

FORTY-FOURTH DAY

Wednesday, April 7, 2021

The Senate of the Thirty-First Legislature of the State of Hawai'i, Regular Session of 2021, convened at 11:43 a.m. with the President in the Chair.

The Roll was called showing all Senators present, with Senators Chang, Dela Cruz, Gabbard, Ihara, Keohokalole, Lee, Moriwaki, Rhoads, Shimabukuro, and Wakai present and participating via videoconference.

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

HOUSE COMMUNICATION

The following communication from the House (Hse. Com. No. 392) was read by the Clerk and was placed on file:

Hse. Com. No. 392, informing the Senate that on April 6, 2021, the House disagreed to the amendments proposed by the Senate to H.B. No. 416, H.D. 2 (S.D. 2).

STANDING COMMITTEE REPORTS

Senator Dela Cruz, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1532) recommending that H.B. No. 765, H.D. 1, as amended in S.D. 1, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1532 and H.B. No. 765, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOBILE EMERGENCY MANAGEMENT SERVICES," was deferred until Friday, April 9, 2021.

Senator Dela Cruz, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1533) recommending that H.B. No. 776, H.D. 1, S.D. 1, as amended in S.D. 2, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1533 and H.B. No. 776, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST PUEO DEVELOPMENT, LLC," was deferred until Friday, April 9, 2021.

Senator Dela Cruz, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1534) recommending that H.B. No. 835, H.D. 2, as amended in S.D. 1, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1534 and H.B. No. 835, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE NATIONAL GUARD YOUTH CHALLENGE ACADEMY," was deferred until Friday, April 9, 2021.

Senator Dela Cruz, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1535) recommending that H.B. No. 941, H.D. 1, S.D. 1, as amended in S.D. 2, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1535 and H.B. No. 941, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE USE OF ELECTRONIC FILING BY THE PUBLIC UTILITIES COMMISSION," was deferred until Friday, April 9, 2021.

Senator Dela Cruz, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1536) recommending that H.B. No. 943, H.D. 1, S.D. 1, as amended in S.D. 2, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1536 and H.B. No. 943, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO NONDEPOSITORY TRUSTS," was deferred until Friday, April 9, 2021.

Senator Dela Cruz, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1537) recommending that H.B. No. 1132, H.D. 2, S.D. 1, as amended in S.D. 2, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1537 and H.B. No. 1132, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," was deferred until Friday, April 9, 2021.

Senator Dela Cruz, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1538) recommending that H.B. No. 79, H.D. 1, S.D. 1, as amended in S.D. 2, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1538 and H.B. No. 79, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," was deferred until Friday, April 9, 2021.

Senator Dela Cruz, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1539) recommending that H.B. No. 286, H.D. 1, S.D. 1, as amended in S.D. 2, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1539 and H.B. No. 286, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO REAL ESTATE INVESTMENT TRUSTS," was deferred until Friday, April 9, 2021.

Senator Dela Cruz, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1540) recommending that H.B. No. 606, H.D. 1, S.D. 1, as amended in S.D. 2, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1540 and H.B. No. 606, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS FOR AFFORDABLE HOUSING," was deferred until Friday, April 9, 2021.

Senator Dela Cruz, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1541) recommending that H.B. No. 683, H.D. 2, as amended in S.D. 1, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1541 and H.B. No. 683, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SUSTAINABLE AVIATION FUEL," was deferred until Friday, April 9, 2021.

Senator Rhoads, for the majority of the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1542) recommending that H.B. No. 1029, as amended in S.D. 1, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1542 and H.B. No. 1029, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LIVING PARK PLANNING COUNCILS," was deferred until Friday, April 9, 2021.

Senator Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1543) recommending that H.B. No. 391, H.D. 3, S.D. 1, as amended in S.D. 2, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1543 and H.B. No. 391, H.D. 3, S.D. 2, entitled: "A BILL FOR AN

ACT RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE,” was deferred until Friday, April 9, 2021.

Senator Dela Cruz, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1544) recommending that H.B. No. 871, H.D. 1, S.D. 1 pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1544 and H.B. No. 871, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO AGRICULTURAL ENTERPRISES,” was deferred until Thursday, April 8, 2021.

Senator Dela Cruz, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1545) recommending that H.B. No. 434, H.D. 1, S.D. 1 pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1545 and H.B. No. 434, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO AIRCRAFT,” was deferred until Thursday, April 8, 2021.

Senator Dela Cruz, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1546) recommending that H.B. No. 525, H.D. 2, S.D. 1 pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1546 and H.B. No. 525, H.D. 2, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO TEACHER HOUSING,” was deferred until Thursday, April 8, 2021.

Senator Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1547) recommending that the Senate advise and consent to the nomination of WILLIAM PUETTE to the Civil Rights Commission, in accordance with Gov. Msg. No. 713.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1547 and Gov. Msg. No. 713 was deferred until Thursday, April 8, 2021.

Senator Nishihara, for the Committee on Public Safety, Intergovernmental and Military Affairs, presented a report (Stand. Com. Rep. No. 1548) recommending that the Senate advise and consent to the nomination of ROXANNE BRUHN to the Advisory Board on Veterans’ Services, in accordance with Gov. Msg. No. 546.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1548 and Gov. Msg. No. 546 was deferred until Thursday, April 8, 2021.

Senator Shimabukuro, for the Committee on Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 1549) recommending that the Senate advise and consent to the nomination of DAVID KAAPU to the Hawaiian Homes Commission, in accordance with Gov. Msg. No. 576.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1549 and Gov. Msg. No. 576 was deferred until Thursday, April 8, 2021.

Senator Shimabukuro, for the majority of the Committee on Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 1550) returning the nominations to the Hawaiian Homes Commission of the following:

MICHAEL KALEIKINI, in accordance with Gov. Msg. No. 577; and

DENNIS NEVES, in accordance with Gov. Msg. No. 578,

to the full Senate for consideration in accordance with Senate Rule 37(3).

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1550 and Gov. Msg. Nos. 577 and 578 was deferred until Thursday, April 8, 2021.

Senator Dela Cruz, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1551) recommending that H.B. No. 53, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Keohokalole, seconded by Senator Fevella and carried, the report of the Committee was adopted and H.B. No. 53, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO STATE BONDS,” passed Second Reading and was placed on the calendar for Third Reading on Friday, April 9, 2021.

Senator Dela Cruz, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1552) recommending that H.B. No. 54, 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 Keohokalole, seconded by Senator Fevella and carried, the report of the Committee was adopted and H.B. No. 54, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE STATE BUDGET,” passed Second Reading and was placed on the calendar for Third Reading on Friday, April 9, 2021.

Senator Dela Cruz, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1553) recommending that H.B. No. 200, 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 Keohokalole, seconded by Senator Fevella and carried, the report of the Committee was adopted and H.B. No. 200, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE STATE BUDGET,” passed Second Reading and was placed on the calendar for Third Reading on Friday, April 9, 2021.

ORDER OF THE DAY

ADVISE AND CONSENT

Stand. Com. Rep. No. 1527 (Gov. Msg. Nos. 664 and 665):

Senator Nishihara moved that Stand. Com. Rep. No. 1527 be received and placed on file, seconded by Senator English and carried.

Senator Nishihara then moved that the Senate advise and consent to the nominations to the Law Enforcement Standards Board of the following:

SAMUEL JELSMA, term to expire June 30, 2024 (Gov. Msg. No. 664); and

HARRY KUBOJIRI, term to expire June 30, 2024 (Gov. Msg. No. 665),

seconded by Senator English.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1531 (Jud. Com. No. 35):

Senator Rhoads moved that Stand. Com. Rep. No. 1531 be received and placed on file, seconded by Senator Keohokalole and carried.

Senator Rhoads then moved that the Senate consent to the appointment of JEFFREY W. NG to the District Family Court of the Third Circuit, term to expire in 6 years, seconded by Senator Keohokalole.

Senator Rhoads spoke in support of Jud. Com. No. 35 as follows:

“Jeffrey Ng has spent the past 18 years as a deputy public defender with the state’s Office of the Public Defender, initially as part of the Honolulu office and, since 2012, at the Hilo office. Since last March, he’s been a supervising attorney for the Hilo office, managing eight attorneys and several other staff. Throughout the course of his practice, he has represented criminal defendants on a wide range of cases, including complex cases involving mental health and emotional disturbance issues, and novel questions of court procedure.

“Mr. Ng is a graduate of our own William S. Richardson School of Law. Immediately after law school, he clerked for the Honorable Derrick Chan, then a circuit court judge in the First Circuit here on O’ahu. Mr. Ng received his undergraduate degree from the University of Michigan. He has been actively involved in the legal community, including serving as both president and vice president of the Hawaii County Bar Association. He is also an apprentice mediator at Ku’ikahi Mediation Center on Hawai’i island and a member of the Hawai’i Access to Justice Foundation’s Committee on Initiatives to Enhance Civil Justice.

“All the testimony submitted was in support of Mr. Ng’s appointment to the district family court, including from former supervisors and retired judges before whom he had appeared. In particular, testifiers commended his professionalism, integrity, and legal knowledge.

“After having reviewed the testimony and other materials submitted on this appointment, and having examined the appointee in a hearing, your Judiciary committee finds that Jeffrey W. Ng is qualified to serve as a district family court judge in the Third Circuit, and recommends that the Senate consent to the appointment. Mahalo.”

Senator San Buenaventura rose to speak in support of Jud. Com. No. 35 with reservations as follows:

“It should not be enough to be a good lawyer or a good person to be a judge. The community where the judge sits should be considered. The position for which the judge is chosen should also be considered.

“The position for which Jeffrey Ng is being nominated is in the community in which I practice law and in a court where I have personally been in front. I know the handful of practitioners, and they have reached out to me confidentially; some of them were disappointed that, in a small rural community where there are people representing themselves, the chief justice chose someone who does not know civil family law—a position which ethics would require him to take because his public defender status conflicts him out of criminal cases.

“Now, as a family law practitioner, the fact of the matter is, we as lawmakers have failed to put in the books civil family law on how we divide property, and it is a specialty that few have, and you need to practice in order to know. I got a text recently from a foster parent in Hilo who said that his foster family has had six different judges—no continuity—so a new judge, by necessity, will rely on the word of an overworked social worker because they have no knowledge of the history of the case.

“Now, I have nothing against Jeffrey Ng. He is excellent at what he does, so I will be voting ‘yes,’ but I am disappointed that the East Hawai’i community, which will have two family court judges, will have two judges who have no practical knowledge of civil family law, even though both have had a wealth of knowledge of criminal law, and I would like to note that out of all of the supporting testimony, no one who practices civil family law in East Hawai’i wrote in support of his nomination. So until these criminal law judges learn the law, the

people who represent themselves—the pro se people, in custody and divorces—will have decision-makers who do not know the law, and for that, I’m disappointed, but I will be voting ‘yes with reservations.’”

Senator Fevella rose to speak in support of Jud. Com. No. 35 with reservations as follows:

“For Judicial Communication 35, I had a great conversation with him, and in that conversation, I said that I had some colleagues that is going to very much criticize, just to look at his six-year post, and I said this more than once to him because he’s a young man, and I know he’s very ambitious, but exactly what my colleague said, we need somebody that’s there that’s not only going to be able to keep learning the law but staying there for the six years. And, when we had the Judiciary committee, he could not really answer the committee if he’s going to stay there for the six-year duration, so that’s the concerns that I have, and I will be voting ‘with reservations.’ Thank you, Senate President.”

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

Ayes, 25; Ayes with Reservations (Fevella, Kim, San Buenaventura). Noes, none.

At this time, Senator Rhoads introduced Judge Jeffrey W. Ng, who was present and participating via videoconference along with his wife, Jennifer, and their son, Ryder, and their daughter, Riley.

THIRD READING

H.B. No. 223, H.D. 1, S.D. 1:

Senator Baker moved that H.B. No. 223, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Chang.

Senator Baker requested that remarks in support of the measure be entered into the Journal, and the Chair so ordered.

The Chair having so ordered, Senator Baker’s remarks read as follows:

“Mr. President, I rise in strong support of HB223 HD1 SD1, Relating to Massage Therapists.

“It is in the public interest and concern that the practice of massage therapy be held to the highest standards of quality and safety. HB223 HD1 SD1 does this by adding to the requirements of renewal of massage therapy licenses. Some of these requirements are to complete 12 hours of continuing education for massage therapy licensees within a two-year period preceding a renewal date. Two hours must include first aid and/or emergency-related courses that will protect the safety of customers as well as licensee.

“Continuing education is very important as standards and methodologies evolve over time as new information updates safety standards. These requirements ensure that Hawaii’s licensing requirements are in alignment with national trends and consumers are receiving the best possible protections.

“Please join me in support of HB223 HD1 SD1. Mahalo.”

The motion was put by the Chair and carried, H.B. No. 223, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO MASSAGE THERAPISTS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 599, H.D. 1, S.D. 1:

Senator Baker moved that H.B. No. 599, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Chang.

Senator Baker requested that remarks in support of the measure be entered into the Journal, and the Chair so ordered.

The Chair having so ordered, Senator Baker's remarks read as follows:

"Mr. President, I rise in strong support of HB599 HD1 SD1, Relating to Association Governance.

"The COVID-19 pandemic restrictions and social distancing requirements have prevented many, if not all, of the condominium associations from having their annual meetings if those meetings were scheduled after March 16, 2020. The COVID-19 pandemic has further established the need for common interest communities to have flexibility regarding meetings. This measure is important to enable these communities to efficiently conduct their business during pandemics and other emergency situations.

"The need to have flexibility regarding meetings is evident considering the current pandemic. As the state legislature has experienced, electronic meetings have kept us connected and allowed important work to continue despite the restriction on physically gathering in large numbers. Most association bylaws were written when videoconferencing did not exist and now that we have the option for electronic meetings it is necessary to allow all boards to conduct their meetings and elections electronically.

"Please join me in support of HB599 HD1 SD1. Mahalo."

The motion was put by the Chair and carried, H.B. No. 599, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ASSOCIATION GOVERNANCE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 891, H.D. 2, S.D. 2:

Senator Rhoads moved that H.B. No. 891, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Keohokalole.

Senator San Buenaventura rose to speak in support of the measure as follows:

"I'd like to make my comments known that it's not our intent to govern paint guns or toys in this measure but Taser-like guns. Thank you."

The motion was put by the Chair and carried, H.B. No. 891, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO ELECTRIC GUNS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Fevella).

Stand. Com. Rep. No. 1528 (H.B. No. 189):

On motion by Senator Dela Cruz, seconded by Senator Keith-Agaran and carried, Stand. Com. Rep. No. 1528 was adopted and H.B. No. 189, entitled: "A BILL FOR AN ACT RELATING TO DESIGNATING SUBSTITUTE JUDGES ON THE INTERMEDIATE COURT OF APPEALS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1529 (H.B. No. 631, H.D. 1, S.D. 1):

On motion by Senator Dela Cruz, seconded by Senator Keith-Agaran and carried, Stand. Com. Rep. No. 1529 was adopted and H.B. No. 631, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FINANCIAL HARDSHIP," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 1115:

On motion by Senator Dela Cruz, seconded by Senator Keith-Agaran and carried, H.B. No. 1115, entitled: "A BILL FOR AN ACT RELATING TO THE STATE FUNDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

RE-REFERRAL OF MESSAGES FROM THE GOVERNOR

The Chair re-referred the following messages from the Governor that were received:

Gov. Msg. No.:	Re-referred to:
Gov. Msg. No. 752	Committee on Agriculture and Environment
Gov. Msg. No. 753	Committee on Agriculture and Environment

ADJOURNMENT

At 11:57 a.m., on motion by Senator Keohokalole, seconded by Senator Fevella and carried, the Senate adjourned until 11:30 a.m., Thursday, April 8, 2021.