

NINTH DAY

Thursday, January 30, 2014

The House of Representatives of the Twenty-Seventh Legislature of the State of Hawaii, Regular Session of 2014, convened at 12:09 o'clock p.m., with Vice Speaker Mizuno presiding.

The invocation was delivered by Ms. Jenny Alconcel Quezon of Representative Isaac W. Choy's office, after which the Roll was called showing all Members present with the exception of Representatives McDermott, Takai and Woodson, who were excused.

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

GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 133 through 163) were received and announced by the Clerk and were placed on file:

Gov. Msg. No. 133, dated December 26, 2013, transmitting the Findings and Recommendations from the Posting of Healthcare Facility Inspection Reports Working Group, prepared by the Department of Health pursuant to Act 213, SLH (2013).

Gov. Msg. No. 134, dated December 26, 2013, transmitting the Annual Report on Initiatives and Improvements in Kalaupapa Settlement and to Track Patient and Non-Patient Costs, prepared by the Department of Health pursuant to Section 326-25.5, HRS.

Gov. Msg. No. 135, dated December 30, 2013, transmitting the Status of the Sanitation and Environmental Health Education Fund and the Annual Audit Report of the Sanitation Branch, prepared by the Department of Health pursuant to Sections 321-27.5 and 321-27, HRS.

Gov. Msg. No. 136, dated December 30, 2013, transmitting the Annual Report on the Receipt and Expenditures from the Trauma System Special Fund, prepared by the Department of Health pursuant to Section 321-22.5(f), HRS.

Gov. Msg. No. 137, dated December 30, 2013, transmitting the Annual Report on the Receipt and Expenditures from the Emergency Medical Services Special Fund, prepared by the Department of Health pursuant to Section 321-234(d), HRS.

Gov. Msg. No. 138, dated December 31, 2013, transmitting the Report on Environmental Response Law and Hawaii Emergency Planning and Community Right to Know Act Financial and Environmental Site Information, prepared by the Department of Health pursuant to Sections 128D and 128E, HRS.

Gov. Msg. No. 139, dated December 31, 2013, transmitting the Department of Health's Domestic Violence and Sexual Assault Special Fund Annual Report, pursuant to Section 321-1.3, HRS.

Gov. Msg. No. 140, dated January 3, 2014, transmitting the Department of Public Safety's Mental Health Services for Committed Persons Annual Report, pursuant to Act 144, SLH 2007.

Gov. Msg. No. 141, dated January 3, 2014, transmitting the Department of Public Safety's Government Operations Annual Report, pursuant to Act 100, Sections 6 and 7, SLH 1999.

Gov. Msg. No. 142, dated January 3, 2014, transmitting the Department of Public Safety's Corrections Population Management Commission Report, pursuant to Section 353F-5, HRS.

Gov. Msg. No. 143, dated January 3, 2014, transmitting the Department of Public Safety's Gender-Responsive Community Based Programs for Women Annual Report, pursuant to Section 367D-008, HRS.

Gov. Msg. No. 144, dated January 3, 2014, transmitting the Department of Public Safety's Criminal Offender Treatment Act Report, pursuant to Section 353G-13, HRS.

Gov. Msg. No. 145, dated January 3, 2014, transmitting the Department of Public Safety's Service of Process Report, pursuant to Act 116, SLH 2013.

Gov. Msg. No. 146, dated January 3, 2014, transmitting the Department of Public Safety's Federal Reimbursement Maximization Special Fund Annual Report, pursuant to Section 353C-7(c), HRS.

Gov. Msg. No. 147, dated January 3, 2014, transmitting the Department of Public Safety's Hawaii Correctional Industries Annual Report for Fiscal Year 2013, pursuant to Section 354D-3.5, HRS.

Gov. Msg. No. 148, dated January 3, 2014, transmitting the Department of Public Safety's Narcotics Enforcement Division Annual Report, pursuant to Section 329-11, HRS.

Gov. Msg. No. 149, dated January 3, 2014, transmitting the Department of Public Safety's Sexual Assaults in Correctional Facilities Report, pursuant to Act 194, SLH 2010.

Gov. Msg. No. 150, dated January 3, 2014, transmitting the Department of Public Safety's Cognitive Restructuring Annual Report, pursuant to Act 193, SLH 2010.

Gov. Msg. No. 151, dated January 3, 2014, transmitting the Department of Public Safety's Return of Out-of-State Inmates Annual Report, pursuant to Section 353H-7, HRS.

Gov. Msg. No. 152, dated January 3, 2014, transmitting the Hawaii Civil Rights Commission Report for the fiscal year ending June 30, 2013, prepared by the Department of Labor and Industrial Relations pursuant to Sections 368-3, 368-4, and 515-9, HRS.

Gov. Msg. No. 153, dated January 9, 2014, transmitting the Department of Public Safety's and Department of Health's Transfer of Responsibilities of the Medical Use of Marijuana Program from the Department of Public Safety to the Department of Health Report, pursuant to Act 177, SLH 2013.

Gov. Msg. No. 154, dated January 9, 2014, transmitting the Hawaii Interagency Council on Homelessness Progress Report, pursuant to Section 346-381(9), HRS.

Gov. Msg. No. 155, dated January 22, 2014, transmitting the Annual Report for Repair and Maintenance List of Projects Initiated and Completed, pursuant to Section 302A-1312(c), HRS.

Gov. Msg. No. 156, dated January 15, 2014, transmitting the Employment and Training Fund Program Report for FY ending June 30, 2013, prepared by the Department of Labor and Industrial Relations pursuant to Section 37-47, HRS.

Gov. Msg. No. 157, dated January 15, 2014, transmitting the Annual Report of the Premium Supplementation Trust Fund for fiscal year ending June 30, 2013, prepared by the Department of Labor and Industrial Relations pursuant to Section 37-47, HRS.

Gov. Msg. No. 158, dated January 15, 2014, transmitting the Reduced Ignition Propensity Cigarette Program Special Fund Annual Report for the fiscal year ending June 30, 2013, prepared by the Department of Labor and Industrial Relations pursuant to Section 37-47, HRS.

Gov. Msg. No. 159, dated January 15, 2014, transmitting the Trust Fund for Disability Benefits Annual Report for fiscal year ending June 30, 2013, prepared by the Department of Labor and Industrial Relations pursuant to Section 37-47, HRS.

Gov. Msg. No. 160, dated January 15, 2014, transmitting the report, Status of the Green Infrastructure Authority's Activities, prepared by the Department of Business, Economic Development and Tourism, State Energy Office, pursuant to Act 211, SLH 2013.

Gov. Msg. No. 161, dated January 23, 2014, transmitting the 2013 Annual Report of the Department of Business, Economic Development and Tourism, pursuant to Section 201-10, HRS.

Gov. Msg. No. 162, dated January 27, 2014, transmitting the Findings and Recommendations from the Obesity Services Reimbursement Task Force, prepared by the Department of Health pursuant to HCR 23, HD 1 (2013).

Gov. Msg. No. 163, dated January 31, 2014, transmitting the School Year and Instructional Time Report, prepared by the Department of Education pursuant to Section 302A-251, HRS.

DEPARTMENTAL COMMUNICATIONS

The following departmental communication (Dept. Com. No. 61) was received by the Clerk and was placed on file:

Dept. Com. No. 61, from the University of Hawai'i, dated January 27, 2014, transmitting the Annual Report on University of Hawaii Non-General Funds for FYE 2013, pursuant to Sections 304A-106, 304A-2007, and 304A-2273, HRS, and Act 134, Section 129, SLH 2013.

INTRODUCTIONS

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

Representative Lowen introduced her constituent, Mr. Craig "Bo" Kahui, Executive Director, La'i'Opua Community Center.

Representative Tokioka introduced his constituent, Ms. Janice Bond, District 15 Chair of the Kauai Democratic Party.

Representative Morikawa introduced her friend and son's robotic coach, Mr. Stu Burley.

Representative Ward introduced Mr. Steve Tam and visitors from AARP: Janice Bond, Carol Bonham, Bruce Bottorff, Bary Brandes, Chalintorn Burian, Stu Burley, Lynn Chinsky, Elaine Curley, Lee Ann Davis, Barbara Dinoff, Sandy Ducharme, Joyce Fojas, Ben Hablutzel, Gertie Hara, David Howle, Jean Ishikawa, Midori Kiso, Mark Koppel, Laurel Leslie, Violet Medeiros, Frank Medeiros, Eileen Mena, Coralene Miller, Kathleen Phillips, Gail Rustin, Angela Sacridier, Claire Santos, Frances Shirota, Robin Shumpis, Kay Smith, Rosalie Smith, Nicole Soghomonian, Barbara Stanton, Sophie Tang, Joe Trehern and Mary Wagner.

At 12:18 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:50 o'clock p.m.

Representative Kawakami introduced a visitor from Kauai, Mr. Jack Yatsko, Chief Operating Officer of Clubhouse International and former Executive Director of Friendship House.

ORDER OF THE DAY

SUSPENSION OF RULES

On motion by Representative Cabanilla, seconded by Representative Fukumoto and carried, the rules were suspended for the purpose of considering certain House Bills for Third Reading by consent calendar.

(Representatives McDermott, Takai, Tokioka and Woodson were excused.)

UNFINISHED BUSINESS

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 9-14) recommending that H.B. No. 525, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 525, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

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

"Thank you, Mr. Speaker. I'll be voting with reservations. My reservations stem from the fact that when I look at the public record regarding the support or non-support of this measure, I see a lack of any real, true participation by those practitioners in the family court, the family court themselves.

"It is my understanding, Mr. Speaker, that the family court judges today have the discretion on how to appropriate or to view a veteran's disability benefits in regard to a spousal support maintenance order.

"This bill, if it became the law, would prohibit the consideration of the veteran's disability benefits pursuant to the spouse's support and maintenance order. For that reason, I have some concerns. I hope that the next Chamber has a chance to review this and consider some of the practitioners and the practical consequences of this big policy change. Thank you."

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

"Mr. Speaker, I rise with reservations. Mr. Speaker, as a Vietnam veteran, I have real mixed feelings about this. You want to be pro-veteran, but you also want to be pro-spouse. If this bill goes through, it says, 'hey spouse, you have nothing to do whatsoever with the benefits of the veteran.'

"I love my wife, even those veterans who are going to get separated loved their wife at the time. And I think we are preempting, maybe going overboard for the veteran in this case, and not looking at the whole picture. So, for those reasons, I think reservations, and this thing needs to be massaged a bit more. Thank you."

Representative Fale rose in support of the measure with reservations and asked that the remarks of Representative Oshiro be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Har rose in support of the measure with reservations and asked that the remarks of Representative Oshiro be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 525, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FAMILY COURTS," passed Third Reading by a vote of 46 ayes to 2 noes, with Representatives Hanohano and Jordan voting no, and with Representatives McDermott, Takai and Woodson being excused.

At 12:54 o'clock p.m., the Chair noted that the following bill passed Third Reading:

H.B. No. 525, HD 1

REPORTS OF STANDING COMMITTEES

Representatives Evans and Hanohano, for the Committee on Water & Land and the Committee on Ocean, Marine Resources, & Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 26-14) recommending that H.B. No. 1537, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committees was adopted and H.B. No. 1537, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONSERVATION," passed Second Reading and was referred to the Committee on Judiciary, with Representatives McDermott, Takai and Woodson being excused.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 27-14) recommending that H.B. No. 804, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 804, HD 1 pass Second Reading and be referred to the Committee on Finance, seconded by Representative Cabanilla.

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

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

Representative Hanohano 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. 804, HD 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 13, OF THE HAWAII STATE CONSTITUTION," passed Second Reading and was referred to the Committee on Finance, with Representatives McDermott, Takai and Woodson being excused.

Representative Hashem, for the Committee on Housing, presented a report (Stand. Com. Rep. No. 28-14) recommending that H.B. No. 1595, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1595, HD 1 pass Second Reading and be referred to the Committee on Finance, seconded by Representative Cabanilla.

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

Representative Hanohano 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. 1595, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LOW-INCOME HOUSING," passed Second Reading and was referred to the Committee on Finance, with Representatives McDermott, Takai and Woodson being excused.

Representative Hashem, for the Committee on Housing, presented a report (Stand. Com. Rep. No. 29-14) recommending that H.B. No. 1539, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1539, HD 1 pass Second Reading and be referred to the Committee on Finance, seconded by Representative Cabanilla.

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

Representative Hanohano 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. 1539, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII PUBLIC HOUSING AUTHORITY'S ADMINISTRATION OF THE HOUSING CHOICE VOUCHER PROGRAM," passed Second Reading and was referred to the Committee on Finance, with Representatives McDermott, Takai and Woodson being excused.

Representative Takumi, for the Committee on Education, presented a report (Stand. Com. Rep. No. 30-14) recommending that H.B. No. 1776, as amended in HD 1, pass Second Reading and be referred to the Committee on Health.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1776, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Health, with Representatives McDermott, Takai and Woodson being excused.

Representative Takumi, for the Committee on Education, presented a report (Stand. Com. Rep. No. 31-14) recommending that H.B. No. 1777, as amended in HD 1, pass Second Reading and be referred to the Committee on Health.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1777, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Health, with Representatives McDermott, Takai and Woodson being excused.

Representatives Takumi and Choy, for the Committee on Education and the Committee on Higher Education, presented a report (Stand. Com. Rep. No. 32-14) recommending that H.B. No. 1571, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committees was adopted and H.B. No. 1571, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GARDENS," passed Second Reading and was referred to the Committee on Finance, with Representatives McDermott, Takai and Woodson being excused.

Representative Nakashima, for the Committee on Labor & Public Employment, presented a report (Stand. Com. Rep. No. 33-14) recommending that H.B. No. 1971, as amended in HD 1, pass Second Reading and be referred to the Committee on Education.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1971, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LABOR," passed Second Reading and was referred to the Committee on Education, with Representatives McDermott, Takai and Woodson being excused.

Representative Nakashima, for the Committee on Labor & Public Employment, presented a report (Stand. Com. Rep. No. 34-14) recommending that H.B. No. 1958, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1958, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMPENSATION," passed Second Reading and was referred to the Committee on Finance, with Representatives McDermott, Takai and Woodson being excused.

Representative Carroll, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 35-14) recommending that H.B.

No. 1621 pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1621, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ACCOMMODATIONS," passed Second Reading and was referred to the Committee on Judiciary, with Representatives McDermott, Takai and Woodson being excused.

Representative Hashem, for the Committee on Housing, presented a report (Stand. Com. Rep. No. 36-14) recommending that H.B. No. 2083, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2083, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SOLID WASTE REDUCTION," passed Second Reading and was referred to the Committee on Finance, with Representatives McDermott, Takai and Woodson being excused.

Representative Evans, for the Committee on Water & Land, presented a report (Stand. Com. Rep. No. 37-14) recommending that H.B. No. 1823, 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 Saiki moved that the report of the Committee be adopted, and that H.B. No. 1823, HD 1 pass Second Reading and be referred jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary, seconded by Representative Cabanilla.

Representative Jordan 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. 1823, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Second Reading and was referred jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary, with Representatives McDermott, Takai and Woodson being excused.

Representative Evans, for the Committee on Water & Land, presented a report (Stand. Com. Rep. No. 38-14) recommending that H.B. No. 1830, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1830, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REAL ESTATE APPRAISERS," passed Second Reading and was referred to the Committee on Consumer Protection & Commerce, with Representatives McDermott, Takai and Woodson being excused.

Representative Evans, for the Committee on Water & Land, presented a report (Stand. Com. Rep. No. 39-14) recommending that H.B. No. 1904, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1904, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INVASIVE SPECIES," passed Second Reading and was referred to the Committee on Finance, with Representatives McDermott, Takai and Woodson being excused.

Representative Wooley, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 40-14) recommending that H.B. No. 1988 pass Second Reading and be referred to the Committee on Education.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B.

No. 1988, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Second Reading and was referred to the Committee on Education, with Representatives McDermott, Takai and Woodson being excused.

Representative Wooley, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 41-14) recommending that H.B. No. 1662 pass Second Reading and be referred to the Committee on Education.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1662, entitled: "A BILL FOR AN ACT RELATING TO FARM TO SCHOOL MONTH IN HAWAII," passed Second Reading and was referred to the Committee on Education, with Representatives McDermott, Takai and Woodson being excused.

Representative Wooley, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 42-14) recommending that H.B. No. 1536, as amended in HD 1, pass Second Reading and be referred jointly to the Committee on Higher Education and the Committee on Education.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1536, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Second Reading and was referred jointly to the Committee on Higher Education and the Committee on Education, with Representatives McDermott, Takai and Woodson being excused.

THIRD READING

H.B. No. 1498:

Representative Saiki moved that H.B. No. 1498 pass Third Reading, seconded by Representative Cabanilla.

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

Representative Tokioka rose to speak in opposition to the measure, stating:

"Mr. Speaker, I'm standing in opposition to this bill as written. I did speak with the Chair earlier, of Judiciary. I would like to ask if we could defer this bill for two session days to look at possible amendments, because, Mr. Speaker, on the neighbor islands the situation is a little bit different.

"On Oahu, it is a concrete jungle. It is very, very difficult for the people who live in downtown and work in downtown, whether it's Waikiki, Downtown, Kaimuki, and some of these areas where there is nothing but sidewalks and roadways.

"But in other areas, especially on the neighbor islands, when you see the people that are there that may commit this crime, they're going to be fined \$1,000 for that. Most of them won't even use the sidewalk, they'll go off to the side. And it's a bigger problem. It's more about the homeless situation, it's more about that kind of problem on the neighbor islands.

"So, I'm going to ask the Chair if he would consider amending out the neighbor islands and if other Members from the neighbor islands agree with me, then that's fine. If not, we can deal with it in two business days if the Chair is agreeable to that. Thank you, Mr. Speaker."

Representative Hanohano rose to speak in opposition to the measure, stating:

"I'm also going to be voting no on this bill, and I would like to have the words of my colleague from Kauai entered as if they were my own. I come from a rural area, we don't have sidewalks. We have things that may look like sidewalks, but they're not. It's a very old town and we really don't want to change the character of the town. So, I am voting no on this and I am in agreement with the Representative from Kauai."

Representative Fale rose to speak in opposition to the measure, stating:

"Mr. Speaker, in opposition. Just as has been stated by my colleagues from the neighbor islands, Mr. Speaker, we also have to remember that not all of Oahu is an urban, concrete jungle. That we do have sections of the island, City and County of Honolulu, that are still rural, which includes my district, and I don't want my district to be forgotten in this. This bill treats us as if we were part of the concrete jungle, Mr. Speaker. For those reasons, I must be opposed to the bill.

"Maybe we can go back into it and work out, maybe something that better accommodates those communities of a rural nature, Mr. Speaker. But for those, as the bill is written right now, I am opposed to the bill, Mr. Speaker."

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

"Thank you, Mr. Speaker. With reservations. This is a law of statewide applicability, but so often we hear about home rule. I'm a supporter of home rule, and what home rule means is the county councils and the counties being able to act in this area. This is part of their core responsibilities, public health and safety and welfare.

"As has been noted before, on Maui the situation is different. If this was a problem in Maui, our county council and our Mayor would be able to address it. Not to mention, we have a new initiative whereby we have these large Matson container-sized full bathrooms with sinks, stalls and everything, that are going to be deployed in areas where this is problematic, to make sure that facilities are there for people to use.

"So again, home rule means giving to the counties the power and the responsibility to address these issues. It's in their hands that this should lie, hence my reservations. Thank you very much."

Representative Carroll rose in opposition to the measure and asked that the remarks of Representative McKelvey be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative Awana rose in opposition to the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Awana's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition. Unintended consequences will come from this measure. I can understand why the good Representative from the 29th District would want this passed, but at the same time I am not sure if this bill has been thought through.

"First, it is my strong belief that people do not want to relieve themselves on public sidewalks or in parks. Knowing that there is a problem with homelessness in the urban core leads me to believe that there are inadequate accommodations and perhaps that is the real problem that our City and County of Honolulu needs to address.

"Secondly, should a homeless individual be convicted of this offense, a \$1,000.00 fine may be imposed. I can guarantee that they do not have \$1,000.00 to pay for the fine. Instead, they will end up populating our prison system which is already strained since we have to send inmates to the mainland.

"In essence, this will be an unfunded mandate to our Judiciary and Administrative branches. The only hard copy testimony provided was from Mr. Arvid Youngquist who concurs with me that accommodations are needed. In addition, action is already being taken by the City and County to where I believe this measure would be best addressed. For these reasons, I stand in opposition. Thank you, Mr. Speaker."

Representative Oshiro rose to speak in opposition to the measure, stating:

"Mr. Speaker, thank you. I rise in opposition. Just for me, I can't imagine approving this type of policy of statewide application to punish those who

cannot access, or do not have access to washroom facilities, or toilet facilities, and maybe commit the unpardonable sin of defecating or urinating on a public street, paved street, road or sidewalk.

"I think that, truth be told, I think this is geared towards those who might be mentally challenged, or even housing challenged, and their ability to access what we take for granted. Even in this building, there are several lavatories on each of the floors of the state Capitol. There are lavatories and sinks and facilities available within walking distance, very easily accessible.

"I think for most of the home owners, either renters or owners, I think we take these basic facilities and conveniences for granted. But there is a population of our citizens out there in our community that do not have access to this.

"So, I think that it's just so ironic that on the same day we try to approve policies that are going to protect our homeless and give them some dignity under the constitution and our Bill of Rights, that they can be protected, as a class, along those others. I'm just somewhat astounded.

"I don't know if we really appreciate what we are attempting to do here today, and hopefully the other Body will take pause to review what policies might come forward from this Chamber.

"But I can't get over the fact that when I review the revised ordinances of the City and County of Honolulu, that a person walking their pet animal, a dog would happen to urinate or defecate on a sidewalk, would face less severe penalties than a human being for doing the same. In fact, a pet, a dog, if it did defecate on a sidewalk in a public place, the owner would face no penalties if the owner simply went back and cleaned it up. That's not allowed for in this measure. It's a strict liability standard that applies. I think the penalty for a dog pooping or urinating in public on a sidewalk is like \$200, \$250. In this measure here, Mr. Speaker, it's up to \$1,000.

"The prior law that we had in place several years ago, going back to 2004, I think expired in 2012. It talked about the idea of a civil nuisance. Or maybe disorderly conduct or the intentional knowing defecation, urination in public, which would cause alarm. I think that was the evil that we were trying to address. And we limited it in scope to the Chinatown area. But we didn't apply that policy statewide to the rural communities, the neighbor island communities. But we kept it in Honolulu proper, where there is an acute crisis. And I don't doubt that. But to apply this type of policy and this kind of penalty, it seems somewhat draconian.

"What's interesting here, Mr. Speaker, is that maybe because of a lack of involvement or interest, the usual folks who would testify and weigh in, the Office of the Public Defender, there is nothing on the public record. Likewise, those who are interested in protecting our civil liberties, especially for the weakest in our society, the American Civil Liberties Union, the ACLU, is also conspicuously absent in rendering any opinion upon this proposal.

"So, it's for that reason I need to stand in opposition and voice these concerns. And I hope, Mr. Speaker, that this is the first and last we hear of this bill. Thank you."

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

"Thank you, Mr. Speaker. In support. Unfortunately, I have to say this is a topic that I never dreamed that I would have my name become associated with over a period of years. But unfortunately, in the district I represent, it's a real issue. Everyday, everyday the owners, the business owners in my district have to clean up the human feces and urine from in front of their stores.

"It costs money to clean it up, it costs time and labor for their employees to do it. This bill is actually quite a lot less stringent than the one that's currently in effect, that will be in effect until the end of this year, which prohibits urinating or defecating in public, not just on paved surfaces.

"I grew up in the country, for those of you who represent rural districts. If this bill had been in effect where I lived when I was growing up, I

wouldn't have been able to break it within a mile of my house because there wasn't anything paved within a mile of my house.

"So, for the rural districts, I just don't think it's going to be a problem. It's just not an issue. Well, that cuts both ways. We could take it out. And I'm not necessarily opposed to taking it out for neighbor islands, if that's the will of the caucuses from the neighbor islands.

"But I have had, over the years, with the one that was Chinatown, Downtown specific. A number of people have come to me and said, 'how come that doesn't apply to my district too? Because we have the same problem.'

"With regard to the homeless or those who are mentally ill, I think this gives the police a legitimate opportunity to assess that person, to see whether they are mentally ill and to take them over to Queens and be sure that they are okay and have an intervention in their life. But I wish, I would love dearly to spend my time and political capital on something other than urination and defecation.

"Unfortunately, that's where we're at in Chinatown right now, and we're sick of it. We're just tired of having to deal with, and it's just not the homeless. It's guys coming out of bars at four in the morning and *shishiing* in the middle of the street. It's guys waiting at bus stops. We just feel under siege, and I would guess that if you came with me to my district on any given day, within an hour you would see someone doing this. I think that as a civilized society, there needs to be some kind of minimal consideration for other human beings. Thank you very much."

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

"Mr. Speaker, I rise in support of this measure. As we all know, one of the core functions of government is to maintain health and sanitation standards, and I would assume that that applies on a statewide level. It should not matter whether you live in a rural area or on a neighbor island. All members of the public would expect a certain level of sanitation within their communities.

"There is precedent for the legislature to act on these kinds of issues. All we have to do is look to last year, when we passed legislation that would subject persons who feed feral birds to nuisance abatement lawsuits. And the whole rationale behind that legislation was to prevent situations where feral birds accumulate and create filth and stench in neighborhoods.

"So, there is precedent for us to act on this level. And I would like to also ask that the Judiciary Chair's comments be incorporated as my own. Thank you very much," and the Chair "so ordered." (By reference only.)

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

"I rise with reservations, please. Mr. Speaker, this is not about defecation and urination. This is about the failure of this Body and this society to solve the homeless problem. Failure to solve the housing problem. Failure to create jobs.

"We are approaching it in a piecemeal way. And as I often jokingly but seriously say in public, if Frank Fasi was alive, he would have probably resolved the homeless problem, but we haven't. So we are kind of playing around on the edges.

"Why I have reservations is, let's hear the neighbor islands and let them have their say and let this thing be carved out for those in urban areas. That's the only thing that makes sense.

"For those of you who've passed by the Chambers and recently in some of our bathrooms on the third floor. The gentlemen from Downtown, I think there's some of that coming here. And some of the sense that we have in this very building, means that we've got to do something about it. Because the smell of what we're talking about here in print, is actually coming real and close to us and close to home.

"So, we've got to focus on housing. We've got to focus on the homeless. We've got to focus on getting jobs, and getting the whole society, of which this Body is the policy body, to create and change those things. So, Mr. Speaker, with those reservations, I hope we, as the Representative of Kauai said, spend a few days contemplating this, carving out and making things a bit better. Thank you."

At this time, Representative Saiki called for the previous question.

At 1:13 o'clock p.m., Representative Tokioka requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:15 o'clock p.m.

Representative Fale rose in opposition to the measure and asked that the remarks of Representatives Oshiro and McKelvey be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Tokioka rose to respond, stating:

"Thank you, Mr. Speaker. I did ask for the deferral of two session days, and if that's not going to happen, I understand that. I ask for a friendly amendment that may not happen as well. But, I will be voting no and if this thing does go to conference and it does come back to the Floor, I am hopeful that this Body will continue to look at the concerns of the neighbor island delegations. Thank you, Mr. Speaker."

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

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

"Mr. Speaker, I stand in support. The reason why I'm supporting it is because the bill says, 'intentionally or knowingly urinates.' Those are the two key words in the bill, Mr. Speaker. And if somebody does that, then I'm in support, and I think they deserve to be fined."

The motion was put to vote by the Chair and carried, and H.B. No. 1498, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ORDER," passed Third Reading by a vote of 38 ayes to 9 noes, with Representatives Awana, Carroll, Fale, Hanohano, Har, Jordan, Oshiro, Takayama and Tokioka voting no, and with Representatives McDermott, Takai, Thielen and Woodson being excused.

At 1:18 o'clock p.m., the Chair noted that the following bill passed Third Reading:

H.B. No. 1498

INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following concurrent resolution (H.C.R. No. 28) was referred to Printing and further action was deferred:

H.C.R. No. 28, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO CONDUCT A SUNRISE REVIEW OF THE LICENSURE AND REGULATION OF HERBAL THERAPISTS," was offered by Representative Belatti.

ANNOUNCEMENTS

Representative Hanohano, for the Committee on Ocean, Marine Resources, & Hawaiian Affairs, requested a waiver of the 48-hour advanced notice requirement for the purpose of decision making on the following measure on Monday, February 3, 2014, at 8:25 a.m. in Conference Room 325, and the Chair "so ordered."

H.B. No. 709, Relating to Ocean Resources.

Representative Matsumoto: "Today is a very special day. I wanted to recognize our Minority Leader, Aaron Johanson. It's his birthday today. So, if everybody can wish him a very happy birthday."

Representative Lee: "I was just going to wish him the same thing. Thank you."

Representative Hanohano: "Just a reminder, if people need a place to relax, they can come to the Auditorium tonight from 5:30 to 7 p.m. to listen about the Kaho'olawe Island Reserve. The presentation is by Michael Naho'opi'i.

"Tomorrow is Aloha Friday, so we have some Aloha Friday activities to conclude Hawaiian Affairs Week. We have an OHA presentation in Room 423 from 9:30 to 10:30 or 11:00, and then we also have a luncheon provided from 11:00 to 12:45. So, we are inviting everybody in the Chambers to come. *Mahalo.*"

Representative Wooley: "Thank you, Mr. Speaker. I'd also like to let my colleagues know and the public know that on Tuesday, February 4th, at 4 p.m., we will be showing A Little Fire Ant in the Auditorium. I encourage everybody to come see it and learn what you can do to prevent the little fire ant and many other alien species from coming into Hawaii. Thank you."

Representative Hanohano: "I just want to dovetail into what she said, because the fire ant is prevalent in my district and a lot of the people that have been filmed are from my district also, the Puna District. *Mahalo.*"

COMMITTEE REASSIGNMENTS

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

<u>H.B.</u>	<u>Re-referred to:</u>
<u>Nos.</u>	
2036	Jointly to the Committee on Education and the Committee on Health, then to the Committee on Finance
2068	Jointly to the Committee on Energy & Environmental Protection and the Committee on Health, then to the Committee on Finance
2084	Jointly to the Committee on Energy & Environmental Protection and the Committee on Health, then to the Committee on Finance
2185	Jointly to the Committee on Agriculture and the Committee on Water & Land, then to the Committee on Finance
2301	Jointly to the Committee on Public Safety and the Committee on Health, then to the Committee on Judiciary
2356	Committee on Consumer Protection & Commerce, then to the Committee on Judiciary, then to the Committee on Finance
2376	Committee on Higher Education, then to the Committee on Water & Land, then to the Committee on Finance
2424	Committee on Labor & Public Employment, then to the Committee on Judiciary, then to the Committee on Finance
2655	Jointly to the Committee on Energy & Environmental Protection and the Committee on Health, then to the Committee on Consumer Protection & Commerce, then to the Committee on Finance

ADJOURNMENT

At 1:21 o'clock p.m., on motion by Representative Cabanilla, seconded by Representative Fukumoto and carried, the House of Representatives

adjourned until 12:00 o'clock noon tomorrow, Friday, January 31, 2014. (Representatives McDermott, Takai, Thielen and Woodson were excused.)