

THIRTEENTH DAY

Tuesday, February 7, 2012

The Senate of the Twenty-Sixth Legislature of the State of Hawai'i, Regular Session of 2012, convened at 11:35 a.m. with the President in the Chair.

The Roll was called showing all Senators present.

The President announced that he had read and approved the Journal of the Twelfth Day.

At this time, Senator Hee, on behalf of Senator Solomon, welcomed a group of students from Hālau Kū Māna Charter School who were accompanied by Imaikalani Winchester.

Senator Hee also introduced Hano Naehu from Moloka'i who was seated in the gallery.

MESSAGE FROM THE GOVERNOR

The following message from the Governor (Gov. Msg. No. 1101) was read by the Clerk and was placed on file:

Gov. Msg. No. 1101, informing the Senate that on February 4, 2012, the Governor signed into law House Bill No. 608, H.D. 3, S.D. 1, C.D. 2 as Act 1, entitled: "RELATING TO HEALTH."

HOUSE COMMUNICATION

The following communication from the House (Hse. Com. No. 10) was read by the Clerk and was disposed of as follows:

Hse. Com. No. 10, transmitting H.B. No. 1868, H.D. 1, which passed Third Reading in the House of Representatives on February 6, 2012, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 1868, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TELECOMMUNICATIONS," passed First Reading by title and was deferred.

SENATE COMMUNICATION

The following communication (Sen. Com. No. 1) was read by the Clerk and was disposed of as follows:

Sen. Com. No. 1, notice to Governor dated February 6, 2012, transmitting S.B. No. 2205 and S.B. No. 2206, which propose amendments to the Hawaii State Constitution, was placed on file.

By unanimous consent, the following notice was sent to the Governor:

"February 6, 2012

The Honorable Neil Abercrombie
Governor of the State of Hawaii
State Capitol
Honolulu, Hawaii 96813

Dear Governor Abercrombie:

In accordance with the provisions of Article XVII, Section 3 of the Hawaii State Constitution, written notice is hereby given of the final form of the following bills, copies of which are attached hereto:

S.B. No. 2205
"PROPOSING AN AMENDMENT TO ARTICLE VI, SECTION 3, OF THE HAWAII STATE CONSTITUTION TO LOWER THE NUMBER OF NOMINEES PRESENTED BY THE JUDICIAL SELECTION COMMISSION TO FILL STATE COURT JUDICIAL VACANCIES."

S.B. No. 2206
"PROPOSING AN AMENDMENT TO ARTICLE VI, SECTION 3, OF THE HAWAII STATE CONSTITUTION TO INCREASE THE MANDATORY RETIREMENT AGE FOR STATE JUSTICES AND JUDGES."

Respectfully,

/s/ Carol Taniguchi
CAROL T. TANIGUCHI
Clerk of the Senate"

SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 32 and 33) were read by the Clerk and were deferred:

S.C.R. No. 32 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO ESTABLISH A TASK FORCE ON CHEERLEADING TO DETERMINE IF CHEERLEADING SHOULD BE CLASSIFIED AS AN INTERSCHOLASTIC SPORT IN PUBLIC SCHOOL ATHLETIC PROGRAMS."

Offered by: Senator Espero.

S.C.R. No. 33 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION AND BOARD OF EDUCATION TO INSTITUTE A GREEN HAWAII PROGRAM WITHIN THE PUBLIC SCHOOL SYSTEM."

Offered by: Senators Espero, Baker, Gabbard, Kidani, Nishihara, Slom, Taniguchi, Tokuda.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 12 and 13) were read by the Clerk and were deferred:

S.R. No. 12 "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO ESTABLISH A TASK FORCE ON CHEERLEADING TO DETERMINE IF CHEERLEADING SHOULD BE CLASSIFIED AS AN INTERSCHOLASTIC SPORT IN PUBLIC SCHOOL ATHLETIC PROGRAMS."

Offered by: Senator Espero.

S.R. No. 13 "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION AND BOARD OF EDUCATION TO INSTITUTE A GREEN HAWAII PROGRAM WITHIN THE PUBLIC SCHOOL SYSTEM."

Offered by: Senators Espero, Baker, Gabbard, Kidani, Nishihara, Slom, Taniguchi, Tokuda.

STANDING COMMITTEE REPORTS

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 2030) recommending that S.B. No. 2317 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2317, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 2031) recommending

that S.B. No. 2204 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2204, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Hee, for the majority of the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 2032) recommending that S.B. No. 2323 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the majority of the Committee was adopted and S.B. No. 2323, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR PUBLIC EMPLOYMENT COST ITEMS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Hee, for the majority of the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 2033) recommending that S.B. No. 2324 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the majority of the Committee was adopted and S.B. No. 2324, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR PUBLIC EMPLOYMENT COST ITEMS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 2034) recommending that S.B. No. 2209 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2209, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE VI, SECTION 4, OF THE HAWAII STATE CONSTITUTION TO REQUIRE THE JUDICIAL SELECTION COMMISSION TO DISCLOSE THE NAMES OF AND CERTAIN INFORMATION REGARDING ACTIVE NOMINEES AND APPLICANTS TO FILL JUSTICE AND JUDGE VACANCIES," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, February 8, 2012.

Senator Hee, for the majority of the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 2035) recommending that S.B. No. 2216, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the majority of the Committee was adopted and S.B. No. 2216, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSFER OF PROPERTY," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 9, 2012.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 2036) recommending that S.B. No. 2766, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2766, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ENTITIES REGULATED BY THE INSURANCE COMMISSIONER," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 2037) recommending that S.B. No. 2770 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2770, entitled: "A BILL FOR AN ACT RELATING TO COLLECTION AGENCIES," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Baker, for the majority of the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 2038) recommending that S.B. No. 2752, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the majority of the Committee was adopted and S.B. No. 2752, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRIC UTILITIES," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 2039) recommending that S.B. No. 2184 pass Second Reading and be referred to the Committee on Judiciary and Labor.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2184, entitled: "A BILL FOR AN ACT RELATING TO PRIVATE TRANSFER FEES," passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 2040) recommending that S.B. No. 2444, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Labor.

On motion by Senator Espero, seconded by Senator Slom 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 UNIFORM COMMERCIAL CODE ARTICLE 9," passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 2041) recommending that S.B. No. 2758 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2758, entitled: "A BILL FOR AN ACT RELATING TO BUSINESS REGISTRATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 2042) recommending that S.B. No. 2767, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2767, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kim, for the Committee on Tourism, presented a report (Stand. Com. Rep. No. 2043) recommending that S.B.

No. 2089 pass Second Reading and be referred to the Committee on Commerce and Consumer Protection.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2089, entitled: "A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS," passed Second Reading and was referred to the Committee on Commerce and Consumer Protection.

Senator Kim, for the Committee on Tourism, presented a report (Stand. Com. Rep. No. 2044) recommending that S.B. No. 2114 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2114, entitled: "A BILL FOR AN ACT RELATING TO THE TRANSIENT ACCOMMODATIONS TAX," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kim, for the majority of the Committee on Tourism, presented a report (Stand. Com. Rep. No. 2045) recommending that S.B. No. 3017, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the majority of the Committee was adopted and S.B. No. 3017, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE TRANSIENT ACCOMMODATIONS TAX," passed Second Reading and was referred to the Committee on Ways and Means.

Senators English and Espero, for the Committee on Transportation and International Affairs and the Committee on Public Safety, Government Operations, and Military Affairs, presented a joint report (Stand. Com. Rep. No. 2046) recommending that S.B. No. 2340 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and S.B. No. 2340, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senators English and Espero, for the Committee on Transportation and International Affairs and the Committee on Public Safety, Government Operations, and Military Affairs, presented a joint report (Stand. Com. Rep. No. 2047) recommending that S.B. No. 2447 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and S.B. No. 2447, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," passed Second Reading and was referred to the Committee on Ways and Means.

Senators English and Espero, for the Committee on Transportation and International Affairs and the Committee on Public Safety, Government Operations, and Military Affairs, presented a joint report (Stand. Com. Rep. No. 2048) recommending that S.B. No. 2518, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and S.B. No. 2518, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR AND OTHER VEHICLES," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 9, 2012.

Senators English and Espero, for the Committee on Transportation and International Affairs and the Committee on Public Safety, Government Operations, and Military Affairs, presented a joint report (Stand. Com. Rep. No. 2049) recommending that S.B. No. 2625 pass Second Reading and be referred to the Committee on Commerce and Consumer Protection.

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and S.B. No. 2625, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSPECTIONS," passed Second Reading and was referred to the Committee on Commerce and Consumer Protection.

Senators English and Espero, for the Committee on Transportation and International Affairs and the Committee on Public Safety, Government Operations, and Military Affairs, presented a joint report (Stand. Com. Rep. No. 2050) recommending that S.B. No. 2959, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and S.B. No. 2959, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSIT," passed Second Reading and was referred to the Committee on Ways and Means.

At this time, Senator Kim rose to speak on a point of personal privilege as follows:

"Mr. President, as a member of this body, and also in talking to you, it's always been my understanding that all members of this body are and should be allowed to sit in any committee meetings. As far as I know in my 30 years of being in elected office, this has always been something that we have courtesied one another—that we have allowed you to sit in the meetings, allowed you to ask questions. And so for a committee chair—the Committee Chair of CPN—to question whether or not a member should ask a question, I raise this as what happens to our openness and courtesy that's been allowed? I certainly have a right to represent my constituents and to ask questions in a meeting, and I believe this has been done over the years. And then, I'm not even aware that we should be calling the chair to let them know that we're going to attend in advance, but in knowing this chair, my staff did in fact call the committee staff person. And perhaps that chair should have better communications with their staff so that they know that this information was, in fact, relayed to the chair. Thank you very much."

At this time, the Chair made the following announcement:

"Referrals and re-referrals are made in accordance with the Supplemental Order of the Day that may be distributed to your offices later today."

ADJOURNMENT

At 11:42 a.m., on motion by Senator Espero, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Wednesday, February 8, 2012.