



STATE OF HAWAII
DEPARTMENT OF DEFENSE
HAWAII EMERGENCY MANAGEMENT AGENCY

TESTIMONY ON HOUSE BILL 1585, HD1
RELATING TO EMERGENCY MANAGEMENT

BEFORE THE SENATE COMMITTEES ON
**PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS AND GOVERNMENT
OPERATIONS**

BY

Luke P. Meyers
Administrator, Hawai'i Emergency Management Agency (HI-EMA)

MARCH 22, 2022

Aloha Chairs Nishihara and Moriwaki, Vice-Chairs DeCoite and Dela Cruz,
and Members of the Committee:

Thank you for the opportunity to submit testimony to **OFFER COMMENTS**
on HB1585, HD1.

House Bill 1585, HD1 clarifies that the powers granted for emergency purposes shall not be inconsistent with the state constitution; provides parameters for the duration of suspension of laws and requires justification for the suspension; authorizes the governor to require counties to obtain approval prior to issuing any emergency order, rule, or proclamation; clarifies that a state of emergency may be extended or terminated by a separate or supplementary proclamation; and specifies that prohibitions on price increases of essential commodities during a severe weather warning expire seventy-two hours after the effective date and time of the initial declaration or any supplemental proclamation.

The COVID-19 incident has demonstrated the need for state-wide operation control and/or coordination when emergency management functions are needed to be consistent across the State.

House Bill 1585, HD1 also authorizes the legislature to terminate a state of emergency, in part or in whole, by an affirmative two-thirds vote of each house.

The bill also defines Severe Weather Warning from the National Weather Service on p. 4 line 1-7 and on p. 15 lines 5-7. To align with best practices and the HI-EMA Statewide Alert & Warning Systems Plan, we would recommend the term “Severe Weather Warning” be changed to “Severe Warnings”. The National Weather Service and other partners including Pacific Tsunami Warning Center and/or the United States Geological Survey issue severe hazard warning messages.

For p. 4 lines 1-7 the HI-EMA recommends the following language.

“Severe warning” means the issuance by the National Weather Service, Pacific Tsunami Warning Center, United States Geological Survey, or other public authority of a public notification that a dangerous conditions exists that could impact the State, or any portion of it, within a specified period of time. This term includes but is not limited to warnings of coastal inundation, high surf, flash flooding, volcano, tsunami, or hurricane.”

For p. 15 lines 5-7 The HI-EMA recommends the following change.

"SECTION 6. Section 127A—30, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows: "(c) The prohibitions under subsection (a) shall remain in effect until twenty-four hours after the severe weather warning by the national weather service is canceled; or in the event of a declaration,"

While the administration prefers the measure it has proposed and is advancing (SB 3089, SD2) that addresses many of the same issues as House Bill 1585, HD1, we are grateful for the thoughtful work and intent that has been put into this measure.

Thank you for the opportunity to provide testimony on House Bill 1585, HD1.

Luke P. Meyers: Luke.P.Meyers@hawaii.gov; 808-733-4300



March 22, 2022

2 p.m.

VIA VIDEOCONFERENCE

Conference Room 229

To: Senate Committee on Public Safety, Intergovernmental, and Military Affairs

Sen. Clarence K. Nishihara, Chair

Sen. Lynn DeCoite, Vice Chair

Senate Committee on Government Operations

Sen. Sharon Y. Moriwaki, Chair

Sen. Donovan M. Dela Cruz, Vice Chair

From: Grassroot Institute of Hawaii

Ted Kefalas, Director of Strategic Campaigns

RE: HB1585 HD1 — RELATING TO EMERGENCY MANAGEMENT

Comments Only

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on [HB1585 HD1](#), which would amend the state's emergency-management statute to clarify that the powers granted for emergency purposes should not be inconsistent with the Hawaii Constitution, require justification for the suspension of laws and place parameters on such suspensions, and allow the Legislature to terminate an emergency. in part or in whole, by a two-thirds vote.

If enacted, this bill will take an important step toward addressing an oversight in the state's current emergency-management law that was not apparent until the COVID-19 pandemic: the lack of a meaningful legislative check on the governor's emergency powers.

At present, the law includes a 60-day limit on emergencies, but does not address what should happen if an emergency exceeds that limit. Thus, it is possible for the governor to extend an emergency period indefinitely, with little input or oversight from the legislative branch.

Here are some proposed amendments that would make the bill better.

1. On page 3, add the following after Section 2, subsection (c):

(d) The exercise of any emergency power the governor or other official may have under the Hawaii Constitution and state law that binds or regulates the public are limited as follows:

(1) State courts shall have jurisdiction to hear cases challenging the lawfulness of state and local emergency orders, including compliance with this chapter's limitations on such orders, and the courts shall expedite consideration of such challenges to the extent practicable. Inequality in the applicability or impact of emergency orders on analogous groups, situations, and circumstances may constitute one ground among others for a court to invalidate or enjoin an emergency order, or some of its applications, on the basis that it is not narrowly tailored to serve a compelling public health or safety purpose.

2. On page 14, change Section 5, subsection (d) to read:

(d) A state of emergency and a local state of emergency shall terminate automatically sixty days after the issuance of a proclamation of a state of emergency or local state of emergency, respectively, ~~[or]~~ unless extended or terminated by a separate or supplementary proclamation of the governor or mayor, [whichever occurs first] provided that the proclamation extending the emergency meets the following qualifications:

- (1) It is the first extension of the emergency period issued by the governor or mayor and extends that emergency by no more than 60 days.
- (2) The Legislature has approved the extension by concurrent resolution.
- (3) The Legislature has not convened a special session to debate the extension of the emergency within 10 days of the issue date of the proclamation extending the emergency.
 - (a) Pursuant to the Legislature's rules governing petition for a special session, the House and Senate may petition the President of the Senate and Speaker of the House to convene a special session for the purpose of debating the extension of the emergency. The petition and special session must occur within 10 days of the issue date of the

proclamation extending the emergency. If the special session does not convene within 10 days, the extension is deemed approved by the Legislature.

(b) If the Speaker of the House or President of the Senate notifies the governor or mayor of the need for a special session to debate the extension of an emergency, the governor or mayor may withdraw the proclamation extending the emergency and allow the emergency to terminate.

3. On page 15, add the following after Section 5, subsection (e):

(f) A proclamation by the governor declaring the existence of a state of emergency arising from the same emergency or disaster for which a previous emergency proclamation was terminated by the Legislature may be authorized for a period of up to sixty days only upon request of the governor and adoption of a concurrent resolution by the Legislature.

In general, this bill would make several much-needed changes to the existing emergency management statute, but it would be good to see a firmer statement in favor of preserving government transparency, especially the state's sunshine laws and open-records, as well as stronger guarantees that emergency orders that close a business or deprive an individual of a right would have to demonstrate a rational basis for the restriction.

Throughout the COVID-19 emergency, we have had the opportunity to learn more about what we do well and what could be improved. This bill, if enacted, would be a good start toward making our state better-equipped to handle future emergencies.

Thank you for the opportunity to submit our comments.

Sincerely,

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii



STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS

" A Police Organization for Police Officers Only "
Founded 1971

March 18, 2022

ONLINE/FAX: 808-586-6879/587-7230

The Honorable Clarence K. Nishihara, Chair
The Honorable Lynn DeCoite, Vice-Chair
Senate Committee on Public Safety, Intergovernmental, and Military Affairs
Hawaii State Capitol, Rooms 214, 231

ONLINE /FAX: 808-586-6829/586-6091

The Honorable Sharon Y. Moriwaki, Chair
The Honorable Donovan M. Dela Cruz, Vice-Chair
Senate Committee on Government Operations
Hawaii State Capitol, Rooms 208, 223
415 South Beretania Street
Honolulu, HI 96813

Re: **HB1585 HD1-Relating to Emergency Management**

Dear Chairs Nishihara and Moriwaki, Vice-Chairs DeCoite and Dela Cruz, and Honorable Committee members:

I serve as the President of the State of Hawaii Organization of Police Officers (“SHOPO”) and write to you on behalf of our Union in **strong support** of HB1585 HD1. This bill will amend HRS §127A to ensure that the executive powers exercised during a crisis, including the current Covid-19 pandemic, have proper protections in place to prevent the potential abuse of such powers.

This bill seeks to provide safeguards relating to the exercise of emergency management powers that are vested in the executive branch at the State and county levels. It has been suggested that Chapter 127A provides the governor and county mayors with unilateral and unbridled power to indefinitely suspend “any law” during a declared emergency. While we certainly agree that the executive branch must and should have certain discretion and powers that it can immediately and broadly exercise and invoke in response to a genuine emergency and crisis like the Covid-19 pandemic and Kauai floods, at the same time vesting such ominous powers in the hands of one executive head should nonetheless be subject to appropriate checks and balances by the collective legislative body.

The Honorable Clarence K. Nishihara, Chair
The Honorable Lynn DeCoite, Vice-Chair
Senate Committee on Public Safety, Intergovernmental, and Military Affairs

The Honorable Sharon Y. Moriwaki, Chair
The Honorable Donovan M. Dela Cruz, Vice-Chair
Senate Committee on Government Operations
Re: HB1585 HD1-Relating to Emergency Management
March 18, 2022
Page 2

HB1585 HD1 provides a reasonable and fair check and balance on the executive branch's emergency powers by allowing the legislature to concur or terminate a state of emergency that has been declared by the governor. This safety measure will insure that the extension of an emergency and the broad exercise of the executive head's emergency powers relating to an emergency, including the suspension of laws by the governor and county mayors, will be subject to an appropriate review by the legislative body.

In addition, this bill will require the executive branch to "justify" the suspension of a specific law rather than allowing it to use a broad brush to simply state in conclusory fashion that a suspension is needed. During the pandemic and beyond, the executive branch suspended without justification various collective bargaining laws provided for under HRS Chapter §89 even after government operations resumed, tourism reopened, businesses restarted, and children returned to school. The breath of the executive branch's suspension of collective bargaining laws essentially stripped the public unions of their constitutional right to bargain collectively. It further resulted in the State and the county employers asserting the position that they were not obligated to engage in collective bargaining nor required to process grievances filed by the public unions during the pandemic, even after governmental operations resumed.

Last, the bill will restore and require consistency between the emergency orders, rules and proclamations issued by the governor and the county mayors by requiring the mayors to obtain the governor's approval prior to issuing an order, rule or proclamation pursuant to HRS §127A. What became evident during the pandemic was a perceived disconnect between the multiple emergency orders issued by the State and counties due to inconsistencies by and between the orders issued by the respective executive heads. Requiring the governor's approval prior to the issuance of any county emergency order will promote uniformity, consistency, and stability.

We thank you for allowing us to be heard on this very important issue and hope your committees will unanimously support this bill.

Respectfully submitted,

ROBERT "BOBBY" CAVACO
SHOPO President



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Thirty-First Legislature, State of Hawaii
The Senate
Committee on Public Safety, Intergovernmental, and Military Affairs
Committee on Government Operations

Testimony by
Hawaii Government Employees Association

March 22, 2022

H.B. 1585, H.D. 1 – RELATING TO EMERGENCY MANAGEMENT

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of H.B. 1585, H.D. 1 which clarifies that the powers granted for emergency purpose shall not be inconsistent with the state constitution, provides parameters and justification for the suspension of laws, and authorizes the legislature to terminate a state of emergency by an affirmative two-thirds vote.

Needless to say, the COVID-19 worldwide pandemic immediately and significantly impacted every person in our state, therefore it was appropriate for the Governor to take action to provide relief for damages and to protect our health, safety, and welfare by suspending some laws via emergency proclamation in March 2020. However, as we embark on nearly two years of the pandemic and yet another extension of an emergency proclamation, the great majority of us are now functioning in a “new normal,” therefore we respectfully question the need to continuously suspend a wide variety of state laws. This measure appropriately provides a necessary legislative check and balance to the executive by authorizing the legislature to terminate, either in part or in whole, a state of emergency by supermajority support in both chambers. We strongly support the components of H.B. 1585, H.D. 1 that ensure the Governor’s emergency powers do not supersede rights enshrined in our state constitution and clarify the breadth of the executive’s suspension of laws by identifying which specific sections of law are being suspended and what emergency functions will be facilitated by the suspension.

It is contrary to our democracy for any one individual to have unilateral authority to suspend laws indefinitely without a mechanism for public input and review. Passage of this measure will ensure that emergency actions are balanced, constitutional, and justifiable. Thank you for the opportunity to testify in strong support of H.B. 1585, H.D. 1.

Respectfully submitted,

Randy Perreira
Executive Director



Chamber of Commerce HAWAII

The Voice of Business

**Testimony to the Senate Committee on Public Safety, Intergovernmental, and
Military Affairs/Government Operations
Tuesday, March 22, 2022, at 2:00 P.M.
Conference Room 229 & Via Videoconference**

RE: HB 1585 HD1 Relating to Emergency Management

Chair, Vice Chair, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **offers comments on** HB 1585 HD1, which clarifies that the powers granted for emergency purposes shall not be inconsistent with the state constitution. Provides parameters for the duration of suspension of laws and requires justification for the suspension. Authorizes the governor to require counties to obtain approval prior to issuing any emergency order, rule, or proclamation. Clarifies that a state of emergency may be extended or terminated by a separate or supplementary proclamation. Authorizes the legislature to terminate a state of emergency, in part or in whole, by an affirmative two-thirds vote. Specifies that prohibitions on price increases of essential commodities during a severe weather warning expire seventy-two hours after the effective date and time of the initial declaration or any supplemental proclamation.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 2,000+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

During the start of the pandemic in 2020, the emergency declaration was important to make swift policy changes for the benefit of public health and safety. HRS Section 127A-30 was designed to address short periods of "state of emergencies," but was used for an extended period during the still ongoing pandemic. Even though the statute was designed to help the people of Hawaii during a crisis, section 127A-30 has had some unintended consequences on industries in Hawaii and it is affecting our economy.

Many of our industries in Hawaii are dependent on seasonal pricing due to increases in tourism and travel to the state. The costs of goods can increase during certain times of the year, and supply and demand could have an impact on the price of products or services. The way the statute is currently written, it would not allow for seasonal price increases due to the interpretation of "price gouging."



Chamber of Commerce HAWAII

The Voice of Business

The Chamber respectfully requests an amendment to the proposed bill in section C:

"(c) The prohibitions under subsection (a) shall remain in effect until twenty-four hours after the severe weather warning is canceled by the National Weather Service; or in the event of a declaration, ~~[the later of a date specified by the governor or mayor in the declaration or ninety-six]~~ seventy-two hours after the effective date and time of the declaration, unless ~~[such]~~ the prohibition is identified and continued ~~[by a supplementary declaration issued]~~ by the governor or mayor~~[-]~~ in the proclamation or any supplementary proclamation. **Further, the prohibitions under subsection (a) shall not prohibit an increase in the price at which a commodity may be offered, advertised or sold if the increase is related to seasonal fluctuations or local, regional, national or international market trends occurring during the normal course of business.** Any proclamation issued under this chapter that fails to state the time at which it will take effect, shall take effect at twelve noon of the day on which it takes effect.

We believe that this amendment would help fix the issue of seasonal price increases for industries that rely on them to operate their business.

Thank you for the opportunity to testify.

Hawaii*Holding Power Accountable*

Statement Before The
SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS
AND
SENATE COMMITTEE ON GOVERNMENT OPERATIONS

Tuesday, March 22, 2022

2:00 PM

Via Video Conference and Conference Room 229

in consideration of
HB 1585, HD1
RELATING TO EMERGENCY POWERS.

Chairs NISHIHARA and MORIWAKI, Vice Chairs DeCOITE and DELA CRUZ, and Members of the Senate Public Safety, Intergovernmental, and Military Affairs and Government Operations Committees

Common Cause Hawaii provides written comments on HB 1585, HD1, which (1) clarifies that the powers granted for emergency purposes shall not be inconsistent with the state constitution, (2) provides parameters for the duration of suspension of laws and requires justification for the suspension, (3) authorizes the governor to require counties to obtain approval prior to issuing any emergency order, rule, or proclamation, (4) clarifies that a state of emergency may be extended or terminated by a separate or supplementary proclamation, (5) authorizes the legislature to terminate a state of emergency, in part or in whole, by an affirmative two-thirds vote, and (6) specifies that prohibitions on price increases of essential commodities during a severe weather warning expire seventy-two hours after the effective date and time of the initial declaration or any supplemental proclamation.

Common Cause Hawaii is a nonprofit, nonpartisan, grassroots organization dedicated to reforming government and strengthening democracy through promoting ethics, accountability, and transparency in our democratic form of government.

When the COVID-19 pandemic first impacted Hawaii, Governor Ige partially suspended the Sunshine Law (HRS Chapter 92) and completely suspended the public records law (HRS Chapter 92F). See Supplementary Proclamation Related to the COVID-19 Emergency dated March 16, 2020 https://governor.hawaii.gov/wp-content/uploads/2020/03/2003109-ATG_COVID-19-Supplementary-Proclamation-signed.pdf (retrieved Feb. 4, 2022). By Governor Ige's Seventh Emergency Proclamation, guidance was provided for the Sunshine Law to allow for remote meetings, but the public records law was still suspended "to the extent they contain any deadlines for agencies, including deadlines for the OIP, relating to requests for government records and/or complaints to OIP." See Seventh Supplementary Proclamation Related to the COVID-19 Emergency dated May 5, 2020 https://governor.hawaii.gov/wp-content/uploads/2020/05/2005024-ATG_Seventh-Supplementary-Proclamation-for-COVID-19-distribution-signed-1.pdf at Exhibit H (retrieved Feb. 4, 2022). The public records law was suspended through the Twenty-First Proclamation Related To The COVID-19 Emergency dated June 7, 2021, which expired August 6, 2021. See https://governor.hawaii.gov/wp-content/uploads/2021/06/2106080-ATG_21st-Emergency-Proclamation-for-COVID-19-distribution-signed.pdf (retrieved Feb. 4, 2022). The Sunshine Law continues to be impacted by the pandemic. On January 26, 2022, Gov. Ige issued an Emergency Proclamation Related To COVID-19 (Omicron Variant), which will expire March 25, 2022, suspending that portion of the Sunshine Law (HRS § 92-3.7) requiring at least one physical meeting location to be open to the public. See https://governor.hawaii.gov/wp-content/uploads/2022/01/2201143-ATG_Emergency-Proclamation-Related-to-

[COVID-19-Omicron-Variant-distribution-signed.pdf](#) at page 11 (retrieved Feb. 25, 2022). The remainder of the Sunshine Law is currently in effect. Id.

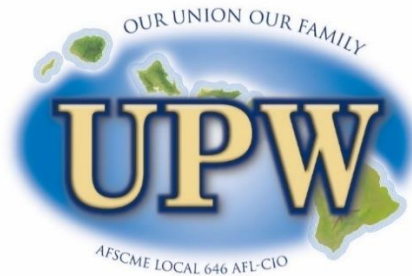
These actions are why Hawaii is known to have adopted the most extreme open records limits during the ongoing pandemic. See <https://www.usnews.com/news/best-states/hawaii/articles/2021-03-15/hawaii-adopts-most-extreme-open-records-limits-amid-pandemic> (retrieved Feb. 4, 2022).

During regular times and especially during these pandemic times, it is vitally important that the people be able to have access to their government and know that their government is functioning properly and in the best interest of the people. Without being able to request public records and timely receive them for over one year, government is shutoff from public oversight and accountability, which are necessary for a functioning democracy. HRS Chapter 92F, the public records law, should not be suspended, if we are to have any trust and confidence in our government. HRS Chapter 92F and our Sunshine Law, which properly allows for remote meetings, should also not be suspended by any governor without thorough justification and unless absolutely necessary and for the minimum time necessary. Unfortunately, HB 1585, HD1 does not provide any real guidelines for open government and records protections and is insufficient to keep executive power overreach in check during emergency situations.

Thank you for the opportunity to provide comments on HB 1585, HD1. If you have questions of me, please contact me at sma@commoncause.org.

Very respectfully yours,

Sandy Ma
Executive Director, Common Cause Hawaii



**THE SENATE
THE THIRTY-FIRST LEGISLATURE
REGULAR SESSION OF 2022**

Committee on Public Safety, Intergovernmental, and Military Affairs

Senator Clarence K. Nishihara, Chair

Senator Lynn DeCoite, Vice Chair

Committee on Government Operations

Senator Sharon Y. Moriwaki, Chair

Senator Donovan M. Dela Cruz, Vice Chair

Tuesday, March 22, 2022, 2:00PM
Conference Room 229 and via Videoconference

Re: Testimony in SUPPORT of HB1585, HD1 – RELATING TO EMERGENCY MANAGEMENT

Chairs Nishihara and Moriwaki, Vice Chairs DeCoite and Dela Cruz, and Members of the Committees:

The United Public Workers, AFSCME Local 646, AFL-CIO (“UPW”) is the exclusive bargaining representative for approximately 14,000 public employees, which includes blue collar, non-supervisory employees in Bargaining Unit 1 and institutional, health, and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents 1,500 members in the private sector.

UPW **supports the intent of** HB1585, HD1, which clarifies that the powers granted for emergency purposes shall not be inconsistent with the state constitution. Additionally, the bill provides parameters for the duration of suspension of laws, requires justification for the suspension and authorizes the legislature to terminate a state of emergency, in part or in whole, by an affirmative two-thirds vote, and specifies the expiration of prohibitions on price increases of essential commodities during a severe weather warning.

When the COVID-19 pandemic finally made its way to Hawaii, it was understandable that the Governor needed to take immediate action to protect our residents by suspending some laws with the implementation of the emergency proclamation in March 2020. However, as we

HEADQUARTERS – 1426 North School Street ♦ Honolulu, Hawaii 96817-1914 ♦ Phone: (808) 847-2631

HAWAII – 362 East Lanikaula Street ♦ Hilo, Hawaii 96720-4336 ♦ Phone: (808) 961-3424

KAUAI – 2970 Kele Street, Suite 213 ♦ Lihue, Hawaii 96766-1325 ♦ Phone: (808) 245-2412

MAUI – 841 Kolu Street ♦ Wailuku, Hawaii 96793-1436 ♦ Phone: (808) 244-0815

1-866-454-4166 (Toll Free, Molokai/Lanai only)

approach nearly two years of dealing with the ongoing pandemic, and with several extensions of the original proclamation, many wonder if it's still necessary to continue suspending numerous state laws. HB1585, HD1, will help to provide the legislature with the necessary checks and balances to help ensure that future emergency actions are balanced and reasonable.

Thank you for the opportunity to provide testimony.

Sincerely,

A handwritten signature in black ink, consisting of the letters 'KW' in a stylized, cursive font.

Kalani Werner
State Director

HEADQUARTERS – 1426 North School Street ♦ Honolulu, Hawaii 96817-1914 ♦ Phone: (808) 847-2631

HAWAII – 362 East Lanikaula Street ♦ Hilo, Hawaii 96720-4336 ♦ Phone: (808) 961-3424

KAUAI – 2970 Kele Street, Suite 213 ♦ Lihue, Hawaii 96766-1325 ♦ Phone: (808) 245-2412

MAUI – 841 Kolu Street ♦ Wailuku, Hawaii 96793-1436 ♦ Phone: (808) 244-0815

1-866-454-4166 (Toll Free, Molokai/Lanai only)

HB-1585-HD-1

Submitted on: 3/18/2022 7:13:05 PM

Testimony for PSM on 3/22/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jennifer Azuma Chrupaluk	Individual	Support	Written Testimony Only

Comments:

We also need a balance of powers in the State of Hawai'i. Only one demographic of voices has control over the legislature, which ignores the voices of 2/3 the state quorum. What is the State of Hawai'i going to do about that? We need to pull more powers like this away from the governor, who was hired to manage legislature - not make decisions that are independent and not cohesive with the legislature at-large. Then, we need representation of every demographic, not just continue to open new departments to micro-manage the citizens of Hawai'i. The legislature need a serious audit and tons of reform.

COUNTY COUNCIL

Arryl Kaneshiro, Chair
Mason K. Chock, Vice Chair
Bernard P. Carvalho, Jr.
Felicia Cowden
Bill DeCosta
Luke A. Evslin
KipuKai Kualii



OFFICE OF THE COUNTY CLERK

Jade K. Fountain-Tanigawa, County Clerk
Scott K. Sato, Deputy County Clerk

Telephone: (808) 241-4188
Facsimile: (808) 241-6349
E-mail: cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 96766

March 21, 2022

**TESTIMONY OF FELICIA COWDEN
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON**

HB 1585, HD1, RELATING TO EMERGENCY MANAGEMENT
Senate Committee on Public Safety, Intergovernmental, and Military Affairs
Senate Committee on Government Operations
Tuesday, March 22, 2022
2:00 p.m.
Via Videoconference
Conference Room 229

Dear Chair Nishihara, Chair Moriwaki, and Members of the Committees:

Thank you for this opportunity to provide testimony in support of HB 1585, HD1, Relating to Emergency Management. My testimony is submitted in my individual capacity as a Member of the Kaua'i County Council.

I support the purpose and intent of HB 1585, HD1, which clarifies that the powers granted for emergency purpose shall not be inconsistent with the state constitution, provides parameters and justification for the suspension of laws, and authorizes the legislature to terminate a state of emergency by an affirmative two-thirds vote.

At two years into the COVID-19 pandemic, we are returning to the constitutional functioning of government with checks and balances, and having the public included on the broad layers, which impact our health, social well-being, and the economy of our island communities, which are individually unique.

This measure appropriately provides a necessary legislative check and balance to the executive branch by authorizing the legislature to terminate, either in part or in whole, a state of emergency by supermajority support in both chambers. I strongly support the components of HB 1585, HD1, that ensure the Governor's emergency powers do not supersede rights enshrined in our state constitution and clarify the breadth of the executive's suspension of laws by identifying which specific sections of law are being suspended and what emergency functions will be facilitated by the suspension.

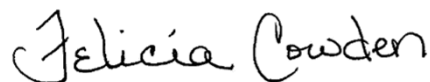
Chair Nishihara, Chair Moriwaki, and Members of the Committees
Re: HB1585, HD1, Relating to Emergency Management
March 21, 2022
Page 2

Section 127A-13, Hawai'i Revised Statutes, uses the phrase "governor's opinion," which is very loose, broad, and has the potential for abuse. Wherever "governor's opinion" occurs, perhaps it could be replaced with "governor's decision based on facts and circumstances."

It is contrary to our democracy for any one individual to have unilateral authority to suspend laws indefinitely without a mechanism for public input and review. Passage of this measure will ensure that emergency actions are balanced, constitutional, and justifiable.

Thank you again for this opportunity to provide testimony in support of HB 1585, HD1. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188 or via E-mail to cokcouncil@kauai.gov.

Sincerely,



FELICIA COWDEN

Councilmember, Kaua'i County Council

AMK:mn

TO: Members of the Committees on Public Safety, Intergovernmental and
Military Affairs and Government Operations

FROM: Natalie Iwasa
808-395-3233

HEARING: 2 p.m. Tuesday, March 22, 2022

SUBJECT: HB1585, HD1, Emergency Management – **COMMENTS**

Aloha Chairs Nishihara and Moriwaki and Committee Members,

Thank you for allowing the opportunity to provide testimony on HB1585,
HD1, which relates to emergency management.

**I support a two-thirds vote by the legislature and/or county councils to
terminate a state of emergency as declared by the governor or mayor,
respectively.**

LATE

HB-1585-HD-1

Submitted on: 3/21/2022 4:04:09 PM

Testimony for PSM on 3/22/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Joe Schneckenburger	Individual	Support	Written Testimony Only

Comments:

I believe the governor's emergency powers should be for when it is unsafe for the legislature to meet or action needs to be taken quicker then it can pass a bill. While this bill is a step in the right direction it does not go far enough. I believe all emergency proclamations/orders should end within 30 days of the legislature meeting unless the legislature passes a law approving the proclamation/order. At the very least this bill should be amended to require only a simple majority to kill the proclamation/order.

LATE

HB-1585-HD-1

Submitted on: 3/21/2022 10:24:03 PM

Testimony for PSM on 3/22/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Laurie West	Individual	Support	Written Testimony Only

Comments:

I support limited power of any individual.