



Testimony by:  
FORD N. FUCHIGAMI  
DIRECTOR

Deputy Directors  
JADE T. BUTAY  
ROSS M. HIGASHI  
EDWIN H. SNIFFEN  
DARRELL T. YOUNG

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

March 1, 2017  
9:15 a.m.  
State Capitol, Room 016

**S.B. 655, S.D. 1  
RELATING TO MEDIA ACCESS**

Senate Committee on Judiciary and Labor

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The Department of Transportation (DOT) **supports** the intent with comments Senate Bill No. 655 relating to media access. DOT believes in transparency and providing accurate information to the public. The amendments in S.D. 1 help address concerns over safety, liability and logistical issues with the broad media access, however DOT offers the following comments.

This bill amends Hawaii Revised Statutes, Section 127A-12. The granting of “all reasonable access and assistance” into restricted areas is broadly defined. Emergency crews may be diverted from response and clean-up activities to provide “all reasonable access and assistance” into closed areas, slowing response times. Given the 24-hour news cycle common in large-scale natural disasters, this broad access policy will create a significant burden on limited staff dedicated to other emergency priorities.

In addition, the bill references using a “pool” system when “full access cannot be reasonably granted.” Parameters for the pool system should be established, as is the case in other situations utilizing a pool. For example, a pool system is often used in courtrooms where one photographer and one videographer is allowed to record the proceedings. However, if the judge calls the attorneys to the bench, media is not allowed to listen to those conversations. There are also documentation restrictions, for example, jurors are not allowed to be photographed or identified. Similar parameters should be established when allowing journalists access into secured areas. These parameters would help prevent sensitive information from being released to the general public before the appropriate time. For example, the identity of a victim could be revealed before authorities have the chance to notify next of kin.

Making copies of the video and information could also prove logistically difficult as news stations use different editing formats. The State should not be responsible for providing copies, equipment, internet access or any other logistics or costs associated with sharing or distributing the content.

(MORE)

DOT proposes revising the language to state, "News media [~~shall~~] may be given [~~all~~] reasonable access and assistance in accessing the area closed pursuant to this section. When full access cannot be reasonably granted, a pool writer, pool photographer, and pool videographer [~~shall~~] may be designated to gather and disseminate information." "May" instead of "shall" will give the designated authority discretion when dealing with information regarding, but not limited to, confidential matters, medical records, victim identity, or other sensitive or security issues.

DOT respectfully suggests the following additional revisions which is bold and underlined:

"Nothing in this section shall prevent a duly authorized credentialed representative of any news service, newspaper, radio station, television station, or online news distribution network, under the supervision of designated emergency management personnel, from entering an area closed pursuant to this section; provided that the State and counties shall not be held liable for any injury or damage to persons or property arising from entering the area. News media [~~shall~~] may be given [~~all~~] reasonable access and assistance in accessing the area closed pursuant to this section. When full access cannot be reasonably granted, a pool writer, pool photographer, and pool videographer [~~shall~~] may be designated to gather and disseminate information. The decision regarding media access shall be at the sole discretion of the designated emergency management authority for the affected jurisdiction. **The State or designated authority will not be responsible for providing copies, equipment, internet access or any other logistics or costs associated with sharing or distributing the content.** Media personnel who access the closed area do so at their own risk, and the State or county may seek reimbursement pursuant to chapter 137 for search and rescue expenses incurred on behalf of those media personnel."

Thank you for the opportunity to provide this testimony and for your consideration of the proposed revisions.



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Chairman Keith-Agaran and committee members:

The Big Island Press Club supports the intent of SB 655 to restore access to the media that was denied by Act 111.

We appreciate the time your committee is giving this important issue. It's become even more apparent in recent months why our democracy requires an independent media that can provide verified information to the public.

That being said, the club and its members have some concerns with changes made in the last committee.

We do not believe the sentence stating emergency managers shall have "sole discretion" in determining access is necessary. That language could be used to justify a complete media blackout, which goes against the spirit of this bill.

The original bill did not provide the media with unfettered access. We believe that language is sufficient.

If possible, we suggest amending the language regarding supervision to not make it mandatory, particularly when residents are still able to access areas closed to the general public. This would avoid management of the media and the story by government officials.

Additionally, we ask that the word "credentialed" be removed from the bill since the legislature should avoid narrowing the scope of who is considered a journalist.

Mahalo.

Sincerely,

Tom Callis  
Big Island Press Club  
Advocacy Committee

Lara Hughes  
Big Island Press Club  
President

STATE OF HAWAII  
DEPARTMENT OF DEFENSE  
HAWAII EMERGENCY MANAGEMENT AGENCY

TESTIMONY ON SENATE BILL 655, SD1  
A BILL RELATING TO MEDIA ACCESS

PRESENTATION TO  
THE SENATE COMMITTEE ON JUDICIARY AND LABOR

BY

VERN T. MIYAGI  
Administrator, Hawaii Emergency Management Agency

Aloha Chair Keith-Agaran, Vice-Chair Rhoads 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 the bill, subject to the following comments.

Our main focus is on the safety and security of media personnel, supporting emergency management staff, affected residents, and other participants/stakeholders involved with the emergency/disaster. We also consider the ongoing response and recovery operations and must not distract from these priorities. We need to define who is a "duly authorized representative" of a news service/organization. Although providing media access should not be unreasonably withheld, access must be balanced without creating additional safety/security hazards or interfering with ongoing efforts. The designated emergency management authority for the affected jurisdiction is the most qualified person to make this decision.

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I propose the following revisions to SB 655, HD1. The revisions are noted in red. "As a general policy, media access shall be permitted into emergency areas, closed pursuant to this section, on a conditional basis, but only after the designated emergency management authority for the affected area has determined that access is reasonable, safe, and does not hinder ongoing response and recovery activities. Media access will be limited to ~~Nothing in this section shall prevent~~ a duly authorized, credentialed, representatives of any news service, newspaper, radio station, television station, or online news distribution network. ~~under the supervision of designated emergency management agency personnel, from entering an area closed pursuant to this section;~~ provided that The state and counties shall not be held liable for any injury or damage to persons or property, respectively, arising from media entering the closed area. News media shall be given all reasonable access and assistance in accessing the area closed pursuant to this section. When full access cannot be reasonably granted, a pool writer, pool photographer, and pool videographer shall be designated to gather and disseminate information. The decision regarding media access will be at the sole discretion of the designated emergency management authority for the affected jurisdiction. Media personnel who are granted access to the closed area do so at their own risk and depending on the specific circumstances, search and rescue costs incurred on their behalf may be reimbursable pursuant to HRS Chapter 137 (Search and Rescue Reimbursement Act)."

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Note: My comments represent HI-EMA concerns at the state emergency management level only. I would defer to the separate comments/testimonies of the county emergency management agencies, as they would be the jurisdictions directly affected by media access requests.

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

Vern T, Miyagi; [vern.t.miyagi@hawaii.gov](mailto:vern.t.miyagi@hawaii.gov); 808-733-4300



Denise Laitinen, owner DLC Hawaii Media  
“Because people’s stories deserve to be told.”  
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Denise@DeniseLaitinen.com

February 27, 2017

TO: Hawaii State House of Representatives  
Committee on Judiciary and Labor  
Chair Senator Gilbert Keith-Agaran, [senkeithagaran@capitol.hawaii.gov](mailto:senkeithagaran@capitol.hawaii.gov)  
Vice-Chair Senator Karl Rhoads, [senrhoads@capitol.hawaii.gov](mailto:senrhoads@capitol.hawaii.gov)

Re: In strong support of SB 655, relating to media access

Hearing Date: 9:15 a.m., March 1, 2017

Dear Committee on Judiciary and Labor:

As a journalist and owner of a Hawaii Island media company, I **FIRMLY SUPPORT** SB 655, relating to media access, which ensures that news media can independently report on emergency situations across Hawaii.

Providing access to disaster areas enables journalists to inform the general public of the actual situation, promoting truth and transparency in government, thus reducing the possibility of abuse of power. It also enables people make informed decisions best suited to their needs and considerably reduces area residents’ stress and anxiety of the unknown. The need for an independent and free press is more important now than ever – as evidenced by events in recent months.

Denying access to emergency zones and disaster areas does not reduce or minimize the risk to area residents. It DOES however dramatically increase the fears and concerns of the impacted residents, as well as their loved ones who may be on the mainland or in other countries.

As a Puna resident, I saw the 2015 Kilauea lava flow’s voluminous plume of smoke from my front door for months, yet was not allowed access to report on the biggest news story in decades as it occurred in my community. Unlike my fellow island journalists, I’ve spent 15 years working in the fire service and emergency management industries and have extensive experience in disaster management, mitigation, and prevention. I understand the need for safety, as do fellow journalists.

I have concerns with amendments that were made to this bill in the Committee on Public Safety, Intergovernmental, and Military Affairs earlier this month. Adding language stating that emergency managers shall have “sole discretion” in determining access is unnecessary and could be used to justify a complete media blackout. Such a media blackout goes against the spirit of this bill and a free press. The original bill didn’t provide the media with unfettered access and this sentence should be removed.



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Denise@DeniseLaitinen.com

I additional, the word “credentialed” should be removed from the bill.

*Nothing in this section shall prevent a duly authorized ~~credentialed~~ representative of any news service, newspaper, radio station, television station, or online news distribution network,...*

Previous versions of the bill provided an explanation of a journalist with both the House and Senate approving that previous wording in last year’s bill and earlier versions of this bill. There is no organization in Hawaii that issues press credentials statewide – even the Hawaii County Police Department stopped issuing press passes years ago. Inserting the word “credentialed” creates confusion since there is no entity to issue credentials. Nor is it clear if this word were to be left in who would be responsible for such credentialing. The description “a *representative of any news service, newspaper, radio station, television station, or online news distribution network*” is sufficient.

As the owner of a Hawaii media company, I firmly support Senate Bill No. 655, relating to media access. Thank you for your time and consideration of this matter.

Denise Laitinen  
DLC Hawaii Media, Owner  
Big Island Press Club, Immediate Past President

From: [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
To: [JDLTestimony](#)  
Cc:  
Subject: Submitted testimony for SB655 on Mar 1, 2017 09:15AM  
Date: Saturday, February 25, 2017 9:13:27 AM

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**SB655**

Submitted on: 2/25/2017

Testimony for JDL on Mar 1, 2017 09:15AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Jan TenBruggencate	Individual	Support	No

Comments: Testimony on SB655 SD1 Emergency management, News media access Before JDL Committee Decision-making 03-01-17 9:15AM in conference room 016. Aloha Senators, I am a member of the Hawai'i Advisory Council on Emergency Management. I support SB655 SD1, with amendments. There is a public interest in allowing media access to areas otherwise closed to the public. Emergency management personnel should opt in favor of media access where there is no significant risk which could endanger media personnel and/or any emergency personnel who are subsequently called to respond to an emergency involving media personnel. Where such access to multiple media simultaneously can not be reasonably granted, emergency management personnel should consider whether a pool writer, photographer and videographer, can be safely allowed access. If so, they should facilitate that access where possible. Emergency management personnel should have the authority to determine whether such access should be accompanied by designated personnel or whether media personnel should be allowed access unaccompanied. While access should not be unreasonably prevented, it should be within the sole authority to the emergency management agency to determine whether media access is safe and appropriate. This concurs with much of the bill in its current form, but please note that the current language of SB655SD1 is contradictory and confusing. The opening sentence of (d) provides unlimited media access. The fourth sentence suggests there are situations where access may be limited to pool coverage. And the fifth sentence seems to allow emergency personnel absolute discretion. In my view, it should be state policy that media access should generally be permitted, but that emergency management authorities should retain the power to limit access where warranted. -- Jan TenBruggencate Island Strategy LLC [jan@islandstrategy.com](mailto:jan@islandstrategy.com) cell: 808-639-9900 land: 808-245-7825

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**Subject:** Submitted testimony for SB655 on Mar 1, 2017 09:15AM  
**Date:** Monday, February 27, 2017 9:32:39 AM

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**SB655**

Submitted on: 2/27/2017

Testimony for JDL on Mar 1, 2017 09:15AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jeanne Yagi	Individual	Support	No

Comments: Mahalo for your consideration and support of SB 655 that will enable the local community and others to keep alert to various emergencies and situations in Hawaii.

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**Date:** Monday, February 27, 2017 11:17:50 PM

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**SB655**

Submitted on: 2/27/2017

Testimony for JDL on Mar 1, 2017 09:15AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Karin Stanton	Hawaii 24/7	Support	No

Comments: Aloha, I strongly support SB655, which amends Act 111 to allow journalists access to do their jobs in times of emergency. It is a critical element in order to keep members of the public informed. It allows journalists the ability to report thoroughly, accurately, timely and independently. It supports transparency and honesty in government. This amendment includes wording similar to the California law and should not be considered an unreasonable burden to county or state government agencies. Amending Act 111 is the beginning of the discussion and is just one step toward protecting a free and independent press as prescribed in the First Amendment. Mahalo, Karin Stanton Big Island Press Club board member Hawaii 24/7 Editor

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**From:** [Sen. Gilbert Keith-Agaran](#)  
**To:**  
**Subject:** Fwd: Testimony for SB 655  
**Date:** Monday, February 27, 2017 10:33:11 PM

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Please include with testimony for SB655.

Sent from my iPad

Begin forwarded message:

**From:** Lara Hughes  
**Date:** February 27, 2017 at 10:30:30 PM HST  
**To:** "[senkeithagaran@capitol.hawaii.gov](mailto:senkeithagaran@capitol.hawaii.gov)" <[senkeithagaran@capitol.hawaii.gov](mailto:senkeithagaran@capitol.hawaii.gov)>  
**Subject:** Testimony for SB 655  
**Reply-To:** Lara Hughes

Chairman Keith-Agaran,

I am writing in full support of the intent of SB 655 to restore access to the media in emergency situations. Media access was stifled by Act 111. As a member of the American public, I truly appreciate the time your committee is giving to this important issue. I do have some concerns regarding some of the language that was added at the last committee meeting. I do not believe that the statement about how emergency managers shall have "sole discretion" in determining access is necessary. Such language nullifies the intent of this bill as it could be used to justify a complete media blackout.

I also believe that the committee should consider amending the language regarding supervision. Supervision should not necessarily be mandatory, particularly when residents are still able to access areas without supervision. This would avoid management of the media and the story by government officials.

Thank your for your time.

Mahalo,  
Lara Hughes

Office of the Chancellor  
[UH Hilo Stories](#)

President  
[Big Island Press Club](#)

Senior VP  
[Delta Sigma Pi Professional Fraternity](#)

# **RICHARD K. MINATOYA**

TESTIMONY  
ON  
SB 655, SD 1 - RELATING TO MEDIA ACCESS

March 1, 2017

The Honorable Gilbert S.C. Keith-Agaran  
Chair  
The Honorable Karl Rhoads  
Vice Chair  
and Members  
Senate Committee on Judiciary and Labor

Chair Keith-Agaran, Vice Chair Rhoads, and Members of the Committee:

I am a member of the Hawaii Advisory Council on Emergency Management, and I support SB 655, SD 1 with amendments.

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.

There are, however, parts of the bill that are contradictory and confusing. The opening sentence of (d) provides for unlimited media access, but the fourth sentence suggests there are situations where access may be limited to pool coverage, and the fifth sentence appears to allow emergency personnel absolute discretion.

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 WITH AMENDMENTS as specified above. Thank you very much for the opportunity to provide this testimony.

From: [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
To: [JDLTestimony](#)  
Cc:  
Subject: Submitted testimony for SB655 on Mar 1, 2017 09:15AM  
Date: Saturday, February 25, 2017 8:38:19 PM

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## **SB655**

Submitted on: 2/25/2017

Testimony for JDL on Mar 1, 2017 09:15AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
sheldon lehman	HACEM	Support	No

Comments: Testimony on SB655 SD1 Emergency management, News media access Before JDL Committee Decision-making 03-01-17 9:15AM in conference room 016.

Aloha Senators, I am a member of the Hawai'i Advisory Council on Emergency Management. I support SB655 SD1, with amendments. There is a public interest in allowing media access to areas otherwise closed to the public. Emergency management personnel should opt in favor of media access where there is no significant risk which could endanger media personnel and/or any emergency personnel who are subsequently called to respond to an emergency involving media personnel. Where such access to multiple media simultaneously can not be reasonably granted, emergency management personnel should consider whether a pool writer, photographer and videographer, can be safely allowed access. If so, they should facilitate that access where possible. Emergency management personnel should have the authority to determine whether such access should be accompanied by designated personnel or whether media personnel should be allowed access unaccompanied. While access should not be unreasonably prevented, it should be within the sole authority to the emergency management agency to determine whether media access is safe and appropriate. This concurs with much of the bill in its current form, but please note that the current language of SB655SD1 is contradictory and confusing. The opening sentence of (d) provides unlimited media access. The fourth sentence suggests there are situations where access may be limited to pool coverage. And the fifth sentence seems to allow emergency personnel absolute discretion. In my view, it should be state policy that media access should generally be permitted, but that emergency management authorities should retain the power to limit access where warranted.

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March 1, 2017

**COMMITTEE ON JUDICIARY AND LABOR**

Sen. Gilbert Keith-Agaran, Chair; Sen. Karl Rhoads, Vice Chair; and Committee Members  
Public Hearing, March 1, 2017, 9:15 a.m., Conference Room 016, State Capitol

**TESTIMONY OF WILLIAM F. ANONSEN**  
**MANAGING PARTNER/PRINCIPAL – THE MARITIME GROUP**  
**IN SUPPORT of S.B. 655 SD1 with AMENDMENTS (NEWS MEDIA ACCESS-EMERGENCIES)**

My name is William F. Anonsen, the Managing Partner/Principal of The Maritime Group and chair of the Hawaii Advisory Council on Emergency Management. I respectfully submit this testimony in support of SB 655 SD1 with comments and amendments for the committees' consideration. Any proposed provisions that would permit access to news media into an emergency area that is closed pursuant to emergency management authority powers, should be structured and conducted in such a manner that will not negate first responders and law enforcement's ability to enforce restricted areas and safety zones and could potentially hamper response and recovery efforts.

In keeping with the media news reporting rights under the 1<sup>st</sup> Amendment of the U.S. Constitution, and dissemination of helpful information to the public, providing media access as soon as practical must be balanced without creating safety hazards, security concerns, or interfering with emergency response teams.

During an emergency, first responders and law enforcement personnel typically are focused on 3 priorities:

- 1.) Preservation of life; During an initial response to an emergency, all available assets are focused on rescue and lifesaving efforts. During this time, media access needs to be controlled in the interest of safety of first responders and victims in defined restricted operational areas.
- 2.) Preservation of property; After rescue efforts have been exhausted, emergency responders will work to make the scene safe and focus their efforts on limiting harm to individuals or damage to other property. During this phase, limited and escorted media access may be available, however as each emergency incident/scene is different they needs to be evaluated on a case-by-case basis.
- 3.) Recovery and return to normal operations; Recovery and clean-up efforts for incidents vary based upon their complexity. After any incident, operations may be suspended for a period of time until safety inspections and clean-up efforts are completed. During this phase, media access may be available, however as each emergency incident/scene is different they needs to be evaluated on a case-by-case basis.

Comments and amendments for consideration:

The bill in its current form contains contradictory and unclear language.

For example:

Page 15, lines 18-21 to Page 16, lines 1-2; would permit unlimited media access “(d) Nothing in this section shall prevent a duly authorized credentialed representative of any news service, newspaper, radio station, television station, or online news distribution network, under the supervision of designated emergency management personnel, from entering an area closed pursuant to this section;”

Page 16, lines 9-11; is a contradictory statement to previous stated language,” The decision regarding media access shall be at the sole discretion of the designated emergency management authority for the affected jurisdiction.”

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Proposed additional language to be incorporated into the bill:

As a general policy, media access shall be generally permitted access into emergency areas on a conditional basis, but only after designated responding emergency management personnel have made a general safe entry and access determination. The designated emergency management authority for the affected jurisdiction shall make this determination based on emergency response best practices and procedures. and shall at all times retain the authority to limit access when and where the governing authority has determined may be warranted. The designated emergency management authority for the affected jurisdiction may withdraw and/or terminate previously granted conditional access at any time, when or if conditions change which may create a potential safety hazard(s), security concern(s) and/or may interfere with emergency response efforts, which may necessitate the evacuation for an affected area.

In instances where it is deemed that concurrent access to multiple media may be determined by emergency management personnel not prudent or cannot be reasonably granted, emergency management personnel shall have the sole authority and judgmental option to consider whether a pool writer, photographer and videographer, can be provided safe entry and access.

Media access to an incident shall be conditional, limited and escorted media access may be available, however as each emergency incident is different, access accommodations shall be evaluated on a case-by-case basis. The emergency management authority for the affected jurisdiction shall have the sole authority to determine whether such access shall be accompanied by designated emergency management personnel or whether news media personnel should be allowed access unaccompanied.

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Although providing news media access should not be unreasonably withheld, access must prudently be balanced without creating safety hazards, security concerns, or interfering with emergency response team’s efforts under the sole authority and discretion of the designated emergency management authority for the affected jurisdiction.

**Mahalo for the opportunity to offer amendments to SB 655 SD1 for the committee’s consideration**

*Respectfully,*

*William F. Anonsen*

*Managing Partner/Principal*