

STAND. COM. REP. NO. 2413

Honolulu, Hawaii

FEB 15 2008

RE: S.B. No. 2828
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Madam:

Your Committees on Judiciary and Labor and Intergovernmental and Military Affairs, to which was referred S.B. No. 2828 entitled:

"A BILL FOR AN ACT RELATING TO DISASTER RELIEF,"

beg leave to report as follows:

The purpose of this measure is to clarify the use of the Governor's emergency powers.

Specifically, this measure, among other things:

- (1) Clarifies under what circumstances the Governor may suspend laws under the Civil Defense and Emergency Act and requires the Governor to report to the Legislature to authorize the continuance of disaster relief actions provided under such a suspension of laws;
- (2) Establishes that certain provisions of the State's disaster relief chapter are operative and supersede provisions of the Civil Defense and Emergency Act in times when an emergency arises that is not considered a civil defense emergency; and
- (3) Provides that any emergency declarations in force prior to the effective date of the measure to expire at the end of the 2008 Regular Session unless reauthorized by the Legislature.



Your Committees received testimony in support of this measure from the Laborers' Union Local 368. The Department of the State Attorney General submitted testimony with reservations. The Board of Land and Natural Resources, State Department of Defense, and Department of Agriculture submitted testimony in opposition.

Your Committees find that the Governor shall not utilize the power to suspend laws authorized under the Civil Defense and Emergency Act when the State is attacked for purposes of noncivil defense situations unless there is a tangible and measurable threat to the people or environment of the State.

Your Committees further find that certain provisions of the State disaster relief chapter are operative and supersede provisions of the Civil Defense and Emergency Act in times when an emergency arises that is not considered a civil defense emergency.

While departmental testimony indicated opposition to this measure, your Committees are aware of instances in which the Governor seems to have conveniently utilized these emergency powers to circumvent legislative authority. For example, the Governor has issued emergency proclamations to erect structures for the homeless on the Leeward coast of Oahu during the interim of 2006. In her emergency proclamation, the Governor indicated that the emergency proclamation was necessary to protect the environment due to the area populated by the homeless lacking sufficient bathroom facilities. Yet during the 2007 Regular Session of the Legislature, the Governor did not seek legislative approval to continue the services provided under the emergency proclamation. Rather, the Governor waited until after the 2007 Regular Session adjourned, and then extended the term of the original emergency proclamation. While your Committees concur with the intent of the Governor to shelter and provide services to the homeless, your Committees do not concur with the approach the Governor has taken to provide the shelter and services, particularly when the Governor had ample opportunity to collaborate with the Legislature on this important issue.

Your Committees have amended this measure by changing the effective date to July 1, 2050, for purposes of facilitating further discussion.

Your Committees also have amended this measure by making technical, nonsubstantive amendments.



As affirmed by the records of votes of the members of your Committees on Judiciary and Labor and Intergovernmental and Military Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2828, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2828, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on behalf of the members of the Committees on Judiciary and Labor and Intergovernmental and Military Affairs,


LORRAINE R. INOUE, Chair


BRIAN T. TANIGUCHI, Chair



