

THIRTY-NINTH DAY

Tuesday, March 27, 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 with the exception of Senator Solomon who was excused.

The President announced that he had read and approved the Journal of the Thirty-Eighth Day.

At this time, Senator Dela Cruz introduced a group of students from Wheeler Middle School, their teachers Erin Mendelson and Carol Crews, and educational assistant Edie Hiroe who were seated in the gallery.

Senator Kim welcomed 64 fourth-grade students from Red Hill Elementary School along with their teachers and aides including Shannon Garan, Kurt Chang, Jason Cordero, and Cherie Burton, as well as chaperones Mr. Thomas, Mr. Chun, Mr. Dan, and Ms. Lupo, all who were visiting the State Capitol and 'Iolani Palace to learn about Hawai'i's history and government.

Senator Ige, on behalf of Senators Wakai, Kim, and himself, recognized and congratulated 'Aiea High School on the occasion of its 50th anniversary. Representing 'Aiea High School were Principal Michael Tokioka, PTSO President Nancy Hsu, Student Association President Justine Bulosan, Student Association Vice President Sierra Callihan, and noted alumna Lynette Serrao.

Also recognized were Denise Villafior, Twylla-Dawn Steer, Jerilynn Miyaji, Jennifer Sanchez, Liz Bagee, Tumi Tuimavave, Leona Kaapuni, and Tyler Imig from 'Aiea High School who were seated in the gallery.

At 11:42 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:07 p.m.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 231 to 232 and 866) were read by the Clerk and were placed on file:

Gov. Msg. No. 231, dated March 19, 2012, transmitting the 2011 Report of the State of Hawaii Efforts to Increase the Number of High-Skilled Jobs in Targeted Industry Clusters, prepared by the Department of Business, Economic Development, and Tourism pursuant to Section 201-16, HRS.

Gov. Msg. No. 232, transmitting a letter dated March 19, 2012, withdrawing consideration of HB2509 and SB2771, which make emergency appropriations for reimbursement of costs related to the Asia-Pacific Economic Cooperation (APEC) meetings.

Gov. Msg. No. 866, informing the Senate that on March 23, 2012, the Governor withdrew DONNA SMYTHE, Gubernatorial Nominee to the King Kamehameha Celebration Commission, from consideration by the Senate (Gov. Msg. No. 727).

ORDER OF THE DAY

AGREE/DISAGREE

MATTER DEFERRED FROM
FRIDAY, MARCH 23, 2012

S.B. No. 2648 (H.D. 1):

By unanimous consent, action on S.B. No. 2648 (H.D. 1), entitled "A BILL FOR AN ACT RELATING TO CAMPAIGN FINANCE," was deferred until Wednesday, March 28, 2012.

THIRD READING

H.B. No. 2584, H.D. 1, S.D. 1:

On motion by Senator Hee, seconded by Senator Shimabukuro and carried, H.B. No. 2584, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NOTICE OF WORKERS' COMPENSATION INSURANCE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Solomon).

H.B. No. 1112, H.D. 1, S.D. 1:

By unanimous consent, H.B. No. 1112, H.D. 1, S.D. 1 entitled "A BILL FOR AN ACT RELATING TO LICENSING," was recommitted to the Committee on Judiciary and Labor.

At 12:09 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:11 p.m.

H.B. No. 2429, H.D. 1, S.D. 1:

On motion by Senator Nishihara, seconded by Senator Kahele and carried, H.B. No. 2429, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF AGRICULTURE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Solomon).

At this time, the Chair made the following announcement:

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

RE-REFERRAL OF A HOUSE BILL

The Chair re-referred the following House bill that was received:

H.B. No.: Re-referred to:

H.B. No. 101, H.D. 2, S.D. 1 Committee on Transportation and International Affairs, then to the Committee on Ways and Means

RE-REFERRAL OF
SENATE CONCURRENT RESOLUTIONS

The Chair re-referred the following Senate concurrent resolutions that were offered:

S.C.R. No.: Re-referred to:

S.C.R. No. 140 Jointly to the Committee on Public Safety, Government Operations, and Military Affairs and the Committee on Transportation and International Affairs

S.C.R. No. 173 Jointly to the Committee on Water, Land, and Housing and the Committee on Public Safety, Government Operations, and Military Affairs and the Committee on Transportation and International Affairs

why we have such a close relationship with the Kingdom of Tonga. Thank you.”

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

RE-REFERRAL OF SENATE RESOLUTIONS

The Chair re-referred the following Senate resolutions that were offered:

S.R. No.: Re-referred to:
 S.R. No. 76 Jointly to the Committee on Public Safety, Government Operations, and Military Affairs and the Committee on Transportation and International Affairs

“Before we adjourn, I’d like to give a shout-out to the winners of the 5th Annual First Robotics Hawaii Regional Competition. There were over a 1,000 students from Hawai’i, New Orleans, and Taiwan that convened at the Stan Sheriff Center to compete in this robotics challenge called the Rebound Rumble; and the thing that I found remarkable about this effort is that it was really collaboration of a variety of schools. So, the information that I have shows that after three exhilarating rounds in the finals, the Red Alliance—which consisted of Waialua High School, Baldwin High School on Maui, Island Pacific Academy on O’ahu—outscored the Blue Alliance, and the Red Alliance is going on to the semi-finals. So, we want to give a shout-out to all those students for their determination and their creativity and their ability to work together, and wish them well in their next competition.”

S.R. No. 103 Jointly to the Committee on Water, Land, and Housing and the Committee on Public Safety, Government Operations, and Military Affairs and the Committee on Transportation and International Affairs

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

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

“I’ve been receiving several emails, and I suppose others have been, and frankly I’ve been receiving emails from other members, with respect to Governor’s Message 755 and Governor’s Message 744 to the Commission on Water Resource Management. Just so that we can avoid any unnecessary dialogue, the emails that I have received requires the Governor, according to HRS §174C-7(b)b, at least one member—and I will quote that section of the statute: ‘...at least one member shall have substantial experience or expertise in traditional Hawaiian water resource management techniques and in traditional Hawaiian riparian usage...’ It is my understanding that Governor’s Message 754, Jonathan Starr, has taken the place of the member that shall have substantial experience or expertise in traditional Hawaiian water resource management and traditional Hawaiian riparian usage.

“Members, today is the funeral of King George Tupou V of Tonga in the Kingdom of Tonga, and I request that we do a rising vote to adjourn in observance of this. But just by way of background so that you understand the importance of the relationship between Hawai’i and Tonga: In 1864, the Constitution of Hawai’i that was adopted under Kamehameha V became a model for the Pacific, and in 1875, when Tupou I, after he united Tonga, went with the Wesleyan Church to Australia—what is now Australia and was actually Queensland at the time, that particular part of Australia—and met the Hawaiian consul there. His name was Consul Gould, and the Hawaiian consul, our Kingdom’s representative, advised Tupou I, who had just united Tonga through warfare, to adopt a constitution and take on a western-style government. And they also handed this new king a copy of the Hawai’i Constitution of 1864.

“That being the case, I want to be sure that at the time of Mr. Starr’s confirmation that this subject has been fully discussed and held to the extent that these emails will no longer be an issue. I want to be sure that I have an interest in this area. I think most of you know, who were here when I was the chair of Water, Land, Ag, and Hawaiian Affairs, that it was a similar statute introduced by then-Senate President Hanabusa which caused my non-support of the nominee at that time; which had a chilling effect on Koa Ridge because that person was not confirmed by the Senate and subsequently voted to approve the Koa Ridge development and then because of a lawsuit the court held that this individual did not have the authority to vote. In order to avoid the second chapter or second coming of this kind of issue, I want to let the members know that there is a substantial community, Hawaiian community, that has an interest in the Governor’s appointment as articulated under this section of the law. Thank you, Mr. President.”

“What Tupou did was went home, crossed out Hawai’i in that document, wrote in ‘Tonga’, adjusted a little bit—we had a number of nobles, he had 30 noble families—and adopted that constitution. So that constitution remained in force until 2010. George Tupou V, the late king, amended the constitution to grant democracy to his people. And I often tell people if you want to see what Hawai’i would have been, or may have been had the monarchy survived, take a look at Tonga because that was our constitution that remained in operation until 2010. So, we have a very, very close relationship with Tonga based on this, and that is why the Governor has ordered the flags be flown at half-mast today. We sent a joint resolution from the House and Senate to the King’s funeral, and today I’m going to ask that we adjourn on a rising vote in observance of the King’s passing. [The Chair so ordered.]

ADJOURNMENT

“So, the important part to remember is that Tonga took our constitution almost word for word, adopted it. It operated well for them until this king granted parliamentary democracy to the people. His brother has become King Tupou VI, and the funeral is today—yesterday in Tonga, today by the clock—and there will be 100 days of mourning in Tonga after which they’ll announce the coronation and the new king’s name. So, I thought I’d explain that so you understand the background and

At 12:20 p.m., on motion by Senator Espero, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Wednesday, March 28, 2012, on a rising vote, observing a moment of silence in memory of King George Tupou V of Tonga.