

TWENTY-SECOND DAY

Tuesday, February 21, 2006

The Senate of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2006, convened at 11:41 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Pastor Russell Higa, Honolulu Christian Church, after which the Roll was called showing all Senators present with the exception of Senator Nishihara who was excused.

The President announced that he had read and approved the Journal of the Twenty-First Day.

At 11:47 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:59 o'clock a.m.

MESSAGE FROM THE GOVERNOR

Gov. Msg. No. 297, dated February 8, 2006, transmitting the 2005 Report of the Commission to Promote Uniform Legislation, prepared by the Department of the Attorney General, was read by the Clerk and was placed on file.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 27 to 30) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 27, transmitting H.B. No. 2476, which passed Third Reading in the House of Representatives on February 17, 2006, was placed on file.

On motion by Senator Hee, seconded by Senator Hogue and carried, H.B. No. 2476, entitled: "A BILL FOR AN ACT RELATING TO STATUTORY REVISION: AMENDING, REENACTING, OR REPEALING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES AND THE SESSION LAWS OF HAWAII FOR THE PURPOSE OF CORRECTING ERRORS AND REFERENCES, CLARIFYING LANGUAGE, AND DELETING OBSOLETE OR UNNECESSARY PROVISIONS," passed First Reading by title and was deferred.

Hse. Com. No. 28, transmitting H.B. No. 2896, which passed Third Reading in the House of Representatives on February 17, 2006, was placed on file.

On motion by Senator Hee, seconded by Senator Hogue and carried, H.B. No. 2896, entitled: "A BILL FOR AN ACT RELATING TO EMOTIONAL DISTRESS," passed First Reading by title and was deferred.

Hse. Com. No. 29, transmitting H.B. No. 2900, which passed Third Reading in the House of Representatives on February 17, 2006, was placed on file.

On motion by Senator Hee, seconded by Senator Hogue and carried, H.B. No. 2900, entitled: "A BILL FOR AN ACT RELATING TO ELECTRONIC VOTING," passed First Reading by title and was deferred.

Hse. Com. No. 30, transmitting H.B. No. 3242, which passed Third Reading in the House of Representatives on February 17, 2006, was placed on file.

On motion by Senator Hee, seconded by Senator Hogue and carried, H.B. No. 3242, entitled: "A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR," passed First Reading by title and was deferred.

SENATE CONCURRENT RESOLUTION

The following concurrent resolution (S.C.R. No. 19) was read by the Clerk and was deferred:

Senate Concurrent Resolution

No. 19 "SENATE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO ASSESS THE SOCIAL AND FINANCIAL EFFECTS OF REQUIRING HEALTH INSURERS TO OFFER COVERAGE FOR SURVIVORS OF BRAIN INJURIES."

Offered by: Senator Baker.

ORDER OF THE DAY

THIRD READING

S.B. No. 2896, S.D. 1:

On motion by Senator Inouye, seconded by Senator Espero and carried, S.B. No. 2896, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

S.B. No. 3183, S.D. 1:

Senator English moved that S.B. No. 3183, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Inouye.

Senator Whalen rose in opposition and said:

"Mr. President, I rise in opposition to the bill.

"It sounds good and sounds great, however, the testimony from the expert brought in from the Rocky Mountain Alliance offered on his own without much questioning, actually, what is the effect of this going to be when we enact this? And he said, well, the emissions from Hawaii, our air is so clean already from the trade winds, etc., that it would make no difference on our environment. What about the worldwide global warming, etc.? Again, Hawaii is so small that it will make absolutely no difference in the effect of global warming. When asked, well, why should we do this? The response was, well, we should do this to join our voices with other states such as California who has horrible pollution and smog. We should join our voices with theirs' to show that we support this cause.

"However, the cost to have this extra system on the car he estimated to be about four or five, six, seven hundred dollars in that range to have these things on. I don't think we should burden our citizens with an increase cost of living to join our voices with states that need something like this.

"Thank you, Mr. President."

Senator English rose to speak in support of the measure and said:

“Mr. President, I rise in support of the measure.

“Mr. President, the good Senator from the Big Island I think misinterpreted what Kyle Datta said from the Rocky Mountain Institute. First of all, what this measure does is that it sets out the California process for clean air. And if any of you watched 60 Minutes this past Saturday, they had a segment called, ‘Global Warning’ and it talked about the collective greenhouse gasses and that about 25 percent of the North Pole has melted. And they are predicting that within this century, we’ll have three feet of sea level rise based on the current amount of CO2 that’s being put into the atmosphere.

“This particular measure adopts what many states have adopted and also adopts what the federal government has adopted and it goes into effect in ’09. The idea behind it is that every little bit of greenhouse gas emissions that go out contribute to global warming. The fact that we have trade winds that blow this over Hawai‘i is almost irrelevant because it adds to the entire global system. We are no longer isolated by artificial lines, political lines, the State of California versus the State of Nevada versus the State of Idaho, but it’s the amount of emissions that we put out. And because we contribute to global warming, it is a prudent step for us to do this to make sure that we cut back on our CO2 emissions.

“Now, the prices that were quoted by the previous speaker reflect what it would cost today. However, because the national standards will go into effect and the California standards are already in effect, these prices should drop as the car manufacturers build this on all of their cars.

“So, it is good for the environment, good for Hawai‘i, and good for the planet. I ask our members to support this. Thank you.”

Senator Whalen rose and stated:

“Mr. President, I’ll be brief.

“I take resentment that my previous speech was portrayed as misunderstanding what the testifier said because if the previous speaker took the time to look over the tape, because I believe Olelo was recording it, what I said was except for the price, I couldn’t remember exactly how much the cost was. What I said came out of his mouth and it’s almost a verbatim quote. So, for the previous speaker to present his argument as I misunderstood what the speaker said, perhaps he should listen to the speaker who is speaking and actually not twist it around so it works out in his mind what he thinks it should say, but actually listen to the speaker and what was said. And the speaker did say Hawaii is so small it will have no effect on global warming and it will have no effect on Hawaii’s air and the reason why we should do this is to join our voices. And if that’s the way this Body, the majority of you feel with the increased burden on the taxpayers, residents of Hawaii, then vote your conscience. For myself, I’d rather do what’s best for the people and not worry about making political grandstanding statements at the cost to the people of Hawaii.

“Thank you.”

The motion was put by the Chair and carried, S.B. No. 3183, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO VEHICULAR EMISSIONS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Slom, Trimble, Whalen). Excused, 1 (Nishihara).

S.B. No. 2255, S.D. 1:

On motion by Senator Hanabusa, seconded by Senator Hee and carried, S.B. No. 2255, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO TIME LIMITATIONS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

S.B. No. 2591:

On motion by Senator Hanabusa, seconded by Senator Hee and carried, S.B. No. 2591, entitled: “A BILL FOR AN ACT RELATING TO APPEALS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

S.B. No. 2596:

On motion by Senator Hanabusa, seconded by Senator Hee and carried, S.B. No. 2596, entitled: “A BILL FOR AN ACT RELATING TO THE INTERMEDIATE APPELLATE COURT,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

S.B. No. 2597:

On motion by Senator Hanabusa, seconded by Senator Hee and carried, S.B. No. 2597, entitled: “A BILL FOR AN ACT RELATING TO APPELLATE JURISDICTION,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

S.B. No. 2599:

On motion by Senator Hanabusa, seconded by Senator Hee and carried, S.B. No. 2599, entitled: “A BILL FOR AN ACT RELATING TO APPEALS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

S.B. No. 2601:

On motion by Senator Hanabusa, seconded by Senator Hee and carried, S.B. No. 2601, entitled: “A BILL FOR AN ACT RELATING TO DOCUMENTS SEALED UPON FILING,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

S.B. No. 2602, S.D. 1:

On motion by Senator Hanabusa, seconded by Senator Hee and carried, S.B. No. 2602, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO ADULT PROBATION RECORDS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

S.B. No. 2604:

On motion by Senator Hanabusa, seconded by Senator Hee and carried, S.B. No. 2604, entitled: "A BILL FOR AN ACT RELATING TO INTERMEDIATE APPELLATE COURT PANELS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

S.B. No. 2607, S.D. 1:

On motion by Senator Hanabusa, seconded by Senator Hee and carried, S.B. No. 2607, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSFER OF APPEALS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

S.B. No. 2608:

On motion by Senator Hanabusa, seconded by Senator Hee and carried, S.B. No. 2608, entitled: "A BILL FOR AN ACT RELATING TO GUARDIAN AND PROTECTIVE PROCEEDINGS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

S.B. No. 2609, S.D. 1:

On motion by Senator Hanabusa, seconded by Senator Hee and carried, S.B. No. 2609, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WRIT OF CERTIORARI," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

S.B. No. 2610, S.D. 1:

On motion by Senator Hanabusa, seconded by Senator Hee and carried, S.B. No. 2610, S.D. 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION RELATING TO CHANGING THE NAME OF THE INTERMEDIATE APPELLATE COURT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

S.B. No. 2611:

On motion by Senator Hanabusa, seconded by Senator Hee and carried, S.B. No. 2611, entitled: "A BILL FOR AN ACT RELATING TO VEXATIOUS LITIGANTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

S.B. No. 3000, S.D. 1:

By unanimous consent, action on S.B. No. 3000, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," was deferred until Wednesday, February 22, 2006.

S.B. No. 3124:

Senator Hee moved that S.B. No. 3124, having been read throughout, pass Third Reading, seconded by Senator Inouye.

Senator Trimble rose to speak in opposition to the measure as follows:

"Mr. President, I stand in opposition to this measure.

"Increasing the size of the Board of Regents does not produce a better board. There is more accountability with a smaller board than there is with a large one. Therefore, I'll be voting 'no' on this measure at this time.

"Thank you."

Senator Hee rose in support of the measure and stated:

"Mr. President, if the previous speaker is right, we should reduce the board to one person. Frankly, this bill is in line with national standards.

"Thank you."

The motion was put by the Chair and carried, S.B. No. 3124, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 4 (Hemmings, Hogue, Slom, Trimble). Excused, 1 (Nishihara).

S.B. No. 2293, S.D. 1:

By unanimous consent, S.B. No. 2293, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SOCIAL SECURITY NUMBER PROTECTION," was recommitted jointly to the Committee on Commerce, Consumer Protection and Housing and the Committee on Media, Arts, Science and Technology.

Senator Kim rose on a point of personal privilege as follows:

"Mr. President, I rise on a point of personal privilege.

"Mr. President, despite what many might think, I don't enjoy rising to speak about the lack of disclosure of information. But colleagues, the latest memo from the Senate Clerk requesting approval to install wireless access points at the Capitol is troubling. While I have no objection to the installing of wireless capability to various areas of the Capitol, I questioned why this information was not given to us or discussed during the legislative budget caucus on January 30th and/or at the WAM budget hearing on January 31st.

"I understand that discussions with Hawaiian Telcom on this particular project began in late December and that Hawaiian Telcom told me it was given the go ahead to begin the planning on January 25, 2006. So, again I ask, Why was this not discussed with the Caucus on January 30th?"

"I clearly recall general references – I'm sure many of you remember – were made about the wireless access of the entire Capitol at an estimate of approximately \$370,000. Of course we had no definite dates or budget allotment for such project. The Caucus even asked that we be provided with the computer system's plan at that time, but no mention was made of this particular wireless project that was already in progress.

“Before you characterize this as an oversight or another misunderstanding, there was no misunderstanding in my February 3rd memo to the Clerk asking for, and I quote, ‘any information regarding the Capitol wireless program’ – again, any information regarding the Capitol wireless upgrade – to which no response has been given as of this day.

“Incidentally, the reason I go through the trouble of putting things in writing instead of a phone call is because I have been given, as I’m told, inaccurate information on the phone and I want to assure that there’s no misunderstanding of what I’m asking for and what I’m told and that all Senators, including the Minority, get the information.

“So, how could the fact that Hawaiian Telcom was in the process of designing this wireless system not be shared with us? Why was the \$370,000 wireless project used in Caucus to justify the \$1.1 million increase in the proposed Senate budget when all along, unbeknownst to us, but now clear in the Clerk’s memo that we have a balance of a little over \$400,000 to pay for the installation? Is this a case of purposely withholding information or just a case that the right hand does not know what the left hand is doing because we have no overall plan? In any case, this is not acceptable.

“As Legislators, we do not appreciate or tolerate this from state agencies. We certainly should not tolerate it from our support staff. Again, I emphasize I’m not objecting to this wireless project per se, I object to the withholding of information, especially when it is asked for. I object to us not having a computer system and wireless plan as requested. And I object to statements that if there’s money left over then we might get it.

“The Senate had a \$1.3 million carryover on December 31, 2005. We increased this year’s budget another 11 percent. Why are we still using Windows 97? We’re asked to approve a \$73,000 expenditure with no systematic plan and cost estimate for the upgrade of the technology of the Capitol.

“These questions must be answered and I request that we go into Caucus immediately upon adjournment today to allow the Clerk to give us some answers. And since this affects all of us, and if there’s no objection from the Majority, then I suggest the Minority be allowed to sit in if they are so interested.

“Thank you.”

ADJOURNMENT

At 12:14 o’clock p.m., on motion by Senator Hee, seconded by Senator Hogue and carried, the Senate adjourned until 11:30 o’clock a.m., Wednesday, February 22, 2006.

Respectfully submitted,

Clerk of the Senate

Approved:

President of the Senate