

**STATE OF HAWAII
DEPARTMENT OF DEFENSE**

**TESTIMONY ON HOUSE BILL 849 HD2
A BILL RELATING TO EMERGENCY MANAGEMENT**

**PRESENTATION TO
THE SENATE COMMITTEES ON
PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS (PSM)
&
JUDICIARY AND LABOR (DHL)**

BY

**MAJOR GENERAL DARRYLL D. M. WONG
ADJUTANT GENERAL AND DIRECTOR OF STATE CIVIL DEFENSE
March 17, 2013**

Chair Espero, Chair Hee, and Members of the Senate Committees on Public Safety, Intergovernmental and Military Affairs (PSM), and Judiciary and Labor (JDL).

I am Major General Darryll D. M. Wong, Adjutant General and Director of State Civil Defense. I am testifying in SUPPORT of House Bill 849 HD2.

HB 849 HD2 is an important and much needed update to current Hawaii civil defense statutes.

- The current statutes were written in the 1940's and modified in the 1950s and 60s. The outdated language, powers and some references require revision.**
- Global warming appears to have increased the number of potential natural disasters. The new emergency management chapter will allow the state and counties to better prepare and respond to this increase in disasters.**

An overview of HB 849 HD2.

- Repeals HRS 127 (Disaster Relief Act). Nine of the 11 chapters were indefinitely suspended in 1961. The new emergency management chapter will incorporate the major disaster fund from HRS 127.**
- Repeals HRS 128 (Civil Defense and Emergency Act). HB 849 HD2 updates language and moves into the new emergency chapter.**
- There are civil defense authorities scattered in four chapters of the Hawaii Revised Statutes - 26-21, 127, 128, and 209-9. This new chapter will streamline the statutes by placing all emergency management authorities in one chapter and will update the language of the law.**
- HB 849 HD2 recodifies the powers and authorities of the governor and the mayors.**
 - Does not add any gubernatorial powers - all powers exist in the current statutes.**

- Moves some gubernatorial authorities from general powers to emergency powers while deleting outmoded powers.
- Mayors will now be directly responsible for emergency management in their county as a function of being mayor. Currently, mayors are appointed vice directors of State Civil Defense by the Adjutant General.

This new chapter will establish clear emergency management authorities, roles and responsibilities for the mayor of each county and formalize already functioning county emergency management agencies under the direction of each mayor. Under the current law, these agencies work for the Director of Civil Defense. The new chapter will formalize operational processes currently in use by the state and counties. These changes promote partnership by clarifying the powers and authorities of the governor and the four county mayors.

Part of my testimony is letters from three county mayors supporting HB849 HD2.

New sections in HB 849 HD2.

- Authorizes the use of \$100,000 from the Major Disaster Fund to establish an Emergency Reserve Corps. The money would come from the \$500,000 the Legislature allocates to the fund.
- State Civil Defense (SCD) will use this funding to train 100 volunteer corps members. The training will be four days a year to prepare them to quickly augment the SCD staff during an emergency event and the follow-on recovery period.
- The Federal Emergency Management Agency (FEMA) uses this concept to robust their staffing after major disasters.
- Authorizes the 24/7 State Warning Point, a State Civil Defense function operating since 2005. No additional personnel needed.
- Changes "Civil Defense" to "Emergency Management". Out of the 54 states and territories, only Hawaii uses "civil defense" in reference to their state emergency management agency. Guam uses Office of Homeland Security and Civil Defense. State Civil Defense will become the Hawaii Emergency Management Agency.

I strongly urge you to pass HB 849 HD2 so we can move the State's emergency management function into the 21st Century.

Thank you for allowing me to testify in **SUPPORT** of this measure.

STATE OF HAWAII
DEPARTMENT OF DEFENSE

TESTIMONY ON HOUSE BILL 849 HD 2
A BILL RELATING TO EMERGENCY MANAGEMENT

PRESENTATION TO
THE SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND
MILITARY AFFAIRS
&
THE SENATE COMMITTEE ON JUDICIARY AND LABOR

BY

MR. DOUG MAYNE
VICE DIRECTOR OF STATE CIVIL DEFENSE
March 17th, 2014

Chair Espero, Chair Hee, Vice Chair Baker, Vice Chair Shimabukuru, and Members of the Committees.

I am Doug Mayne, Vice Director of State Civil Defense. I am testifying in **FAVOR** of House Bill 849 House Draft 2, but would like to make a few clarifying comments.

I have been working on this bill for two years, literally since before I was hired as the Vice Director of Civil Defense. I believed then, and I believe now, that our statutes governing civil defense are woefully out of date, and that civil defense responsibilities are unclear.

HB 849 House Draft 2 is the culmination of 18 months of collaboration with county and state agencies, non-profit groups, the private sector, and the staff of the House Judiciary committee. It has gone through at least 50 different versions and rewrites, and I have consulted our partners at every step of the way.

This bill has received support from all four county Mayors and their civil defense agencies. With a bill that is this comprehensive, there are always points of contention, and I want to address those today.

The main point that is at dispute with the counties is section 13(a)(4) Additional powers during an emergency period. "In the event of an emergency or disaster beyond local

control, or an event which, in the opinion of the governor, is such as to make state operational control necessary, assume direct operational control over all or any part of the emergency management functions within the affected area;"

Mayor Caldwell requests that this section be struck from the bill.

Mayor Carvalho requests that this section be changed to "In the event of an emergency or disaster beyond local ability or capacity..."

I believe the section should remain as it is written. First of all, I believe that there must be the ability for the Governor to step in if the local government is incapacitated. For example, if the county council and the mayor are in a meeting and there is a building collapse, a duly elected official must be able to assume responsibility for the response. If all of the county elected officials are incapacitated, then the Governor must have the legal authority to act quickly. Additionally, this phrase is in common usage throughout the United State, appearing in the emergency management statutes of 43 of the 54 states and territories, including in many home rule states.

In closing – I believe this is a bill that is long overdue and needed.

I strongly urge you to pass HB 849 HD 2 unamended.

Thank you for the opportunity to provide this testimony.

STATE OF HAWAII
DEPARTMENT OF DEFENSE
CIVIL DEFENSE DIVISION

TESTIMONY ON HOUSE BILL 849 HD 2
A BILL RELATING TO EMERGENCY MANAGEMENT

PRESENTATION TO
THE SENATE COMMITTEE ON
PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS (PSM)
&
THE SENATE COMMITTEE ON JUDICIARY AND LABOR (JDL)

BY

MR. DOUG MAYNE
VICE DIRECTOR OF STATE CIVIL DEFENSE
March 17, 2014

Chair Espero, Chair Hee, Vice Chair Baker, Vice Chair Shimabukuro, and Members of the Committees.

I am Doug Mayne, Vice Director of State Civil Defense. I am testifying in **FAVOR** of House Bill 849 House Draft 2.

HB 849 HD 2 proposes needed recodification of, and a small number of additions to the current Hawaii Civil Defense statutes. These changes will help better protect the people of Hawai'i. The statutes we are using today were written in the 1950's, and, over time, civil defense authorities have been placed into at least 4 different chapters of the Hawai'i Revised Statutes. Among other things, HB 849 HD 2 will streamline the law by placing all emergency management authorities in one chapter and will update the language of the law.

One new section in HB 849 HD 2 establishes the Emergency Reserve Corps (ERC). We know we cannot afford a full-time force that is large enough to staff medium and large-scale disasters for 24 hour operations for weeks on-end. The ERC will be a low-cost surge staff to assist government (state and local) during emergencies. The ERC will be recruited from community members, trained, and ready to assume their duties when mobilized by the Administrator of Emergency Management. The ERC members will be required to attend 4 one-day training periods each year to ensure they are ready to respond. Up to \$100,000 of the cost of the required training (salaries, facilities and training material) for the ERC will be taken from the annual major disaster fund appropriation. The ERC will provide a low cost, fully-trained surge staffing capability.

A second new section codifies our existing support of the State Warning Point, a 24/7 watch facility staffed by State Civil Defense personnel. This is a function we have performed since 2005.

HB 849 HD 2 recodifies the powers and authorities of the Governor. Some of the powers under the current statute are outmoded and need to be repealed. HRS 128-6(5) (A), for example, authorizes the Governor to provide for "Compulsory RHo blood typing on females of child bearing age or younger..." This power is dropped in the new bill as unnecessary.

Other powers that are currently very broad in nature are moved to a more restrictive category. For example, the Governor now has the authority to take over direct operational control of a county-level emergency at any time; under the new statutes, this becomes a power he will only have during a declared state of emergency. All of the Governor's powers in sections 12 and 13 of this bill are authorities that are listed in the current statute; HB 849 HD 2 clarifies two authorities: the authority to order mandatory evacuations during a declared state of emergency (Governor) or local state of emergency (Mayors), and the ability to identify emergency response personnel among government workers and order them to report for duty regardless of the availability of leave. This second clarification is designed to ensure that employees who are needed for disaster response and recovery can be ordered to report for work, even if administrative leave is granted to the general work force.

The biggest change in HB 849 HD 2 concerns the role of the county Mayor. The current civil defense statutes place all civil defense authorities with the Governor, which can be delegated to the Director of Civil Defense and further delegated to the Deputy Directors (the Mayors are habitually appointed as Deputy Directors for their counties). Under the current statutes, Mayors have no authority over civil defense matters until they are appointed as a Deputy Director of Civil Defense by the Director (The Adjutant General). HB 849 HD 2 provides the Mayors their emergency management authorities as a function of being the chief elected executive of the county. This law will establish clear emergency management roles and responsibilities for the Mayor of each county, establish a county emergency management agency under the direction of each Mayor, and provide specific emergency management authorities for the Mayor. These changes will make clear the roles and responsibilities of the county and state level governments, ensuring a clear understanding of who is responsible for what.

Over the past 6 months I have worked closely with the House Judiciary staff and the Attorney General's office to ensure HB 849 HD 2 is the best emergency management bill possible.

I have also worked closely with the County Civil Defense Agencies and other partners to ensure they had input at all stages of drafting this bill. And although there are a couple of specific sections of this bill they would like to see changed, they support the overall bill. The Director of Civil Defense has also received letters of support for HB 849 HD 2 from Mayors Arakawa, Carvalho, and Kenoi. This bill has as much broad-based support as I believe it is possible to attain for a major piece of legislation that is 100 pages in length.

HB 849 HD 2 is a comprehensive recodification of the emergency management laws in our state. This bill will simplify the law by placing all emergency management authorities in one chapter of the HRS. It will strengthen emergency management by making the County Mayors responsible for emergency management in their counties and providing them clear powers and authorities to act in their jurisdictions. It promotes partnership by clarifying the powers and authorities of the Governor and the Mayors. And it increases our capabilities by providing a mechanism to hire and train a low-cost surge staff.

I strongly urge you to **PASS** HB 849 HD 2 unamended.

Thank you for the opportunity to provide this testimony.

LATE TESTIMONY

WRITTEN COMMENTS ONLY

TESTIMONY OF HERMINA MORITA
CHAIR, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
SENATE COMMITTEES ON
PUBLIC SAFETY, INTERGOVERNMENTAL & MILITARY AFFAIRS
AND
JUDICIARY & LABOR

MARCH 17, 2014
10:00 a.m.

MEASURE: H.B. No. 849, H.D. 2
TITLE: Relating to Emergency Management

Chair Espero, Chair Hee, and Members of the Committees:

DESCRIPTION:

This measure proposes to amend and repeal current disaster relief and civil defense provisions under state law, and to add a new chapter in Hawaii Revised Statutes ("HRS") setting out provisions for the State's program for emergency management. In addition, this measure makes conforming amendments to HRS Chapters 269 and 271G concerning the ability of utilities affected by emergencies to apply for special emergency-only cost recovery and temporary certificates of operation, subject to the review of the Public Utilities Commission ("Commission").

POSITION:

The Commission would like to offer the following comments on this measure.

COMMENTS:

The Commission has reviewed this measure's proposed amendments that will affect public utilities under HRS Chapters 269 and 271G, amendments which conform existing emergency cost recovery and temporary operating certificate language to the bill's proposed new Emergency Management chapter. The Commission supports the measure's non-substantive amendments to the extent they are only intended to make existing language consistent with the proposed bill's Emergency Management chapter.

Thank you for the opportunity to offer written comments on this measure.

LATE TESTIMONY

DEPARTMENT OF EMERGENCY MANAGEMENT CITY AND COUNTY OF HONOLULU

660 South King Street Honolulu, Hawaii 96813 / (808) 723-8860

KIRK CALDWELL
MAYOR



MELVIN N. KAKU
DIRECTOR

PETER J.S. HIRAI
DEPUTY DIRECTOR

March 17, 2014

The Honorable Will Espero, Chair
and members
Committee on Public Safety, Intergovernmental and Military Affairs
The Honorable Clayton Hee, Chair
Committee on Judiciary and Labor
and members
State Senate
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Espero and Hee and Members:

SUBJECT: House Bill (HB) 849, HD2, Relating to Emergency Management

I am Melvin N. Kaku, Director of the City and County of Honolulu, Department of Emergency Management.

The City and County of Honolulu, Department of Emergency Management, supports HB 849, HD2, which proposes needed recoding of the State's emergency management laws. Some of the powers under the current statute are outmoded and need to be repealed. For example, the Governor now has the authority to take over direct operational control of an emergency at any time; this becomes a power he will only have during an emergency period. All of the Governor's powers in sections 12, 13 and 14 are authorities that are listed in the current statute. To minimize any ambiguity in sections 13a(4), recommend the following replacement language to clarify under what circumstances the Governor may assume control. The replacement language is as follows:

For section 13a(4): "In the event of an emergency or disaster beyond local control, the local entity may request that the Governor take control of the disaster or emergency incident."

It is noted that HB 849, HD2, in clarifying the roles of the Governor and the Mayors, unintentionally shifts a greater burden of the State's responsibilities to the counties, which would be an unfunded mandate.

I urge your committee to support and pass HB 849 with our proposed amendment language. Thank you for the opportunity to testify.

Sincerely,


Melvin N. Kaku
Director

William P. Kenoi
Mayor



Walter K.M. Lau
Managing Director

Randall M. Kurohara
Deputy Managing Director

County of Hawai'i Office of the Mayor

25 Aupuni Street, Suite 2603 • Hilo, Hawai'i 96720 • (808) 961-8211 • Fax (808) 961-6553
KONA: 74-5044 Ane Keohokalole Hwy., Bldg. C • Kailua-Kona, Hawai'i 96740
(808) 323-4444 • Fax (808) 323-4440

January 13, 2014

Major General Darryl D.M. Wong
Adjutant General
State Department of Defense
3949 Diamond Head Road
Honolulu, HI 96816

RE: HOUSE BILL 849 HD 2, RELATING TO EMERGENCY MANAGEMENT

Aloha, Major General Wong:

Mahalo for this opportunity to express my full support of House Bill 849 HD2, relating to emergency management. The bill will enhance public safety and strengthen emergency management by making the Mayor and the county Civil Defense agency responsible for emergency management in our county. It also clarifies the county's powers and authorities to act in times of disaster.

Mahalo for your consideration and support for this important legislation to help protect our families and keep our residents safe in emergency situations.

Aloha,

A handwritten signature in black ink, appearing to read "W.P. Kenoi".

William P. Kenoi
MAYOR

ALAN M. ARAKAWA
MAYOR



200 South High Street
Wailuku, Hawaii 96793-2155
Telephone (808) 270-7855
Fax (808) 270-7870
e-mail: mayors.office@mauicounty.gov

OFFICE OF THE MAYOR

Ke'ena O Ka Meia
COUNTY OF MAUI – Kalana O Maui

January 15, 2014

Major General Darryll D.M. Wong
Director of Civil Defense
State of Hawaii
3949 Diamond Head Road
Honolulu, HI 96816-4495

RE: SUPPORT FOR HOUSE BILL 849 RELATING TO EMERGENCY MANAGEMENT

Dear General Wong:

Thank you for this opportunity to offer our testimony **IN SUPPORT OF HB849** relating to Emergency Management.

As Mayor of the County of Maui, I am united with Anna M. Foust, Emergency Management Officer, Maui Civil Defense Agency, in supporting this measure. I support this measure for the following reasons:

- The current statutes governing emergency management and civil defense operations were enacted over 60 years ago and were based on the Civil Defense Act of 1950. These statutes are out of date and are no longer in keeping with the tenets of modern emergency management. Additionally, with sections 1-9 of chapter 127, Hawaii Revised Statutes suspended, there has been confusion as to the power and authority of the governor during disasters;
- This bill will clarify powers and authorities of the Governor and the mayors in emergency management. Clearly delineating the authority, powers and functions of the Governor and mayors – before times of emergency occur – is important as it will ensure that there are no gaps during response to and recovery from a disaster;
- It will establish county offices of emergency management, clarify the responsibilities that the mayors have in performing emergency management in their counties

Thank you for this opportunity to offer testimony in support of HB849 relating to Emergency Management.

Bernard P. Carvalho, Jr.
Mayor



Nadine K. Nakamura
Managing Director

OFFICE OF THE MAYOR
County of Kaua'i, State of Hawai'i
4444 Rice Street, Suite 235, Līhu'e, Hawai'i 96766
TEL (808) 241-4900 FAX (808) 241-6877

January 13, 2013

TO: Major General Darryll D. M. Wong
Director of Civil Defense
State of Hawaii
3949 Diamond Head Road
Honolulu, HI 96816-4495

Subject: Letter of Support for HB 849

Major General Wong,

Aloha from the County of Kaua'i!

I am writing to express my support for House Bill 849, An Act Relating to Emergency Management, with concerns and requests to be noted below.

Passage of HB 849 will help to improve emergency management for the people of Kaua'i and Niihau by clarifying authority, roles and responsibilities relative to County Mayors and the Governor and likewise County and State government. It also represents a prudent modernization and consolidation regarding portions of Hawaii Revised Statutes relating to emergency management.

One area of concern to me relates to § -5 County emergency management agency, where HB 849 will require that the county-level administrator or director be subject to HRS Chapter 76. As you know, this is not consistent with Kaua'i's current structure with an appointed Civil Defense Manager as head of the agency. As such, I request that Kaua'i be given until July 1, 2016, to comply with this requirement.

The City and County of Honolulu, along with Maui and Hawaii counties would already be in compliance, so allowing time for Kaua'i to comply would not adversely affect them. Moreover, the head of each of the four county emergency management/civil defense agency has acknowledged his/her support for my request.

I also request clarification regarding § -14 Additional powers in an emergency period, in particular, Item (4). The current language "in the event of an emergency or disaster

beyond local control" may be ambiguous. I suggest that the words "beyond local control" be replaced with something more along the lines of "beyond local ability or capacity." Although not stated, I assume that local government may request State operational control in a catastrophic event.

In closing, I reiterate my support for HB 849 with my above stated concerns. I thank you for your leadership with this legislation that will improve emergency management in Hawaii. Please feel free to contact me if you have any questions or if you would like to discuss the concerns and requests that I've stated above.

Mahalo,

A handwritten signature in black ink, appearing to read "Bernard P. Carvalho, Jr.", written in a cursive style.

Bernard P. Carvalho, Jr.
Mayor

cc: Glenda Nogami Streufert, Civil Defense Manager

LATE TESTIMONY

Testimony on House Bill 849 HD2 A Bill Relating to Emergency Management

SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY
AFFAIRS

SENATE COMMITTEE ON JUDICIARY AND LABOR

TWENTY-SEVENTH LEGISLATURE, REGULAR SESSION OF 2014

March 17, 2014

CHAIR ESPERO, CHAIR HEE, AND COMMITTEE MEMBERS:

I am Edward T. Teixeira, former vice director of civil defense, State of Hawaii, from October 1999 to October 2011. I am testifying in strong opposition to House Bill 849 HD2.

The proposed bill simply attempts to reform the state civil defense system by a name change, in essence substituting civil defense at the State and county levels with "emergency management". Reform of the state civil defense system requires a real change, one that involves a bold (and justified) transition from the Federal Civil Defense laws of the 1950s to the 21st Century and beyond.

You have the opportunity to make this real change by: 1) creating a state director of emergency management position that reports DIRECTLY to the Governor, NOT a position and title given to the State Adjutant General (reference Chapter 26-21 HRS); 2) establishing a state emergency management agency DIRECTLY under the Governor, as many states have done; and, 3) deleting language in the proposed draft that continues to provide the Adjutant General to act as the director of emergency management.

It is time for a needed change to the state civil defense system. If passed, HB 849 HD2 will continue to retain the civil defense/emergency management system to the Hawaii National Guard, an outmoded Cold War concept. Note in Section -3 **Hawaii emergency management agency**, the creation of an administrator of emergency management who "shall be the civilian head of and responsible for the day-to-day operations of the agency" and who shall report to the director of emergency management or adjutant general. This is exactly what Chapter 128, HRS currently prescribes under the duties and responsibilities for the vice-director of civil defense, again a Cold War concept.

This unnecessary layering of positions is unnecessary, contributes to confusion among government agencies and the public and should be eliminated. There should be a either a civilian director of emergency management or a civilian administrator of emergency management who reports to the governor.

There are other parts of the proposed bill that address many other critical functions and responsibilities, which should be studied carefully. Passing this bill out of committee without a thorough review by your committees will be a disservice to the people of the State.

Thank you for the opportunity to provide testimony that strongly opposes this bill.

~~LATE TESTIMONY~~

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 17, 2014 11:02 AM
To: PSMTestimony
Cc: stacy.crivello@mauicounty.us
Subject: Submitted testimony for HB849 on Mar 17, 2014 10:00AM

HB849

Submitted on: 3/17/2014

Testimony for PSM/JDL on Mar 17, 2014 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Councilmember Stacy Helm Crivello	Individual	Support	No

Comments: I support the bill that is before you for discussion, for the reasons stated in Maui County Council Chair Gladys Baisa testimony submitted earlier.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov