

STATE OF HAWAII
DEPARTMENT OF DEFENSE
HAWAII EMERGENCY MANAGEMENT AGENCY

TESTIMONY ON SENATE BILL 655, HD1
A BILL RELATING TO MEDIA ACCESS

PRESENTATION TO
THE HOUSE COMMITTEE ON JUDICIARY (JUD)

BY

VERN T. MIYAGI
Administrator, Hawaii Emergency Management Agency

Aloha Chair Nishimoto, Vice-Chair San Buenaventura and Members of the Committee.

I am Vern T. Miyagi, Administrator, Hawaii Emergency Management Agency. I am providing testimony in support of the intent of SB 655, HD1.

SB 655 HD1 addresses my previous concerns about the original SB 655 as noted in my previous testimony.

Thank you for the opportunity to provide this testimony **supporting the intent of SB 655, HD1.**

Vern T, Miyagi; vern.t.miyagi@hawaii.gov; 808-733-4300

DEPARTMENT OF EMERGENCY MANAGEMENT
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET • HONOLULU, HAWAII 96813
PHONE: (808) 723-8960 • FAX: (808) 524-3439

KIRK CALDWELL
MAYOR



MELVIN N. KAKU
DIRECTOR

PETER J.S. HIRAI
DEPUTY DIRECTOR

March 28, 2017

The Honorable Scott Y. Nishimoto, Chair
The Honorable Joy A. San Buenaventura, Vice Chair
Judiciary Committee

State House of Representatives
State Capitol
415 South Beretania Street, Room 325

Dear Chair Nishimoto, Vice Chair San Buenaventura, and Members:

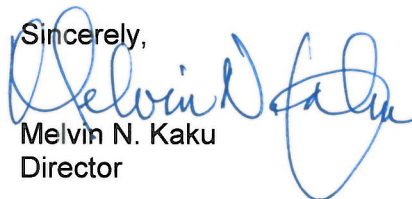
SUBJECT: S.B. 655 HD1 RELATING TO MEDIA ACCESS

I am Melvin Kaku, Director of the Department of Emergency Management (DEM), City and County of Honolulu (City). DEM supports **S.B. 655 HD1** provided that the amended language remains as written as it provides emergency management authority powers that allow first responders and law enforcement to enforce restricted areas and safety zones creating safety hazards, security concerns, or interfering with emergency response teams.

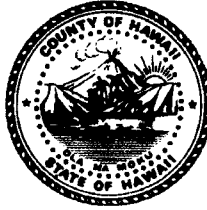
When a disaster impacts a community, the short and long term effects can include hazardous, dangerous, and even deadly circumstances. If an area that is deemed to be dangerous or under dangerous conditions, access to those areas is restricted to first responders and emergency personnel to ensure the security and safety of area residents. If residents cannot access these restricted areas due to the dangerous conditions, then the news media should not expect to be granted access either. In addition, allowing news media free access to restricted areas could place them in great danger, and could endanger the lives of emergency responders should the news media representative(s) get into trouble and require rescue.

Additionally, the U.S. Supreme Court has ruled in the past that the press did not have a constitutional right of access greater than that afforded to the public.

I urge your committee to pass **S.B. 655 HD1** as currently written. Thank you for the opportunity to testify.

Sincerely,

Melvin N. Kaku
Director

Harry Kim
Mayor



Wil Okabe
Managing Director

Barbara J. Kossow
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) 961-0000
KONA: 74-5044 Ane Keohokalole Hwy., Bldg. C • Kailua-Kona, Hawai'i 96740
(808) 323-4444 • Fax (808) 323-4440

LATE

March 29, 2017

Rep. Scott Y. Nishimoto, Chair
Committee on Judiciary
Hawai'i State Capitol
Honolulu, HI 96813

Dear Chair Nishimoto and Committee Members:

**RE: SB 655, SD 2 HD 1
Relating to Media Access**

For nearly four decades, I served as Civil Defense Administrator and Mayor. We understood the important role the media plays in keeping the public informed during disasters, and I believe we had a good working relationship. So on a personal basis and based on experience, I find no reason to have this bill. But I do understand why it is being done and I do support it.

Respectfully submitted,

Harry Kim
Mayor

**TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) IN OPPOSITION TO S.B. 655, SD2 HD1**

March 29, 2017
2:00 p.m.
CR 325

To: Chairman Scott Y. Nishimoto and Members of the House Committee on Judiciary.

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in opposition to part of S.B. 655, SD2 HD1, relating to Media Access. This opposition only applies to overbroad immunity given to the State and counties.

S.B. 655, SD2 HD1 regulates news media access to areas that are closed due to emergency. The bill gives the State and counties blanket immunity from all liability “arising from media representatives entering a closed area.” This immunity is overly broad because it applies to any injury or property damage no matter how negligent or reckless the State or county may be in any particular circumstance. Government is only responsible for injury or damage when it is negligent – which is unreasonable conduct under the circumstances. Sound public policy requires that government be expected to act in a reasonable manner under the circumstances. The presence of an emergency is a circumstance to be considered. Unrestricted immunity only condones the state or counties to conduct themselves unreasonably. Therefore, we request that the following sentence be **deleted** in its entirety from **page 16, lines 4-7**: **“The State and counties shall not be held liable for any injury or damage to person or property arising from media representatives entering a closed emergency area.”**

Thank you for allowing me to testify regarding this measure. Please feel free to contact me should you have any questions or desire additional information.

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 29, 2017 9:30 AM
To: JUDtestimony
Cc: richard.minatoya@mauicounty.gov
Subject: Submitted testimony for SB655 on Mar 29, 2017 14:00PM

SB655

Submitted on: 3/29/2017

Testimony for JUD on Mar 29, 2017 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Richard K. Minatoya | Individual | Support | Yes |

Comments: I am the Maui member of the Hawaii Advisory Council on Emergency Management, and I support SB 655, SD 2, HD 1. There is an important public interest in allowing media access to areas otherwise closed to the public. Emergency management personnel should allow media access where there is no significant risk to media personnel and/or any emergency personnel who are called to respond to an emergency involving media personnel. Where reasonable access to multiple media simultaneously cannot be granted, emergency managers should consider whether a pool reporter, photographer and videographer, can be safely allowed access. If so, they should facilitate that access where possible. Emergency managers should have the authority to determine whether members of the media must be accompanied by designated personnel, or whether members of the media should be granted unaccompanied access. While access should not be unreasonably prevented, it should be within the sole authority of emergency managers to determine whether media access is safe and appropriate. It should be state policy that media access should be generally permitted, but that emergency managers should have the authority to limit access where warranted. I ask that this measure be PASSED. Thank you very much for the opportunity to provide this testimony.

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