

JOURNAL
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SENATE OF THE
TWENTY - FOURTH LEGISLATURE
of the
STATE OF HAWAII

Third Special Session of 2008

Convened Monday, November 17, 2008
Adjourned Tuesday, November 18, 2008

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THE
 TWENTY-FOURTH LEGISLATURE
 STATE OF HAWAII
 THIRD SPECIAL SESSION OF 2008
 JOURNAL OF THE SENATE

FIRST DAY

Monday, November 17, 2008

The Senate of the Twenty-Fourth Legislature of the State of Hawai'i, Third Special Session of 2008, was called to order at 10:03 a.m., by Senator Colleen Hanabusa, President of the Senate, in accordance with the following Proclamation:

"November 17, 2008

PROCLAMATION

I, Colleen Hanabusa, President of the Senate of the Twenty-Fourth Legislature of the State of Hawai'i, pursuant to the power vested in me by Section 10, Article III of the Constitution of the State of Hawai'i, and at the written request of two-thirds of the members to which the Senate is entitled, do hereby convene the Senate in Special Session for the purpose of carrying out its responsibility established by Section 3, Article VI of the Constitution of the State of Hawai'i for a period of two (2) days commencing on Monday, November 17, 2008, at 10:00 o'clock a.m.

/s/ Colleen Hanabusa
 Colleen Hanabusa
 President of the Senate,"

was read by the Clerk and was placed on file.

The Divine Blessing was invoked by Mr. Mark Mararagan, Office of the Honorable Gary L. Hooser, Hawai'i State Senate, after which the Roll was called showing all Senators present with the exception of Senators Gabbard and Hooser who were excused.

At this time, the President made the following announcement:

"Members, we are convened as the Twenty-Fourth Legislature even though we have new members joining our body whose term began on Tuesday, November 4, 2008. Therefore, if there are no objections from the members, we will conduct the proceedings for this Third Special Session of the Twenty-Fourth Legislature in accordance with the Rules of the Senate adopted on October 24, 2007."

JUDICIARY COMMUNICATION

Jud. Com. No. 1, submitting for consideration and consent, the nomination of MELVIN H. FUJINO to the office of Judge, District Family Court of the Third Circuit, in accordance with the provisions of Article VI, Section 3, of the Hawai'i State Constitution, for a term of six years, was read by the Clerk and was referred to the Committee on Judiciary and Labor.

SENATE RESOLUTION

The following resolution (S.R. No. 1) was read by the Clerk and was disposed of as follows:

Senate Resolution

S.R. No. 1 "SENATE RESOLUTION RELATING TO THE ADMINISTRATION OF THE OATH OF OFFICE TO SENATORS DULY ELECTED BY THE 2008 PRIMARY ELECTION OR THE 2008 GENERAL ELECTION OF THE STATE OF HAWAII."

Offered by: Senator Kim.

At this time, the President made the following announcement:

"Members, pursuant to Article III, section 4 of the Hawai'i State Constitution, twelve members of this body were duly elected at the Primary Election on September 20, 2008 or the General Election on November 4, 2008.

"In order for these newly elected members present today to perform their duties during this special session of the Senate, the Chief Justice of the Supreme Court of the State of Hawai'i has administered the oath of office to each newly elected member present prior to the convening of today's session.

"We have been advised that the administration of these oaths should be formally recognized by the Senate and reflected in the Senate Journal for this special session."

On motion by Senator Ige, seconded by Senator Hemmings and carried, S.R. No. 1 was adopted.

STANDING COMMITTEE REPORT

On motion by Senator Ige, seconded by Senator Hemmings and carried unanimously, the Clerk was authorized to receive a standing committee report on Jud. Com. No. 1. In consequence thereof, and subsequent to its recessing at 10:09 a.m., the Senate took the following action:

Senator Taniguchi, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 1) recommending that the Senate consent to the nomination of MELVIN H. FUJINO to the office of Judge, District Family Court of the Third Circuit, for a term of six years, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, and in accordance with Jud. Com. No. 1.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1 and Jud. Com. No. 1 was deferred until Tuesday, November 18, 2008.

ADJOURNMENT

At 1:06 p.m., the Senate adjourned until 10:00 a.m., Tuesday, November 18, 2008.

SECOND DAY

Tuesday, November 18, 2008

The Senate of the Twenty-Fourth Legislature of the State of Hawai'i, Second Special Session of 2008, convened at 10:00 a.m. with the President in the Chair.

The Divine Blessing was invoked by Mr. Ainoa Naniole, Office of the Honorable Russell S. Kokubun, Hawai'i State Senate, after which the Roll was called showing all Senators present with the exception of Senators Gabbard and Hooser, who were excused.

The President announced that she had read and approved the Journal of the First Day.

ORDER OF THE DAY

ADVISE AND CONSENT

Stand. Com. Rep. No. 1 (Jud. Com. No. 1):

Senator Taniguchi moved that Stand. Com. Rep. No. 1 be received and placed on file, seconded by Senator Hee and carried.

Senator Taniguchi then moved that the Senate consent to the nomination of MELVIN H. FUJINO as Judge of the District Family Court of the Third Circuit, for a term of six years, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, seconded by Senator Hee.

Senator Taniguchi rose in support of the nominee and said:

"Madam President, I rise to speak in support of Melvin Fujino, judicial nominee for the District Court of the Third Circuit.

"Your Committee on Judiciary and Labor heard from Mr. Fujino and we are convinced that he will serve well in his capacity as a District Court judge. Testimony received was overwhelmingly in support of Mr. Fujino, including both the offices of the Attorney General and the Prosecuting Attorney of the County of Hawai'i. We also received information regarding Mr. Fujino's work experience as a court clerk for the late Judge Philip T. Chun, as a Hawai'i County deputy prosecutor, and as a deputy attorney general. We believe that his work experience will provide Mr. Fujino with a solid foundation to begin his public service on the bench. For these reasons I am asking my colleagues to support the consent of Melvin Fujino as a District Court Judge for the Third Circuit. Thank you Madam President."

Senator Slom rose in support of the nominee and said:

"Thank you, Madam President. We too would like to add our support for the confirmation of Melvin Fujino.

"During the testimony we learned that he has been a great civic leader as well. He has participated in many different activities, has a wealth of experience. I think the only sad part about this is how he is going to be missed in the Office of the Attorney General and for the public. But, we are confident that he is going to serve this state, continue to serve the State well, and he will continue to use his good sense of humor which he will need in his new position. So, I urge all my colleagues' full support for Melvin Fujino. Aloha."

Senator Kokubun rose in support of the nominee and said:

"Thank you, Madam President. Madam President, I stand in support of this nominee as well.

"Madam President, it gives me great pleasure actually to not only speak for myself, but in dialogue and discussion with my

two colleagues from the Big Island—Senators Takamine and Green. We are unanimous in our wholehearted support for Mel Fujino to this position. We also want to thank our Senate colleagues for supporting the new position that was created in the Third Circuit to address the huge caseload that is occurring in Waimea and North Kohala, and we appreciate the fact that, you know, there has also been support for the facilities for the judiciary on the Big Island; that is, we are very, very grateful for that. And although the position that Mr. Fujino will assume is based in Waimea, as a District and Family Court judge, we understand that he will also potentially address caseloads in Kona perhaps, as well as in Hamakua and Hilo. So, in that regard, his reach will be throughout the Big Island and I think for all of our constituencies there, we are very, very pleased about that as well.

"As Senator Slom mentioned, you know it's obvious that Mr. Fujino has been active in community activities not only when he was with the Attorney General's office, but prior to that as the Managing Deputy Prosecuting Attorney in Kona. And of course he has deep roots in the community: he was raised in Kona—and as many of you may know the Kimura family in Waimea, very prominent family—and he has also roots there, his mother is actually a Kimura from Waimea. So he would be a great addition to the judiciary team on the Big Island and we feel that he will add a great deal to that. So I encourage and thank all of my colleagues for supporting this nominee. Thank you."

The motion was put by the Chair and, Roll Call vote having been requested, carried on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Gabbard, Hooser).

At this time, Senator Taniguchi introduced Judge Fujino and his family to the members of the Senate.

At 10:08 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 10:14 a.m.

SENATE RESOLUTION

The following resolution (S.R. No. 2) was read by the Clerk and was disposed of as follows:

Senate Resolution

S.R. No. 2 "SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THIS SENATE FOR THE SECOND DAY OF THE THIRD SPECIAL SESSION OF 2008."

Offered by: Senators Ige, Hemmings.

On motion by Senator Ige, seconded by Senator Hemmings and carried, S.R. No. 2 was adopted.

ADJOURNMENT

Senator Ige moved that the Senate of the Twenty-Fourth Legislature of the State of Hawai'i, Third Special Session of 2008, adjourn Sine Die, seconded by Senator Hemmings and carried.

At 10:15 a.m., the President rapped her gavel and declared the Senate of the Twenty-Fourth Legislature of the State of Hawai'i, Third Special Session of 2008, adjourned Sine Die.

SCRep. 1 Judiciary and Labor on Jud. Com. No. 1

Recommending that the Senate consent to the nomination of the following:

DISTRICT COURT OF THE THIRD CIRCUIT

Jud. Com. No. 1 MELVIN H. FUJINO, for a term of six years

Your Committee received testimony in support of Melvin H. Fujino from the State Attorney General; Ishida & Yamada LLLP; and thirty-five individuals.

The Hawaii State Bar Association found the nominee to be qualified for the position of Judge, District Court of the Third Circuit, based upon the criteria of integrity, legal knowledge and ability, professional experience, judicial temperament, diligence, financial responsibility, public service, collegiality, and writing ability.

Melvin H. Fujino received a Bachelor of Arts degree from the University of Washington, and a Juris Doctor degree from Gonzaga School of Law. He has been a Deputy Attorney General since January 2007. His prior experience includes serving as Supervising Deputy Prosecuting Attorney in Kona from 1991 to 2007; Law Clerk to the Honorable Philip T. Chun, Administrative Civil Judge of the First Circuit Court; and Law Clerk to the Honorable Paul M. DeSilva in Kona. As a law clerk to Judge Chun, Mr. Fujino reviewed and processed nonhearing motions, probate cases, petitions for preliminary injunctions, foreclosure documents, and various orders.

As a Deputy Attorney General, Mr. Fujino supervises the Asset Forfeiture Unit and Wiretap Review Unit. Mr. Fujino also prosecutes welfare fraud cases, handles civil and criminal conflict of interest cases, and handles cold cases.

As a Deputy Prosecuting Attorney in Kona, Mr. Fujino was on the planning team to establish an adult and juvenile drug court; assisted in developing a policy and procedures manual for the adult mental health jail diversion program; coordinated the federal weed and seed program to select designated sites; and oversaw a federal grant for community empowerment and organization. Mr. Fujino also participated in numerous other judiciary, law enforcement, community, school, and youth programs and activities in the Kona community. Mr. Fujino's current and past positions indicate he has an understanding of the court system and the community he will serve.

According to testimony of the State Attorney General, Mr. Fujino will be a fine District Court judge, and according to the testimony of a Hawaii County Deputy Prosecuting Attorney, Mr. Fujino will be an excellent District Court judge and has the temperament and ability to be a District Court judge.

Other testimony in support of Mr. Fujino shows that he is knowledgeable about the law and issues, assesses situations quickly, is fair, open minded, dedicated and hardworking, is organized and committed to the job, loves and cares about people, and is skilled at defusing a tense atmosphere, all qualities indicating he is qualified to serve as a District Court judge.

Your Committee notes Mr. Fujino's oral testimony that as a District Court judge, he would endeavor to give the parties the feeling they had their day in court, and that they were given a "fair shake" and supports mediation to resolve family court cases as a solution to limited judicial resources.

Your Committee finds that, based on the testimony submitted on his behalf, Melvin H. Fujino has the experience, temperament, judiciousness, and other competencies to be a District Court judge, and has a good sense of where the equities, rights, and responsibilities lie in a case which is essential for a District Family Court judge.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee, after full consideration of the background, experience, and qualifications of the appointee, has found the appointee to be qualified for the position to which appointed and recommends that the Senate consent to the appointment.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 2 (Hee, Gabbard).

NUMBER AND TITLE	Offered	Referred	Report of Committee	Adoption
S.R. No. 1 RELATING TO THE ADMINISTRATION OF THE OATH OF OFFICE TO SENATORS DULY ELECTED BY THE 2008 PRIMARY ELECTION OR THE 2008 GENERAL ELECTION OF THE STATE OF HAWAII.	1			1
S.R. No. 2 AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THIS SENATE FOR THE SECOND DAY OF THE THIRD SPECIAL SESSION OF 2008.	2			2