AMENDMENTS CONVENTION FOR THE PURPOSE OF PROPOSING A FREE AND FAIR ELECTIONS AMENDMENT TO THE UNITED STATES CONSTITUTION."

Offered by: Senators Gabbard, Chun Oakland, Ruderman, Espero, Harimoto, Inouye, Nishihara, Riviere, Shimabukuro, Thielen, Wakai.

SENATE RESOLUTION

The following resolution (S.R. No. 18) was read by the Clerk and was deferred:

S.R. No. 18 "SENATE RESOLUTION URGING UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES TO

IMMEDIATELY RESUME BIOMETRIC INTAKE AND INTERVIEWS ON THE COUNTIES OF HAWAII, MAUI, AND KAULAI."

Offered by: Senator Kouchi, by request.

STANDING COMMITTEE REPORT

Senator Nishihara, for the Committee on Public Safety, Intergovernmental, and Military Affairs, presented a report (Stand. Com. Rep. No. 2493) recommending that S.B. No. 2825, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Green, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2825, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PACIFIC INTERNATIONAL SPACE CENTER FOR EXPLORATION SYSTEMS," passed Second Reading and was placed on the calendar for Third Reading on Thursday, March 3, 2016.

ORDER OF THE DAY

THIRD READING

S.B. No. 2860:

On motion by Senator Baker, seconded by Senator Kidani and carried, S.B. No. 2860, entitled: "A BILL FOR AN ACT RELATING TO BOARD MEMBER TERMS FOR THE BOARD OF NURSING AND THE BOARD OF SPEECH PATHOLOGY AND AUDIOLOGY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

S.B. No. 2418:

Senator Keith-Agaran moved that S.B. No. 2418, having been read throughout, pass Third Reading, seconded by Senator Shimabukuro.

Senator Thielen rose to speak in support of the measure with reservations as follows:

"Thank you, Mr. President. I'm going to follow a couple of my peers from the other day and say I rise with conflict on this bill. I had voted 'no' in the Judiciary committee. As many of you may know, I'm a co-sponsor of a bill that would allow initiative – for citizens to be able to put questions on the ballot – not to change the constitution, but to change the law. And so it seems odd that I had voted 'no' on putting this question on the ballot, but the bill that we had put forward required a certain minimum number of signatures in order to get something onto the ballot, and I think that that still is a good requirement.

"When I voted 'no' in Judiciary committee, it was because we did not see any support for the measure – I think we got one testimony in support, but a lot of testimony in opposition, and so I felt that it hadn't made that threshold. I do note, though, that the amount of testimony we got in opposition was very small in comparison to the other proposed constitutional amendments in front of us that day; and so in going back and looking at that and seeing the late testimony in support, the question I'm wrestling with is whether it's appropriate to put this on the ballot for voters to vote on.

"So, at this point, I'm going to move my vote to 'with reservations' as opposed to a 'no.' I think there are still very many good reasons not to put an elected attorney general

forward, but at this point, I support moving the question forward for more discussion in the Legislature. Thank you.”

Senator Slom rose to speak in opposition to the measure as follows:

“Yes, Mr. President. Of course, I rise with a position of ‘no.’ I’ve been introducing initiative bills for 20 years now. I believe in initiative; I believe in the people having the right to vote and to initiate legislation. I also had been a strong supporter of electing the attorney general over the years and also had introduced legislation, but in looking over some of the events of the past several years and some of the issues that we have, I just wanted to register my personal opposition to the premise of electing the attorney general.

“Just like when we had the discussion with the school board, and we went from elected school board to appointed school board, people thought that there was going to be a panacea, that there was going to be great changes. And in fact, there have not been; there’ve been very few changes, and some people are just as upset or more so with the appointed school board. There’s no panacea, I believe, in this particular issue of elected versus appointed.

“I think the real problem is that too many of the public believe that the attorney general – whether he or she be elected or appointed – is the attorney for the people, that the attorney represents the people, rather than the attorney representing the state government and elected officials. And I think, more so than the question of election or appointment, I think that’s what we really need to look at and concentrate on.

“There have been instances in the past where the issue of independence – could an appointed attorney general really be independent of the governor who appointed that person stand? And I think there are arguments on both sides. But I don’t think that the simple act of electing will erase that; as I say, I think it’s more of the real cause of the problems. But I certainly believe that the public should have the right; we should have more questions. I believe in not only initiative, but, as you know, referendum, recall, and term limits. So, I’m just registering this as my opinion on this particular issue. Thank you.”

The motion was put by the Chair and carried, S.B. No. 2418, entitled: “A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE V, SECTION 6, OF THE CONSTITUTION OF THE STATE OF HAWAII,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19; Ayes with Reservations (Baker, Gabbard, Galuteria, Ihara, Kidani, Nishihara, Shimabukuro, Thielen, Wakai). Noes, 5 (Chun Oakland, Green, Riviere, Slom, Taniguchi). Excused, 1 (Harimoto).

S.B. No. 2862:

On motion by Senator Baker, seconded by Senator Kidani and carried, S.B. No. 2862, entitled: “A BILL FOR AN ACT RELATING TO NURSING,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

S.B. No. 2874:

On motion by Senator Baker, seconded by Senator Kidani and carried, S.B. No. 2874, entitled: “A BILL FOR AN ACT RELATING TO CERTIFIED NURSE AIDES,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

REFERRAL OF A HOUSE BILL

The President made the following committee assignment of a House bill received on Tuesday, February 23, 2016:

- H.B. No.: Referred to:
- H.B. No. 1726 Committee on Judiciary and Labor

REFERRAL OF SENATE CONCURRENT RESOLUTIONS

The President made the following committee assignments of Senate concurrent resolutions offered on Friday, February 19, 2016; Monday, February 22, 2016; and Tuesday, February 23, 2016:

- S.C.R. No.: Referred to:
- S.C.R. No. 29 Jointly to the Committee on Transportation and Energy and the Committee on Commerce, Consumer Protection, and Health, then to the Committee on Ways and Means
- S.C.R. No. 30 Jointly to the Committee on Commerce, Consumer Protection, and Health and the Committee on Education, then to the Committee on Ways and Means
- S.C.R. No. 31 Jointly to the Committee on Commerce, Consumer Protection, and Health and the Committee on Human Services, then to the Committee on Ways and Means
- S.C.R. No. 32 Jointly to the Committee on Public Safety, Intergovernmental, and Military Affairs and the Committee on Transportation and Energy, then to the Committee on Ways and Means
- S.C.R. No. 33 Committee on Public Safety, Intergovernmental, and Military Affairs, then to the Committee on Ways and Means
- S.C.R. No. 34 Committee on Public Safety, Intergovernmental, and Military Affairs, then to the Committee on Ways and Means
- S.C.R. No. 35 Committee on Economic Development, Environment, and Technology, then to the Committee on Judiciary and Labor
- S.C.R. No. 36 Committee on Judiciary and Labor
- S.C.R. No. 37 Jointly to the Committee on Tourism and International Affairs and the Committee on Higher Education and the Arts, then to the Committee on Ways and Means
- S.C.R. No. 38 Jointly to the Committee on Water, Land, and Agriculture and the Committee on Economic Development, Environment, and Technology, then to the Committee on Ways and Means

REFERRAL OF SENATE RESOLUTIONS

The President made the following committee assignments of Senate resolutions offered on Friday, February 19, 2016; and Monday, February 22, 2016:

- S.R. No.: Referred to:
- S.R. No. 11 Jointly to the Committee on Transportation and Energy and the Committee on Commerce, Consumer Protection, and Health, then to the Committee on Ways and Means
- S.R. No. 12 Jointly to the Committee on Commerce, Consumer Protection, and Health and the

- Committee on Education, then to the Committee on Ways and Means
- S.R. No. 13 Jointly to the Committee on Commerce, Consumer Protection, and Health and the Committee on Human Services, then to the Committee on Ways and Means
- S.R. No. 14 Jointly to the Committee on Public Safety, Intergovernmental, and Military Affairs and the Committee on Transportation and Energy, then to the Committee on Ways and Means
- S.R. No. 15 Committee on Public Safety, Intergovernmental, and Military Affairs, then to the Committee on Ways and Means
- S.R. No. 16 Committee on Economic Development, Environment, and Technology, then to the Committee on Judiciary and Labor
- S.R. No. 17 Jointly to the Committee on Tourism and International Affairs and the Committee on Higher Education and the Arts, then to the Committee on Ways and Means

RE-REFERRAL OF A SENATE BILL

The Chair re-referred the following Senate bill that was introduced:

S.B. No.: Re-referred to:

S.B. No. 2559 Committee on Ways and Means

STANDING COMMITTEE REPORTS

Senator Tokuda, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 2494) recommending that S.B. No. 2775 pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 2494 and S.B. No. 2775, entitled: "A BILL FOR AN ACT RELATING TO THE AFFORDABLE CARE ACT SECTION 1332 STATE INNOVATION WAIVER," was deferred until Thursday, March 3, 2016.

Senator Tokuda, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 2495) recommending that S.B. No. 2383, S.D. 1, as amended in S.D. 2, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 2495 and S.B. No. 2383, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HEALTH CONNECTOR," was deferred until Thursday, March 3, 2016.

ADJOURNMENT

At 11:46 a.m., on motion by Senator Green, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Thursday, March 3, 2016.