



EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

Written Testimony of  
**Barry Fukunaga**  
Chief of Staff to the Governor

Before the  
**SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS**  
Friday, February 27, 2009, 9:30 a.m.  
Room 016, State Capitol

**SB 478 SD1 RELATING TO DISASTER RELIEF**

Chair Taniguchi, Vice Chair Takamine and Members of the Committee:

The Office of the Governor opposes SB 478 SD1 because the changes proposed by this measure will prevent the State's chief executive from possessing the flexibility and immediate capability needed to respond to disasters and emergencies. The bill requires a Governor to only respond to disasters and emergencies if "tangible and measurable harm" has occurred and such harm cannot be resolved through legislation. This measure will prohibit the Governor from taking pre-emptive action and impair the State's ability to provide immediate assistance when it is necessary and warranted by the circumstances of an emergency situation.

This measure prescribes that if the tangible harm and damage could be resolved through legislation in a regular or special session, "then the governor shall not execute any action to further provide for disaster relief." This provision is extremely problematic in that the Governor would be unable to mitigate the harm that has already been caused while the Legislature passes appropriate legislation. The bill does not address what would happen if the Legislature cannot come to a decision on the appropriate course of action during its legislative session or if the emergency occurs when the Legislature is not in session. This bill also offers no guarantees that a legislative solution will be provided to the Governor.

Additionally, this measure requires that any disaster relief provided, except for natural disasters and civil defense emergencies, shall not extend beyond the adjournment sine die of the next regular session unless expressly authorized by the Legislature. This provision would prevent timely recovery efforts by taking away the continuity needed for ongoing relief. Since it often takes years to recover from disasters

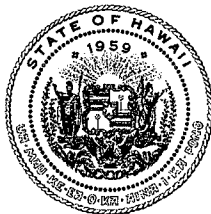
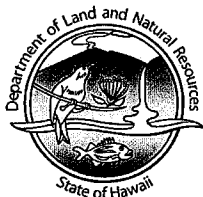
and emergencies, requiring extensions for relief to be renewed on an annual basis would only delay and disrupt relief efforts.

During the previous session, several members of the Legislature called upon the Governor to exercise emergency powers resulting from conditions such as the Aloha Airlines bankruptcy, while simultaneously trying to curtail these emergency powers. If this bill is enacted this session, any Governor would be unable to respond to such circumstances. This only illustrates that flexibility is needed in exercising emergency powers, as a broad range of emergency situations may arise that require emergency attention.

Governor Lingle recognizes and understands the complicated nature of finding proper solutions and responses for emergency situations facing Hawaii and has exercised her emergency powers judiciously.

A key requirement for effective responses to any emergency is the ability to respond quickly and effectively. The ability to do so requires flexibility and broad decision making capability. It would be prudent to ensure that the Governor is able to act quickly and decisively when emergencies and disasters occur. This measure is not in the best interest of the State and our residents.

LINDA LINGLE  
GOVERNOR OF HAWAII



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**Testimony of  
LAURA H. THIELEN  
Chairperson**

**Before the Senate Committee on  
JUDICIARY AND GOVERNMENT OPERATIONS**

**Friday, February 27, 2009  
9:30 a.m.  
State Capitol, Conference Room 016**

**In consideration of  
SENATE BILL 478, SENATE DRAFT 1  
RELATING TO DISASTER RELIEF**

Senate Bill 478, Senate Draft 1 clarifies the use of the Governor's emergency powers in response to a natural or manmade disaster. The Department of Land and Natural Resources (Department) does not support this measure.

The Department believes that it is difficult to sometimes evaluate with an absolute certainty the full scope and nature of all emergencies, and by their very nature, they require a speedy and flexible response. The ability to act quickly and flexibly should be the best way for the state to provide an emergency response.

The Department is also currently involved with addressing emergency mitigation or repair projects associated with the Emergency Proclamations (Proclamations) issued by the Governor as it relates to the 2006 heavy rains and flooding and the Kiholo earthquake emergencies. The Proclamations allows the Department and others, to expeditiously work on mitigation/repair projects by "suspending any law (state or county) which impedes or tends to impede or is detrimental to the expeditious and efficient execution of, or conflicts with, disaster relief or other necessary functions". Ensuring that the Proclamations remain in full force and effect throughout the "recovery period" is essential in the Department's ability to address the public's health, safety and welfare.

The "recovery period" may take years to address depending upon 1) When exactly the emergency events took place, 2) The severity of the damages, 3) when available State funding is made available, and 3) If there are federal recovery funds involved. Although the Department tries its best at making emergency projects a priority as well implementing these projects in a timely manner, it would be hard-pressed or impossible to complete projects by the next regular session of the Legislature. If by some chance, a concurrent resolution or enactment of law is not

adopted by the Legislature to continue the emergency proclamation(s) in full force and effect, this may cripple the Department's ability to address projects related to protecting the public's health, safety and welfare.