

STAND. COM. REP. NO. 1205 -22

Honolulu, Hawaii
MAR 22 , 2022

RE: S.B. No. 3089
S.D. 2
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committee on Pandemic & Disaster Preparedness, to which
was referred S.B. No. 3089, S.D. 2, entitled:

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

begs leave to report as follows:

The purpose of this measure is to:

- (1) Prohibit the Governor or Mayor from suspending requests for public records for vital specifics during a state of emergency;
- (2) Allow for a reasonable delay in a department or state agency's response to a request as a result of extenuated circumstances;
- (3) Clarify that powers granted for emergency purposes shall not be inconsistent with the state constitution;
- (4) Define "severe warning";
- (5) Authorize the Governor to require counties to obtain the approval of the Governor or Director of the Hawaii Emergency Management Agency before issuing any emergency order, rule, or proclamation;



- (6) Provide parameters for the duration of the suspension of laws and require justification for the suspension;
- (7) Authorize the Legislature and a county council to terminate a state of emergency or local state of emergency, respectively, in part or in whole, by an affirmative two-thirds vote; and
- (8) Specify that prohibitions on price increases of essential commodities during a severe warning expires seventy-two hours after the effective date and time of the initial declaration or any supplemental proclamation.

Your Committee received testimony in support of this measure from the Department of Defense; Department of Human Services; Hawaii Emergency Management Agency; Civil Beat Law Center for the Public Interest; Hawaii Hui; League of Women Voters of Hawaii; Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO; United Public Workers, AFSCME Local 646, AFL-CIO; Society of Professional Journalists Hawaii Chapter; and State of Hawaii Organization of Police Officers. Your Committee received comments on this measure from the Department of Health, Office of Information Practices, Common Cause Hawaii, Grassroot Institute of Hawaii, and two individuals.

Your Committee finds that the coronavirus disease 2019 pandemic highlighted the need to reform the legal framework governing emergency management in the State. While emergency powers allow the Governor to expeditiously respond to any type of disaster, your Committee believes that there needs to be more checks and balances in regard to emergency management powers to ensure the welfare and safety of the residents of the State.

Your Committee has amended this measure by:

- (1) Deleting the reference to section 338-18.5, Hawaii Revised Statute, as that section was repealed by Act 199, Session Laws of Hawaii 2021;
- (2) Clarifying that an exemption to disclosure for certain records is allowed if an exemption is allowed pursuant to existing law;



- (3) Deleting language that would have:
- (A) Required the Governor or Mayor to reclaim the termination of a state of emergency or local state of emergency, respectively, at the earliest possible date that conditions warrant; and
 - (B) Authorized a county council, by an affirmative vote of two-thirds, to terminate a local state of emergency declared by the Mayor;
- (4) Changing the effective date to July 1, 2050, to encourage further discussion; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Pandemic & Disaster Preparedness that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3089, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3089, S.D. 2, H.D. 1, and be referred to your Committee on Judiciary & Hawaiian Affairs.

Respectfully submitted on
behalf of the members of the
Committee on Pandemic &
Disaster Preparedness,


LINDA ICHIYAMA, Chair



Record of Votes of the Committee on Pandemic & Disaster Preparedness

Bill/Resolution No.: <i>SB 3089 SD2</i>	Committee Referral: <i>PDRJHA</i>	Date: <i>3/15/22</i>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
PDP Members	Ayes	Ayes (WR)	Nays	Excused
1. ICHIYAMA, Linda (C)	✓			
2. ELI, Stacelynn K.M. (VC)	✓			
3. COSTALES, Luella	✓			
4. McKELVEY, Angus L.K.				✓
5. MIZUNO, John M.	✓			
6. WILDBERGER, Tina	✓			
7. WOODSON, Justin H.				✓
8. YAMASHITA, Kyle T.	✓			
9. WARD, Gene	✓			
TOTAL (9)	7	0	0	2
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align:center; font-size: small;">committee acronym(s)</div>				
Vice Chair's or designee's signature: <i>[Signature]</i>				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				