

Honolulu, Hawaii

APR 08 , 2022

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

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

Sir:

Your Committee on Judiciary & Hawaiian Affairs, to which was referred S.B. No. 3089, S.D. 2, H.D. 1, 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 or vital statistics records during an emergency;
- (2) Allow for a reasonable delay in a department's or agency's response to a request for records as a result of extenuating circumstances;
- (3) Clarify that powers granted for emergency purposes shall not be inconsistent with the state constitution;
- (4) Provide parameters for the duration of the suspension of laws and require justification for the suspension;
- (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) Clarify the legal framework governing the extension and termination of emergency periods;
- (7) Authorize the Legislature to terminate a state of emergency, in part or in whole, by an affirmative two-thirds vote; and
- (8) Specify when certain prohibitions during an emergency or a severe warning expire.

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

Your Committee finds that it has been two years since the Governor issued the first emergency proclamation declaring a state of emergency to support ongoing State and county responses to coronavirus disease 2019 (COVID-19). Your Committee further finds that the dire impacts of the COVID-19 pandemic on all aspects of everyday life, as well as the economic, social, and health disruptions caused by the pandemic, were unprecedented and necessitated certain emergency actions to deal with the pandemic. However, your Committee believes that the broad emergency powers of the Governor during a state of emergency and extended emergency period warrant scrutiny. This measure will ensure that there are checks and balances in place during a state of emergency to protect the health, safety, and welfare of residents.

Your Committee has amended this measure by:

- (1) Deleting language that:



- (A) Prohibited the Governor or mayor from suspending requests for public records or vital statistics records during an emergency; and
 - (B) Allowed for a reasonable delay in a department's or agency's response to a request as a result of extenuating circumstances;
- (2) Authorizing the county councils to terminate a local state of emergency, in part or in whole, by an affirmative two-thirds vote;
 - (3) Clarifying that the Governor and mayors may re-declare a state of emergency or local state of emergency, as applicable, that has been terminated; and
 - (4) 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 Judiciary & Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3089, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3089, S.D. 2, H.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary &
Hawaiian Affairs,



MARI M. NAKASHIMA, Chair



