

TENTH DAY

Thursday, January 31, 2008

The House of Representatives of the Twenty-Fourth Legislature of the State of Hawaii, Regular Session of 2008, convened at 12:08 o'clock p.m., with Vice Speaker Chong presiding.

The invocation was delivered by Sister William Marie Eleniki, from the Order of Saint Francis, after which the Roll was called showing all members present with the exception of Representatives Berg, Meyer, Nakasone, Souki and Takamine, who were excused.

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

GOVERNOR'S MESSAGE

The following message from the Governor (Gov. Msg. No. 245) was received and announced by the Clerk and was placed on file:

Gov. Msg. No. 245, dated January 25, 2008, transmitting the Department of Agriculture's Transfer Fund Monies Annual Report for calendar year ending December 31, 2007.

INTRODUCTIONS

The following introductions were made to the members of the House:

Representative Magaoay introduced his legislative staff: Office Manager, Mr. Larry Sagaysay accompanied by Ms. Judy Fomin and Ms. Tracy Walker.

Representative Luke introduced members of the Hawaii Dental Hygienists Association: President Miki Agoy, and Ms. Kim Schneider.

ORDER OF THE DAY

COMMITTEE REASSIGNMENTS

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

<u>H.B. Nos.</u>	<u>Re-referred to:</u>
94, HD1	Committee on Consumer Protection & Commerce, then to the Committee on Finance
96, HD1	Committee on Consumer Protection & Commerce, then to the Committee on Transportation, then to the Committee on Judiciary
2138	Jointly to the Committee on Health and the Committee on Human Services & Housing
2250	Committee on Transportation, then to the Committee on Finance
2854	Committee on Transportation, then to the Committee on Judiciary
2872	Committee on Finance
2873	Committee on Finance
2874	Committee on Finance

2919 Committee on Energy & Environmental Protection, then jointly to the Committee on Transportation and the Committee on Tourism & Culture

STANDING COMMITTEE REPORTS

Representative Morita, for the Committee on Energy & Environmental Protection presented a report (Stand. Com. Rep. No. 26-08) recommending that H.B. No. 2003, 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. 2003, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII ENERGY POLICY FORUM," passed Second Reading and was referred to the Committee on Finance, with Representative Berg being excused.

Representative Morita, for the Committee on Energy & Environmental Protection presented a report (Stand. Com. Rep. No. 27-08) recommending that H.B. No. 2005, 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. 2005, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY TECHNOLOGIES," passed Second Reading and was referred to the Committee on Finance, with Representative Berg being excused.

Representative Green, for the Committee on Health presented a report (Stand. Com. Rep. No. 28-08) recommending that H.B. No. 2151, as amended in HD 1, pass Second Reading and be referred jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary.

Representative Caldwell moved that the report of the Committee be adopted, and that H.B. No. 2151, HD 1, pass Second Reading and be referred jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary, seconded by Representative B. Oshiro.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2151, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAPTIVE INSURANCE," passed Second Reading and was referred jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary, with Representative Berg being excused.

Representative Green, for the Committee on Health presented a report (Stand. Com. Rep. No. 29-08) recommending that H.B. No. 1992, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

Representative Caldwell moved that the report of the Committee be adopted, and that H.B. No. 1992, HD 1, pass Second Reading and be referred to the Committee on Consumer Protection & Commerce, seconded by Representative B. Oshiro.

Representative Rhoads rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative B. Oshiro rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Saiki rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Nishimoto rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Shimabukuro rose and asked that the Clerk record a no vote for her, and the Chair "so ordered."

Representative Sonson rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

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

"Mr. Speaker, I stand in strong support of this measure, Standing Committee Report No. 29-08. We have a medical crisis in our State. We're losing our doctors. The medical cost is so high and it's all related to high costs of medical tort insurance for our medical practitioners. I think this is a step toward the right direction because we need to implement a measure to encourage doctors to stay or move to Hawaii.

"It may not be a perfect bill that will address everybody's needs here as you probably know with my colleagues standing and voting no on it. But with respect to the benefit of all the people concerned, of all the citizens of Hawaii and all the ones who are consumers of healthcare, we need to implement something that would decrease the cost of medical coverage, as well as for us to have medical providers. But it's a necessity in a civilized state, such as ours. Thank you."

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

"Mr. Speaker, on Stand. Com. Rep. No. 29-08, in strong support."

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

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

"Mr. Speaker, I rise in support of the bill, and very simply to say that we have to do something to help keep our doctors here in Hawaii. And if we don't pass tort reform, we should certainly raise the reimbursement for Medicaid care significantly so that our doctors are able to not lose money when they treat our patients. Thank you, very much."

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

"Thank you Mr. Speaker, in strong support and may I ask that the words of the Representative of Kahala be entered as my own."

Representative Sonson rose, stating:

"Thank you very much, in strong support. We love our doctors; we want our doctors to stay. This measure will not do that. What we have to do is to make sure that they are paid well, so that we take care of their worries, so that they can live, even in the rural areas where they're mostly needed, in the same kind of lifestyle that they deserve.

"Most of the doctors will congregate where they can make the most money. There are ads in the paper that say, \$300,000. All premiums paid for malpractice insurance. We'll provide you with a house. You think that the doctor who can do much better in the city where there's a lot of work will go there? No. Although the doctors do care for their patients and they do care about people that need their valued work out there, they will not do so unless we give them other incentives.

"We love the doctors, we want them to stay in St. Francis, those doctors in St. Francis need our help. And this is not the kind of help

that we should offer them and dangle in front of them, and say that this is the reason why you are leaving. The real reason that they are leaving is because they're not getting paid what they are worth. And that's where we should focus. We've passed measures already that will increase the kind of reimbursement that they have at least in the workers' comp arena, which also takes care of doctors that are taking care of claimants in the no-fault arena.

"So that's where we have to go. Let's not put something in this body year after year after year which is very divisive and I think that the more we do this, the more energy we spend on measures such as this, where the problem really does not lie, the less energy we have to devote on finding ways to pay them, to pay the doctors, to make sure that they can live in the kind of lifestyle that they deserve. Thank you, very much."

At 12:17 o'clock p.m., Representative B. Oshiro requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:18 o'clock p.m.

Representative Sonson rose, stating:

"Thank you very much Speaker. I just want to make sure that those who are listening understand that I support the doctors. I do not support this measure. It will not help the doctors. Thank you, very much."

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

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

"I rise in support. Mr. Speaker, I would contend that we're not really listening to the doctors. They may be listening to us that we're giving them something, but I think it was Rodney Dangerfield who said, 'I don't get no respect.'

"The sense in the medical community is that we are not paying attention to them, we have not given them anything. If anything, we have brought about the controversy by getting their expectations up that we would give them a gesture that would give them some relief, but we've given them nothing. And this is basically a crumb in and of itself; that doctors need to know that there's a political will, that this body wants them to stay in Hawaii. And if we don't do this, we better do another one because that exodus is going to hurt every one of our constituencies, and every one of the children that we have, and everybody who has a disease, a sickness and an ailment who is not going to get it.

"So let's do something. If you don't want to do this one, that's fine, but we better do something."

The Chair then addressed Representative Ward, stating:

"Representative Ward, would you like to address the Chair?"

Representative Ward continued, stating:

"I will not emulate the gentleman. I will address the Chair. I was so taken by his speech as you can see, that he's recalled some of the things that I forgot that he forgot to say.

"So with that Mr. Speaker, we must listen to the doctors. We must do something, because this is a crisis. Not having doctors is like not having food. And with that, I think if we open our ears, our hearts, our minds, and in this case a little bit of a gesture to their pocketbooks, they will listen and they will stay. Thank you."

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

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

"Thank you, Mr. Speaker. I'll be very brief, and this is in support. This is the tort reform bill, and just so people know what's in it, it does have caps on economic damages, but it also provides a clause of a \$3 million exception for catastrophic, disastrous outcomes like we heard described in hearing after hearing. I would though agree that this is a divisive issue. I recognize that there are many issues of course that are going to come up from the Health Committee that were mentioned earlier just here a moment ago about reimbursements and so on and so forth. Tort Reform is a piece of the puzzle. This may not be the approach that people choose. That's fine; there are a couple bills. One includes subsidies for medical malpractice costs.

"I don't have all the answers. I do know though that the good points that were made earlier about reimbursement, which would be coming to the Floor. We have bills, and I'll be very brief on this matter. We have bills that will be heard on the 6th that will require 135 percent of Medicare being reimbursed by HMSA and other insurers. By helping the healthcare system to stay afloat, by paying for HHSC hospitals and their shortfalls, by increasing reimbursements, will go a long way. I think if we take up each of these issues, some may die, some must pass if we're going to solve this problem.

"So please be aware that we have the reimbursement issue being taken care of, the tort reform issue has been considered and we will finally look at scholarships for the rural areas like Chair Sonson is recommending. But thank you for indulging me because I do recognize it's divisive, and I don't know that the answer is definitive, but if we do one or two of these things we're going to help ourselves. Thank you, Mr. Speaker."

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

"Yes, I rise with support, but with some minor reservations. And that is I just want to make sure for the next Committee, just to highlight, please look at the definition of medical tort. A lot of times it's in the details. I just want to make sure that we don't limit or get too expansive or whatever. So I'm looking forward to the next Committee. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1992, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL LIABILITY," passed Second Reading and was referred to the Committee on Consumer Protection & Commerce with Representatives Nishimoto, B. Oshiro, Rhoads, Saiki, Shimabukuro and Sonson voting no, and with Representative Berg being excused.

Representative Cabanilla, for the Committee on International Affairs presented a report (Stand. Com. Rep. No. 30-08) recommending that H.B. No. 2624, as amended in HD 1, pass Second Reading and be referred to the Committee on Economic Development & Business Concerns.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2624, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INTERNATIONAL LEARNING MISSIONS," passed Second Reading and was referred to the Committee on Economic Development & Business Concerns, with Representative Berg being excused.

Representative Cabanilla, for the Committee on International Affairs presented a report (Stand. Com. Rep. No. 31-08) recommending that H.B. No. 2032, pass Second Reading and be referred to the Committee on Labor & Public Employment.

Representative Caldwell moved that the report of the Committee be adopted, and that H.B. No. 2032, pass Second Reading and be referred to the Committee on Labor & Public Employment, seconded by Representative B. Oshiro.

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

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

"Mr. Speaker, I stand similarly with reservations, except with extreme reservations due to some inaccuracies and unfortunately painting the good country of Uganda in a way that I think, with a little bit of discussion and some written comments, and some discussion with the author, will probably resolve this. Extreme reservations with comments. Thank you."

Representative Ward's written remarks are as follows:

"I rise with extreme reservations.

"Page 1, line 6, claims that the Lord's Resistance Army is supported by the government of Uganda. However, this is not the case. Instead, the Lord's Resistance Army has received both official and unofficial support from the government of Sudan in the past, including the allowance of bases in southern Sudan.

"While Sudan is one of five countries listed by the U.S. State Department as a State Sponsor of Terrorism (along with Cuba, North Korea, Syria and Iran), Uganda remains off the list. In fact, a 2007 report by the State Department says, 'the Ugandans have proved willing to locate, capture and hold terror suspects. The Government of Uganda was actively involved in regional counterterrorism efforts, conferences and workshops, and had a strong regional voice in opposing international terrorism and supporting U.S. counterterrorism initiatives.'

"Page 1, lines 15-16 claim that the Lord's Resistance Army has been designated as Foreign Terrorist Organizations by the Immigration and Nationality Act. However, it is actually designated on the Terrorist Exclusion List by the USA PATRIOT Act of 2001. There are significant differences between the two designations, the former being a threat to U.S. national security, while the latter are prevented from immigrating to the U.S.

"Page 4, line 12, page 5, lines 1-2 imply that the United States Government has declared genocide in Uganda. However, this is not the case. There has been no declaration by Congress or the State Department, declaring genocide in Uganda.

"We should not malign the attempts of a developing country like Uganda as being a rogue nation this resolution suggests."

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

Representative Sonson rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2032, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Second Reading and was referred to the Committee on Labor & Public Employment with Representative Sonson voting no, and with Representative Berg being excused.

Representative Takumi, for the Committee on Education presented a report (Stand. Com. Rep. No. 32-08) recommending that H.B. No. 2369, 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. 2369, entitled: "A BILL FOR AN ACT RELATING TO THE AFTER-SCHOOL PLUS PROGRAM REVOLVING FUND," passed Second Reading and was referred to the Committee on Finance, with Representative Berg being excused.

Representative Morita, for the Committee on Energy & Environmental Protection presented a report (Stand. Com. Rep. No. 33-08) recommending that H.B. No. 2508, pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

Representative Caldwell moved that the report of the Committee be adopted, and that H.B. No. 2508, pass Second Reading and be referred to the Committee on Consumer Protection & Commerce, seconded by Representative B. Oshiro.

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

"Mr. Speaker, I'm rising on Stand. Com. Report 33-08 which is relating to the Deposit Beverage Container Program. I'm in support with strong reservations. This is going to make large stores, I guess like Costco, and it talks about the square footage, that they would have to take the beverage containers back.

"I think the time is here to re-evaluate the whole beverage container program. The City and County of Honolulu is now moving toward curbside pick-up. It will be a bigger pick up and certainly a lot easier for people to recycle than now when they have to go to these different recycling places which close early, they won't take glass today, they've changed their hours. It's a very frustrating procedure and I can see why people would rather take them back to the stores. I don't think the situation with the stores has changed since what it was when we first were looking at this bill. They are into not keeping stock. They have like one or two days of inventory. They don't have a lot of extra space.

"The problem with them taking back the bottles is a sanitation problem, a security problem, and the only thing that you can know certainly is that the price of all food will go up if they are forced to do this. Thank you, very much."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2508, entitled: "A BILL FOR AN ACT RELATING TO THE DEPOSIT BEVERAGE CONTAINER PROGRAM," passed Second Reading and was referred to the Committee on Consumer Protection & Commerce, with Representative Berg being excused.

Representative Morita, for the Committee on Energy & Environmental Protection presented a report (Stand. Com. Rep. No. 34-08) recommending that H.B. No. 3151, 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. 3151, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRONIC PERMITTING FEES," passed Second Reading and was referred to the Committee on Finance, with Representative Berg being excused.

Representatives Herkes and Waters, for the Committee on Consumer Protection & Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 35-08) recommending that H.B. No. 2145, 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 Committees was adopted and H.B. No. 2145, HD 1, entitled: "A BILL FOR AN ACT RELATING TO UNCLAIMED PROPERTY," passed Second Reading and was referred to the Committee on Finance, with Representative Berg being excused.

ANNOUNCEMENTS

Representative Lee: "Yes, if we could turn to page E under the Committees on Health and Human Services & Housing agenda. On House Bill 2520 the referral is listed incorrectly. The bill was referred and if that could be corrected to Health, Human Services, Labor, and Finance as it was announced on the re-referral sheet two days ago."

Representative Green: "Thank you, Mr. Speaker. With your indulgence, first an apology. The Health Committee would like to ask for a waiver of the 48-hour notice for the following reason. We would like to add four bills on for tomorrow's agenda.

"The first bill is House Bill 2438 Relating to Cigarettes, permitting the sale of cigarettes and why they're not reducing ignition propensity fire safe. We already heard this measure. There is a technical reason for us to hear it again. It's a triple referral and we just needed the time. The Committee was in support with amendments.

"The others are three short form bills and I did take this up with Minority Leader as well. Three short form bills. One is to deal with hospitals being able to expedite insurance authorization for Medicaid patients so that they can get reimbursed. The other very similarly affects people's ability to get insurance if they don't have it so they can be in long-term care. And the final measure, because of the discussion of Cyrus Belt that's been going on, the Health and Human Services Committees are hoping to take up a measure that will consider improvements in the system in order to provide more safety for children.

"So we look forward to having that active in this Session in Committee so we can all take up the measures. With your indulgence we'd like to hear those four bills. The short form bill numbers are H.B. Nos. 2169, 2170 and 2171. Thank you," and the Chair "so ordered."

Representative Morita: "Thank you, Mr. Speaker. The Committees on Energy & Environmental Protection, and Water, Land, Ocean Resources & Hawaiian Affairs will continue its hearing at 2:30 in Room 314."

ADJOURNMENT

At 12:29 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, Friday, February 1, 2008. (Representatives Berg and Sonson were excused.)