

TWENTY-FIFTH DAY

Friday, February 27, 2004

The Senate of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004, convened at 11:45 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Jerry Overbeck, Loyola University, Chicago, after which the Roll was called showing all Senators present with the exception of Senators Aduja, Hanabusa and Sakamoto who were excused.

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

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 21 to 28) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 21, transmitting H.B. No. 2198, H.D. 1, which passed Third Reading in the House of Representatives on February 26, 2004, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, H.B. No. 2198, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL HEALTH," passed First Reading by title and was deferred.

Hse. Com. No. 22, transmitting H.B. No. 2223, which passed Third Reading in the House of Representatives on February 26, 2004, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, H.B. No. 2223, entitled: "A BILL FOR AN ACT RELATING TO BOXING," passed First Reading by title and was deferred.

Hse. Com. No. 23, transmitting H.B. No. 2380, H.D. 1, which passed Third Reading in the House of Representatives on February 26, 2004, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, H.B. No. 2380, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO APPELLATE JURISDICTION," passed First Reading by title and was deferred.

Hse. Com. No. 24, transmitting H.B. No. 2417, which passed Third Reading in the House of Representatives on February 26, 2004, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, H.B. No. 2417, entitled: "A BILL FOR AN ACT RELATING TO REAL ESTATE LICENSING," passed First Reading by title and was deferred.

Hse. Com. No. 25, transmitting H.B. No. 2418, which passed Third Reading in the House of Representatives on February 26, 2004, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, H.B. No. 2418, entitled: "A BILL FOR AN ACT RELATING TO ABANDONED APPLICATIONS FOR PROFESSIONAL AND VOCATIONAL LICENSES," passed First Reading by title and was deferred.

Hse. Com. No. 26, transmitting H.B. No. 2421, which passed Third Reading in the House of Representatives on February 26, 2004, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, H.B. No. 2421, entitled: "A BILL FOR AN ACT RELATING TO THE LICENSING REQUIREMENTS FOR PRIVATE DETECTIVES AND GUARDS," passed First Reading by title and was deferred.

Hse. Com. No. 27, transmitting H.B. No. 2423, which passed Third Reading in the House of Representatives on February 26, 2004, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, H.B. No. 2423, entitled: "A BILL FOR AN ACT RELATING TO COSMETOLOGY LICENSE RESTORATION," passed First Reading by title and was deferred.

Hse. Com. No. 28, transmitting H.B. No. 2426, which passed Third Reading in the House of Representatives on February 26, 2004, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, H.B. No. 2426, entitled: "A BILL FOR AN ACT RELATING TO THE LICENSING REQUIREMENTS FOR ELEVATOR MECHANICS," passed First Reading by title and was deferred.

STANDING COMMITTEE REPORTS

Senators Ige and Kim, for the Committee on Science, Arts, and Technology and the Committee on Tourism, presented a joint report (Stand. Com. Rep. No. 2515) recommending that S.B. No. 2139, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.B. No. 2139, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE MUSEUM OF HAWAIIAN MUSIC AND DANCE," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 1, 2004.

Senator Hanabusa, for the Committee on Judiciary and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2516) recommending that S.B. No. 183, as amended in S.D. 1, pass Second Reading and be recommitted to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 183, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," passed Second Reading and was recommitted to the Committee on Judiciary and Hawaiian Affairs.

Senator Hanabusa, for the Committee on Judiciary and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2517) recommending that S.B. No. 203, as amended in S.D. 1, pass Second Reading and be recommitted to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 203, S.D. 1, entitled: "A BILL FOR AN ACT

RELATING TO THE JUDICIARY," passed Second Reading and was recommitted to the Committee on Judiciary and Hawaiian Affairs.

Senators Hanabusa and Taniguchi, for the Committee on Judiciary and Hawaiian Affairs and the Committee on Ways and Means, presented a joint report of the majority of the Committees (Stand. Com. Rep. No. 2518) recommending that S.B. No. 2994, as amended in S.D. 1, pass Second Reading and be recommitted jointly to the Committee on Judiciary and Hawaiian Affairs and the Committee on Ways and Means.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the joint report of the majority of the Committees was adopted and S.B. No. 2994, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE USE TAX," passed Second Reading and was recommitted jointly to the Committee on Judiciary and Hawaiian Affairs and the Committee on Ways and Means.

Senator Hanabusa, for the majority of the Committee on Judiciary and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2519) recommending that S.B. No. 2074, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the majority of the Committee was adopted and S.B. No. 2074, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN SPENDING," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 1, 2004.

Senator Hanabusa, for the Committee on Judiciary and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2520) recommending that S.B. No. 2372, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2372, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 1, 2004.

Senator Hanabusa, for the Committee on Judiciary and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2521) recommending that S.B. No. 2444, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2444, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PROBATE CODE," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 1, 2004.

Senator Hanabusa, for the Committee on Judiciary and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2522) recommending that S.B. No. 2827, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2827, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN SPENDING," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 1, 2004.

Senator Hanabusa, for the Committee on Judiciary and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2523) recommending that S.B. No. 3144, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 3144, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ATTORNEYS," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 1, 2004.

Senators Hanabusa and Baker, for the Committee on Judiciary and Hawaiian Affairs and the Committee on Health, presented a joint report (Stand. Com. Rep. No. 2524) recommending that S.B. No. 3233, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.B. No. 3233, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ILLEGAL USE OF CONTROLLED SUBSTANCES," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 1, 2004.

Senator Taniguchi, for the majority of the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 2525) recommending that S.B. No. 1491, as amended in S.D. 1, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 2525 and S.B. No. 1491, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE GOVERNMENT," was deferred until Monday, March 1, 2004.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 2526) recommending that S.B. No. 3194, S.D. 1, as amended in S.D. 2, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 2526 and S.B. No. 3194, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO THE RX PROGRAM," was deferred until Monday, March 1, 2004.

Senator Taniguchi, for the majority of the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 2527) recommending that S.B. No. 2153, S.D. 1, as amended in S.D. 2, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 2527 and S.B. No. 2153, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," was deferred until Monday, March 1, 2004.

Senator Taniguchi, for the majority of the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 2528) recommending that S.B. No. 3068, S.D. 1, as amended in S.D. 2, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 2528 and S.B. No. 3068, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," was deferred until Monday, March 1, 2004.

Senator Taniguchi, for the majority of the Committee on Ways and Means, presented a report (Stand. Com. Rep. No.

2529) recommending that S.B. No. 3234, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the majority of the Committee was adopted and S.B. No. 3234, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ILLEGAL USE OF CONTROLLED SUBSTANCES," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 1, 2004.

ORDER OF THE DAY

ADOPTION OF RESOLUTIONS

MATTERS DEFERRED FROM THURSDAY, FEBRUARY 26, 2004

Stand. Com. Rep. No. 2509 (S.C.R. No. 12, S.D. 1):

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.C.R. No. 12, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION SUPPORTING INCREASING THE DEPTH OF BARBERS POINT HARBOR," was adopted.

Stand. Com. Rep. No. 2510 (S.R. No. 8, S.D. 1):

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.R. No. 8, S.D. 1, entitled: "SENATE RESOLUTION SUPPORTING INCREASING THE DEPTH OF BARBERS POINT HARBOR," was adopted.

Senator Trimble rose to and said:

"Excuse me, Mr. President, I believe I had my hand up."

"I have a question. I would like to ask the introducer of this resolution if it was his intent that the entrance channel . . ."

The President interjected:

"Please identify that resolution."

Senator Trimble responded:

"The two that are before us. I believe their wording is similar, 2509, 2510.

"My questions is . . ."

At 11:51 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:54 o'clock a.m.

RE-REFERRAL OF GOVERNOR'S MESSAGES

The Chair re-referred the following governor's messages that were received:

Governor's Message

Referred to:

No. 217 Committee on Energy and Environment

No. 218 Committee on Energy and Environment

No. 219 Committee on Energy and Environment

No. 220 Committee on Energy and Environment

No. 221 Committee on Energy and Environment

No. 293 Committee on Science, Arts, and Technology

No. 301 Committee on Energy and Environment

No. 303 Committee on Energy and Environment

No. 304 Committee on Energy and Environment

No. 305 Committee on Energy and Environment

No. 306 Committee on Energy and Environment

No. 307 Committee on Energy and Environment

No. 308 Committee on Energy and Environment

REFERRAL OF HOUSE BILLS

MATTERS DEFERRED FROM THURSDAY, FEBRUARY 26, 2004

The President made the following committee assignments of House bills received on Thursday, February 26, 2004:

House Bill Referred to:

No. 1828, H.D. 1 Committee on Judiciary and Hawaiian Affairs

No. 2019 Committee on Transportation, Military Affairs, and Government Operations, then to the Committee on Judiciary and Hawaiian Affairs

No. 2024, H.D. 1 Committee on Judiciary and Hawaiian Affairs

No. 2167 Jointly to the Committee on Transportation, Military Affairs, and Government Operations and the Committee on Water, Land, and Agriculture, then to the Committee on Judiciary and Hawaiian Affairs

No. 2298, H.D. 1 Committee on Judiciary and Hawaiian Affairs

No. 2299, H.D. 1 Committee on Judiciary and Hawaiian Affairs

No. 2345 Jointly to the Committee on Water, Land, and Agriculture and the Committee on Transportation, Military Affairs, and Government Operations

No. 2686, H.D. 1 Committee on Transportation, Military Affairs, and Government Operations

No. 2789, H.D. 1 Committee on Judiciary and Hawaiian Affairs

Senator Trimble rose and said:

"Mr. President, I'm sorry my hand and voice were missed when we were discussing S.C.R. No. 12 and S.R. No. 8. The question . . ."

The President interjected:

ADJOURNMENT

“Are you rising on a point of personal privilege, Senator Trimble?”

At 11:59 o'clock a.m., on motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate adjourned until 11:30 o'clock a.m., Monday, March 1, 2004.

Senator Trimble replied:

“On a point of personal privilege.

Respectfully submitted,

“Mr. President, the first question that I wanted to ask was, if you're going to dig out the Barbers Point Harbor to 45 feet, shouldn't you also specify that you should do it the same time as the entrance channel?

Clerk of the Senate

“The second question I wanted to ask is, if this was being done for cruise vessels? It's my impression that the harbor was designed to ideally accommodate vessels of less than 800 feet in length. When you move it to 45 feet, you are not increasing your ability to accommodate cruise vessels.

Approved:

President of the Senate

“The third thing I wanted to ask is, was it the introducer's intent to somehow alter the priorities of work by the Department of Transportation, because at the present moment, we lack berthing space on the neighbor islands. There are cruise vessels that cannot berth on the neighbor islands because there is no space. We are losing business on the neighbor islands. And while I recognize the need to improve Barbers Point deep draft harbor, I would not like its improvement to leapfrog other needed improvements in our harbor system.

“Thank you, Mr. President.”

Senator Kawamoto rose to speak on a point of personal privilege as follows:

“Mr. President, I rise on a point of personal privilege.

“Mr. President, to answer the questions from the Senator from Waikiki, basically, as far as the entrance is concerned, these are requests to the federal government. Right now they are in the process of dredging it to 42 feet. The users at Barbers Point have indicated that potentially, right now, the ships coming in cannot fully use the potential of their carrying capacity, so they need to go to 45 feet.

“As far as where the money is coming from, this is federal dollars and basically it is for Barbers Point Harbor. The cruise ships are not an item here because of the fact that the cruise ship's depth is 34 feet. That's what their requirements are. So, we're already there.

“Thank you.”

Senator Ihara rose on a point of personal privilege as follows:

“Mr. President, a point of personal privilege.

“Mr. President, I would appreciate, actually, I appreciate the questions and the answers from the various Senators on these resolutions. I would appreciate it if we had that discussion before the vote so that I can vote doubly strong or with reservations, but it looks like the answer seemed to be provided.

“I just really would like to ask that the discussion be held prior to the vote rather than after the vote.

“Thank you.”