

EIGHTH DAY

Tuesday, January 30, 2007

The House of Representatives of the Twenty-Fourth Legislature of the State of Hawaii, Regular Session of 2007, convened at 12:04 o'clock p.m., with the Speaker presiding.

The invocation was delivered by Representative Pono Chong, after which the Roll was called showing all members present with the exception of Representatives Awana, Berg and Souki, who were excused.

By unanimous consent, reading and approval of the Journal of the House of Representatives of the Seventh Day was deferred.

DEPARTMENTAL COMMUNICATION

The following departmental communication (Dept. Com. No. 43) was received by the Clerk and was placed on file:

Dept. Com. No. 43, from the Legislative Reference Bureau, transmitting the PRESCRIPTIVE AUTHORITY FOR PSYCHOLOGISTS: ISSUES AND CONSIDERATIONS.

ORDER OF THE DAY

COMMITTEE ASSIGNMENT

The following resolutions and concurrent resolutions were referred to committee by the Speaker:

H.R.
Nos.

Referred to:

- 6 Committee on Judiciary
- 7 Committee on Agriculture
- 8 Jointly to the Committee on International Affairs and the Committee on Economic Development & Business Concerns, then to the Committee on Judiciary
- 9 Committee on Health, then to the Committee on Legislative Management
- 10 Committee on Health
- 11 Committee on Human Services & Housing, then to the Committee on Legislative Management
- 12 Jointly to the Committee on Tourism & Culture and the Committee on Water, Land, Ocean Resources & Hawaiian Affairs, then to the Committee on Consumer Protection & Commerce
- 13 Committee on Human Services & Housing
- 14 Committee on Consumer Protection & Commerce, then to the Committee on Higher Education

H.C.R.
Nos.

Referred to:

- 3 Committee on Consumer Protection & Commerce, then to the Committee on Legislative Management
- 4 Committee on Consumer Protection & Commerce, then to the Committee on Legislative Management

- 5 Committee on Judiciary
- 6 Committee on Agriculture
- 7 Jointly to the Committee on International Affairs and the Committee on Economic Development & Business Concerns, then to the Committee on Judiciary
- 8 Committee on Health, then to the Committee on Legislative Management
- 9 Committee on Health
- 10 Committee on Health, then to the Committee on Judiciary
- 11 Committee on Human Services & Housing, then to the Committee on Legislative Management
- 12 Committee on Public Safety & Military Affairs
- 13 Committee on Education, then to the Committee on Finance
- 14 Committee on Health, then to the Committee on Education
- 15 Committee on Judiciary, then to the Committee on Finance
- 16 Committee on Human Services & Housing, then to the Committee on Judiciary, then to the Committee on Finance
- 17 Committee on Judiciary, then to the Committee on Finance
- 18 Committee on Judiciary, then to the Committee on Finance
- 19 Committee on Judiciary, then to the Committee on Finance
- 20 Committee on Human Services & Housing, then to the Committee on Judiciary, then to the Committee on Finance
- 21 Committee on Judiciary, then to the Committee on Finance
- 22 Committee on Human Services & Housing, then to the Committee on Judiciary, then to the Committee on Finance
- 23 Jointly to the Committee on Tourism & Culture and the Committee on Water, Land, Ocean Resources & Hawaiian Affairs, then to the Committee on Consumer Protection & Commerce
- 24 Committee on Energy & Environmental Protection
- 25 Jointly to the Committee on Human Services & Housing and the Committee on Health
- 26 Committee on Consumer Protection & Commerce, then to the Committee on Higher Education
- 27 Jointly to the Committee on Human Services & Housing and the Committee on Health
- 28 Committee on Transportation

COMMITTEE REASSIGNMENTS

The following bills were re-referred to committee by the Speaker:

<u>H.B. Nos.</u>	<u>Re-referred to:</u>
300	Jointly to the Committee on Public Safety & Military Affairs and the Committee on Health, then to the Committee on Judiciary, then to the Committee on Finance
1052	Committee on Transportation, then to the Committee on Judiciary, then to the Committee on Finance
1110	Committee on Energy & Environmental Protection, then to the Committee on Consumer Protection & Commerce, then to the Committee on Finance
1169	Jointly to the Committee on Tourism & Culture and the Committee on Water, Land, then to the Ocean Resources & Hawaiian Affairs, then to the Committee on Judiciary, then to the Committee on Finance
1437	Committee on Energy & Environmental Protection, then to the Committee on Finance
1635	Committee on Judiciary, then to the Committee on Finance
1650	Committee on Transportation, then to the Committee on Energy & Environmental Protection, then to the Committee on Judiciary, then to the Committee on Finance

At 12:07 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:07 o'clock p.m.

STANDING COMMITTEE REPORTS

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 3) recommending that H.B. No. 430, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 430, entitled: "A BILL FOR AN ACT RELATING TO PAYDAY LENDING," passed Second Reading and was referred to the Committee on Judiciary with Representatives Awana, Berg and Souki being excused.

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 4) recommending that H.B. No. 483, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 483, entitled: "A BILL FOR AN ACT RELATING TO CHECK CASHING," passed Second Reading and was referred to the Committee on Judiciary with Representatives Awana, Berg and Souki being excused.

Representative Evans, for the Committee on Public Safety & Military Affairs presented a report (Stand. Com. Rep. No. 5) recommending that H.B. No. 195, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 195, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO THE HAWAII CIVIL AIR PATROL," passed Second Reading and was referred to the Committee on Finance with Representatives Awana, Berg and Souki being excused.

Representative Evans, for the Committee on Public Safety & Military Affairs presented a report (Stand. Com. Rep. No. 6) recommending that H.B. No. 301, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 301, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENTS PERTAINING TO THE CIVIL AIR PATROL," passed Second Reading and was referred to the Committee on Finance with Representatives Awana, Berg and Souki being excused.

Representative Sonson, for the Committee on Labor & Public Employment presented a report (Stand. Com. Rep. No. 7) recommending that H.B. No. 34, pass Second Reading and be referred to the Committee on International Affairs.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 34, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Second Reading and was referred to the Committee on International Affairs with Representatives Awana, Berg and Souki being excused.

Representative Evans, for the Committee on Public Safety & Military Affairs presented a report (Stand. Com. Rep. No. 8) recommending that H.B. No. 2, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Second Reading and was referred to the Committee on Finance with Representatives Awana, Berg and Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 9) recommending that S.B. No. 638, SD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 638, SD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative B. Oshiro.

Representative Takai rose to speak in support of the measure with reservations, stating:

"Thank you, Mr. Speaker. On S.B. 638, SD 1, I rise to speak with reservations. This bill provides \$11.6 million for the operations of the House through 2007 until June 30th, 2008. The proposed \$11.6 million budget is an 11.9% increase of \$1.2 million from last year's budget. Last year's budget was \$10.4 million.

"This 11.9% increase in this year's budget is on top of an increase of 18.8% for last year's budget, and an additional 16.3% increase in 2005. If this budget bill passes, Mr. Speaker, the budget for the operations of the House will have increased a mind-numbing 54.7%, 54.7% in three years. That's \$7.5 million in 2004, to \$11.6 million in 2007.

"But it's not only the budget figures that I'm concerned about. I'm even more concerned about the carryover balances that we concealed over the past three years.

"Unlike other State departments, whatever is left over after December 31st of this year can be carried over to 2008 and spent until June 30th. In a sense, our budgets, Mr. Speaker, are for 16 months.

"This is a very important fact in today's discussion because there is a significant overlap of almost half a year for our budget cycle. And we had more than \$4.4 million left over on December 31st, 2006 in the 2006 budget.

"In fact, the budget reserves have increased significantly over the past three years. In 2004, we had \$2.4 million left over. In 2005, we had an extra \$3.3 million left over. And in 2006, as I mentioned, we had \$4.4 million left over at the end of last year.

"Some will argue, and I agree, that a reasonable amount of money is needed to carry the House through the first two months of each calendar year. But \$4.4 million is a bit excessive. In fact, what is needed is approximately \$2 million. So, even without the proposed increases in this bill before us, we have \$2.4 million too much.

"Here's another perspective, Mr. Speaker. We had a carryover balance of \$3 million on December 31st, 2005. We spent \$5.9 million in 2006 for the 2006 budget. Taken together, the House spent \$8.9 million in total for 2006 – \$8.9 million in total, Mr. Speaker in 2006. But our budget was \$10.4 million. We had an extra \$1.4 million left to spend. Did we return this money to the State general fund? No. This extra \$1.4 million goes into our budget reserves and will be the first money we use this year.

"When we all do our family's budgets, we usually use the previous year's expenditures as a guide. The handout from our House leadership creates a 2007 budget from the 2006 budget, not from the actual expenditures. Again, we actually spent \$8.9 million for 2006. The proposed 2007 budget in this bill before us is \$2.7 million more than we actually spent for the entire 2006.

"In other words, the budget proposed today is more than 30% over the expenditures from 2006. So while Mr. Speaker, our budget has increased by 54.4% over the last three years, our budget reserves have increased as well from \$2.4 million extra in 2004, to \$4.4 million at the end of last year.

"Taken another way, our budget reserves went from 32% of our total budget in 2004, to 34% of our total budget in 2005, to 42.9% of our total budget in 2006.

"Some people are heavily critical of a particular local company for keeping what some call, excessive reserves. I believe a 42.9% budget reserve of the House is overly excessive.

"I'm not saying that all of the proposed budget items in this year's budget are not justified. In fact, I do agree with almost all the proposed uses for the \$1.2 million.

"However, I believe that we should first utilize the budget reserves before we increase our bottom line. With homelessness as our top issue this year, I believe that the \$1.2 million could be better spent by providing ..."

Representative Manahan rose to yield his time, and the Chair, "so ordered."

Representative Takai continued, stating:

"Thank you, Mr. Speaker. Again, with homelessness as our top priority this year, I believe that the \$1.2 million additional funds could be better spent by providing, let's say, housing for 200 families for one whole year.

"We are asked to be good stewards of our limited resources, our limited and precious resources, Mr. Speaker. This budget request, from my perspective is irresponsible. It represents everything that we don't want to be.

"I urge my colleagues to study the numbers. I urge my colleagues to understand the details of this budget, and I reserve my final vote to Third Reading. Thank you, Mr. Speaker."

Representative Pine rose to speak in support of the measure with reservations, stating:

"Yes, Mr. Speaker. I am also speaking with reservation. The previous Representative spoke about the details of the budget, and unfortunately, the details that were given out in Finance the other day, I guess for my personal checkbook that I do at home, it wasn't enough details for me. So hopefully we'll get the rest of the details soon."

Representative Ward rose to speak in support of the measure with reservations, stating:

"I also rise in reservation. Yesterday I was a member of the Finance Committee who voted like he had never voted before. I voted 'aye, 95 percent'. I left five percent because I had so quickly received the information, and we really appreciate you showing with the Clerk and with the Sergeant-at-Arms actually coming to the Finance Committee. That was a great gesture. But it was too quick to digest all the information.

"So, on reflection, as I was jogging last night, I thought about that five percent. And as I re-looked at the numbers, Mr. Speaker, I'm not sure that my office in 318 needs new curtains, or needs a new rug, or maybe needs repairs. I've got a lot of chips on the wall that may need some touch up paint for maybe \$2. But the other things in the budget which I'm not sure in terms of the surpluses. Because my number indicated we have a 40% increase. Actually, not even 30%, if we have the padding.

"So my point is I think we need to look at the budget, we need to be fiscally wise, but we also know planning ahead for all the things that we have in other areas are of extreme importance. So, with that, Mr. Speaker, I am now 90% sure, but not 95% sure. Thank you."

Representative Meyer rose to speak in support of the measure with reservations, stating:

"Thank you, Mr. Speaker. I, too, would like to thank you for coming to the Finance Committee to explain some of the reasons that we needed this increase, although I didn't agree totally with you. I voted with reservations in the Finance Committee, and I will vote with reservations today, and take another look at the details before Final Reading.

"Yesterday, I got the statement for appropriations and expenditures for December, which I had been waiting for. And while I had estimated we might be left with \$4 million, we actually are left with \$4,474,000 out of a \$10 million budget. That's about 40% to round it off.

"So that is a lot of money and I asked the Clerk, when she spoke about having to return the money to the general fund at the end of the fiscal period, which should be June 30th, I wanted to get an idea of how much money actually went back into the general fund, and she estimated somewhere between \$30,000 and \$50,000.

"But, you know, I think it's a little bit of 'voodoo' bookkeeping because as the Representative from Pearl City said, we're using that balance that's left as the first money we spend. So we have like one-and-a-half times our budget to work with, and we can use that money up, and apparently we've done a pretty good job of doing that if we can whittle it down to \$30,000.

"So, I think if we have that kind of money, we have room to ask for not quite as much of an increase in this budget. Thank you, Mr. Speaker."

Representative Souki rose to speak in support of the measure, stating:

"Mr. Speaker and Members, I wish to speak in favor of the budget.

"First of all, I want to thank the leadership for providing increases for our Office Managers, a well-deserved increase.

"I want to advise the Members here that we are discussing the prevailing minimum wage right now. In fact, we had a discussion at the Labor Committee. The minimum wage for Hawaii, the prevailing wage is around \$50,000. Ninety percent of our staff is making way below that, so, we ourselves, are guilty of not providing a prevailing wage. And so I say, this a gradual increase and well deserved and they need to be continual increases for our staff so that they will be competitive and can support themselves with a living wage. Again, Mr. Speaker, thank you very much."

Representative Belatti rose to speak in support of the measure with reservations, stating:

"Thank you, Mr. Speaker. I would also like to stand with reservations. May I have the comments of the Representative from Pearl City entered as my own comments?" and the Chair "so ordered."

Representative Belatti continued, stating:

"I would also like to add, Mr. Speaker that this should not be a debate about raising the wages of our very much, hard working staff members, because my understanding is with the budget reserves that we do have in place, we still can confer upon them the four to five percent increase that was spoken about in the Finance Committee meeting. And, so, I would like to note that I don't think that it's, if we don't agree with the full \$1.2 million increase, we are not going to be also conferring salary increases to our staff members. Thank you."

The Chair then stated:

"Thank you, very much. We've had a lot of discussion. Tomorrow will be Third Readings and you will have the opportunity once more to debate this particular issue."

Representative Ching rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Marcus Oshiro rose to speak in support of the measure, stating:

"Mr. Speaker, I rise in strong support. I'll keep my comments brief because I will save some of my remarks for Third Reading. I just wanted to make sure the Members understood what this budget does.

"This particular bill before you contains the appropriations, not only for the Legislative Branch, Mr. Speaker, but also the Auditor, the Ombudsman, the Legislative Reference Bureau, and the Ethics Commission. That's also contained within this bill.

"The second point that needs to be made, Mr. Speaker, and this is to clarify some of the misstatements that have been made in one of the daily newspapers here, that this is nothing near to any kind of 42% or 51% increase. In fact, if I look at the numbers, black and white, plain as day before me, the \$2.7 million increase is only a 14.2% increase. So, it is no way near a 51% or 42% increase.

"Of the \$2.7 million, Mr. Speaker, it goes to provide, and I'll break it down for you further: personnel cost, per diem cost, travel cost, communications cost, equipment cost, other miscellaneous cost.

"A lot of this goes to support our staff, provide meaningful wages for them. It also provides us the ability to communicate with our constituents, various town meetings, correspondence and mailings. It also allows us to have a broadcast like this live on *O'lelo* and Capitol TV.

"In fact, Mr. Speaker, it is my understanding that part of this budget appropriation would possibly enable us to have two or more cameras set up in our public hearing rooms. In fact one more camera on this very Chamber floor, so that the Members across the way, the Minority Caucus, will also be able to appear on television.

"Mr. Speaker, these budgets that we're working on today, just for the records, so everyone understands and puts things in perspective, have not grown since 1996, 1998, 1999, 2000, 2002, 2003, and 2004. And to also put it into context, Mr. Speaker, in the last four years of the current Governor's term, the Executive budget grew by 51%, and over that same period of time, we've grown about 30%. I will save the rest of my remarks for tomorrow, Mr. Speaker. Thank you."

Representative Cabanilla rose to speak in support of the measure, stating:

"I just feel, Mr. Speaker, that we are living in a democracy and ... I'm in support, Mr. Speaker. I'm sorry. I'm supporting the measure. I just would like to say that we are living in a democratic world and we, in this Chamber, should exercise the same democracy.

"For those of my colleagues that do not wish that their staff receive a raise, they may do so at their own will. They can withhold the raise for their staff. But, for us, who are willing to give raises to our staff, we should be allowed to do so. There's nothing stifling any Member in this Legislature to not give increase to their staff. They can do that. But for me, I would like to be able to give that to my staff. Thank you, Mr. Speaker."

Representative Pine rose to respond, stating:

"Just a rebuttal, Mr. Speaker. I'm sorry. I just want to state for the records, to my Office Manager, I'd love for you to have a raise. If we could just keep that in the budget, and everything else out, I think we'll all be fine. Thanks."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 638, SD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS TO PROVIDE FOR THE EXPENSES OF THE LEGISLATURE, THE AUDITOR, THE LEGISLATIVE REFERENCE BUREAU, AND THE OMBUDSMAN," passed Second Reading and was placed on the calendar for Third Reading, with Representative Berg being excused.

INTRODUCTION OF RESOLUTIONS

The following resolutions (H.R. Nos. 17 and 18) were read by the Clerk and disposed of as follows:

H.R. No. 17, entitled: "HOUSE RESOLUTION ADOPTING THE RULES OF THE HOUSE OF REPRESENTATIVES OF THE TWENTY-FOURTH LEGISLATURE," was jointly offered by Representatives Caldwell and Finnegan.

On motion by Representative Caldwell, seconded by Representative Finnegan and carried, H.R. No. 17 was adopted with Representative Berg being excused.

H.R. No. 18, entitled: "HOUSE RESOLUTION ADOPTING THE HOUSE ADMINISTRATIVE AND FINANCIAL MANUAL OF

THE HOUSE OF REPRESENTATIVES OF THE TWENTY-FOURTH LEGISLATURE," was jointly offered by Representatives Caldwell and Finnegan.

On motion by Representative Caldwell, seconded by Representative Finnegan and carried, H.R. No. 18 was adopted with Representative Berg being excused.

ANNOUNCEMENTS

Representative Bertram announced that the Committee on Higher Education, and the Committee on Water, Land, Ocean Resources and Hawaiian Affairs will be conducting public hearing today at 2:00 p.m. in Conference Room 309.

Representative B. Oshiro announced that the Committee on Judiciary will be conducting a public hearing today at 2:00 p.m. in Conference Room 325.

Representative Nishimoto, for the Committee on Transportation requested a waiver of the 48-hour advance notification to hear H.B. No. 356, tomorrow, Wednesday, January 31 at 10:00 a.m. in Conference Room 309, and the Chair "so ordered."

Representative Nishimoto: "H.B. No. 356 has to do with child endangerment. If you would like further details I will refer you to Representative Lee. Thank you."

Representative Manahan announced that the Senate Committee on Tourism and Government Operations and the Senate Committee on Transportation and International Affairs, along with the House Committee on Tourism and Culture and House Committee on Transportation will be holding an informational briefing today at 2:15 in Conference Room 229. The purpose of the informational briefing is to receive testimonies from several entities in the Hawaii cruise line and time share industries regarding the impact on the State economy.

Representative Manahan also announced that the Committee on Tourism and Culture will be conducting a public hearing tomorrow, Wednesday, January 31 at 8:30 a.m. in Conference 325 to hear six bills.

Representative Tokioka announced that the House Committee on Transportation and the Senate Committee on Transportation and International Affairs will be holding an informational briefing on Wednesday, January 31 at 8:30 a.m. in Conference Room 309.

Representative Chong announced that the Committee on Water Land, Ocean Resources and Hawaiian Affairs will be conducting a public hearing tomorrow, January 31 at 9:00 a.m. in Conference Room 312.

Representative Cabanilla: "I just have a question in my mind. Mr. Speaker, is it a policy now in the House that if you have a Committee hearing the following day or the day after, that we make an announcement on the floor?"

Speaker Say: "Yes. It is the policy that the Chair has decided to do so that members of the respective Committees know that they are to attend the public hearings for their respective Committees."

Representative Cabanilla: "In that case, Mr. Speaker, it's my privilege to inform everyone that there will be a Committee hearing ..."

Speaker Say: "Representative Tokioka already made the announcement on that for you.

"I'm requesting all the Vice Chairs of their respective Committees to make the announcements of these public hearings so that Members of this Chamber are aware of the hearings being conducted in the

afternoons and the following day, so that we can a hundred percent attendance at these public hearings."

Representative Tokioka: "Mr. Speaker. Just a matter of clarification. There are three meetings for the Committee on International Affairs. One is a joint committee meeting. Also, tomorrow at 8:35 a.m. in Conference Room 329, the Committee on International Affairs will be discussing three items with decision making to follow. And at 9:00 a.m. in Conference Room 329, the Committee on International Affairs, we will be discussing two matters, with decision making to follow. Thank you very much, Mr. Speaker."

Speaker Say: "From 8:35 all the way up to 11:35 or 11:45, the International Affairs Committee will have their hearings."

ADJOURNMENT

At 12:31 o'clock p.m. on motion by Representative B. Oshiro, seconded by Representative Meyer and carried, the House of Representatives adjourned until 12:00 o'clock noon tomorrow, Wednesday, January 31, 2007. (Representatives Berg and Ito were excused.)