

STAND. COM. REP. NO. 1651

Honolulu, Hawaii

APR 09 2021

RE: H.B. No. 103
H.D. 1
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committees on Judiciary and Ways and Means, to which was referred H.B. No. 103, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO EMERGENCY POWERS,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Clarify that the powers granted for emergency purposes shall not be inconsistent with the Hawaii State Constitution;
- (2) Provide parameters for the duration of suspension of laws and require justification for the suspension;
- (3) Require approval of the Legislature by concurrent resolution to extend to a date certain, or deny the extension of, a proclamation of a state of emergency timely requested by the Governor beyond sixty days of its issuance, unless the Legislature fails to take action, in which case the state of emergency is automatically extended for sixty days; and
- (4) Allow the authorization of the issuance of a separate proclamation arising from the same emergency or disaster as a previous proclamation that expired, upon request of



the Governor and adoption of a concurrent resolution by the Legislature.

Your Committees received testimony in support of this measure from the Civil Beat Law Center for the Public Interest; League of Women Voters of Hawaii; Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO; and two individuals. Your Committees received testimony in opposition to this measure from the Hawaii Emergency Management Agency, Maui Chamber of Commerce, and two individuals. Your Committees received comments on this measure from Common Cause Hawaii and Grassroot Institute of Hawaii.

Your Committees find that to address the coronavirus disease 2019 (COVID-19) pandemic, the Governor declared a state of emergency on March 4, 2020, and has since issued 17 supplemental proclamations extending the state of emergency and other restrictions. Your Committees further find that concerns have been raised regarding the prolonged suspension of sunshine laws and open record laws during the COVID-19 pandemic, and that more checks and balances with regard to the extension of emergency proclamations are required to ensure the welfare of the residents of the State.

Your Committees note concerns regarding the meaning of "expeditious and efficient execution" as used pertaining to the scope and duration of an emergency proclamation, as well as the potential procedure for situations in which the Legislature is not in session and urgent action is needed. Your Committees find that these concerns may merit further consideration as this measure proceeds through the legislative process.


Your Committees have amended this measure by:

- (1) Removing specific references to chapters 92 and 92F, Hawaii Revised Statutes, in language requiring the Governor or Mayor to specify reasons for the suspension of a law;
- (2) Inserting an effective date of May 6, 2137, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.



As affirmed by the records of votes of the members of your Committees on Judiciary and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 103, H.D. 1, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 103, H.D. 1, S.D. 2.

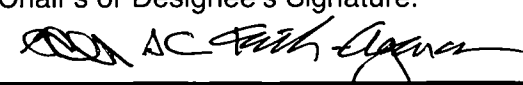
Respectfully submitted on
behalf of the members of the
Committees on Judiciary and
Ways and Means,


DONOVAN M. DELA CRUZ, Chair


KARL RHOADS, Chair

The Senate
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:* HB 103, HD 1, SD 1	Committee Referral: GVO, JDC/WAM	Date: 4/7/21 4/6/21		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
DELA CRUZ, Donovan M. (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
ENGLISH, J. Kalani	X			
INOUYE, Lorraine R.	X			
KANUHA, Dru Mamo	X			
KIDANI, Michelle N.	X			
MORIWAKI, Sharon Y.	X			
SHIMABUKURO, Maile S.L.	X			
TANIGUCHI, Brian T.	X			
WAKAI, Glenn	X			
FEVELLA, Kurt			X	
TOTAL	10		1	
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes