

JOSH GREEN
GOVERNOR
KE KIA'ĀINA



KENNETH S. HARA
MAJOR GENERAL
ADJUTANT GENERAL
KA 'AKUKANA KENELALA

STEPHEN F. LOGAN
BRIGADIER GENERAL
DEPUTY ADJUTANT GENERAL
KA HOPE 'AKUKANA KENELALA

STATE OF HAWAII
DEPARTMENT OF DEFENSE
KA 'OIHANA PILI KAUA
OFFICE OF THE ADJUTANT GENERAL
3949 DIAMOND HEAD ROAD
HONOLULU, HAWAI'I 96816-4495

STATE OF HAWAI'I
DEPARTMENT OF DEFENSE

TESTIMONY ON HOUSE BILL 1035
RELATING TO HOMELAND SECURITY
BEFORE THE SENATE COMMITTEE ON PUBLIC SAFETY AND INTERGOVERNMENTAL AND
MILITARY AFFAIRS

BY

MAJOR GENERAL KENNETH S. HARA
ADJUTANT GENERAL
DIRECTOR OF HAWAI'I EMERGENCY MANAGEMENT AGENCY
AND HOMELAND SECURITY ADVISOR

MARCH 15, 2023

Aloha Chair Wakai, Vice-Chair Elefante, and members of the committee:

I am Major General Kenneth Hara, Adjutant General, Director of Hawai'i Emergency Management Agency, and Homeland Security Advisor, State of Hawai'i, Department of Defense.

The Department of Defense (DEF) provides written testimony in **SUPPORT** of HB1035 as it was originally written and comments on House Draft 1.

The purpose of this measure is to establish protections for critical infrastructure information (CII) that is received or maintained by the Hawai'i Office of Homeland Security (OHS). The proposed protections are aligned with those under the Critical Infrastructure Information Act of 2002 and would enhance the sharing of critical infrastructure information between owners and operators and the State of Hawai'i and provide homeland security partners additional reassurance that their shared proprietary information will be protected.

Section 3 of House Draft 1 of the bill on page 2, lines 14-15, restricts the definition of critical infrastructure information to "information not subject to disclosure under chapter 92F", HRS. This limitation makes CII subject to the same disclosure requirements as other government records under chapter 92F. This definition defeats the purpose of the bill as it provides no reassurance that the information is any more protected from disclosure than it is currently. Without this protection there will be a hesitancy to share

information with the state and the state may not have the complete picture on its CII risk.

To address these concerns, we request that the definition of CII revert back to the definition contained in the original form of the bill by amending page 2 lines 14-17, to read as follows:

"Critical infrastructure information" means information not [~~subject to public disclosure under chapter 92F~~] customarily in the public domain and related to the security of critical infrastructure or protected systems, including documents, records, or other information concerning: ..."

The holding and protection of this information is crucial for OHS in supporting the security and resilience of the State of Hawai'i.

Thank you for the opportunity to provide testimony in **SUPPORT** of HB1035.

MG Kenneth S. Hara, Kenneth.s.hara@hawaii.gov; 808-672-1001
Frank Pace, Administrator: frank.j.pace@hawaii.gov, 808-369-3570

JOSH GREEN, M.D.
GOVERNOR



DOUGLAS MURDOCK
CHIEF INFORMATION
OFFICER

OFFICE OF ENTERPRISE TECHNOLOGY SERVICES

P.O. BOX 119, HONOLULU, HI 96810-0119
Ph: (808) 586-6000 | Fax: (808) 586-1922
ETS.HAWAII.GOV

LATE

Written Testimony of
DOUGLAS MURDOCK
Chief Information Officer
Enterprise Technology Services

Before the
SENATE COMMITTEE ON PUBLIC SAFETY AND INTERGOVERNMENTAL AND MILITARY
AFFAIRS
WEDNESDAY, MARCH 15, 2023

HOUSE BILL 1035 HD1
RELATING TO HOMELAND SECURITY

Dear Chair Wakai and Vice Chair Elefante, and members of the committee:

The Office of Enterprise Technology Services (ETS) **supports** this bill to establish protections for critical infrastructure information that is received or maintained by the Office of Homeland Security for use regarding the security of critical infrastructure.

Protecting information described in the bill will reduce opportunities for malicious cyber actors to use that information to threaten critical infrastructure that delivers essential services to our community.

Thank you for the opportunity to provide testimony on this measure.

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
NO. 1 CAPITOL DISTRICT BUILDING
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TELEPHONE: 808-586-1400 FAX: 808-586-1412
EMAIL: oip@hawaii.gov

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

From: Cheryl Kakazu Park, Director

Date: March 15, 2023, 3:00 p.m.
State Capitol, Conference Room 225

Re: Testimony on H.B. No. 1035, H.D. 1
Relating to Homeland Security

Thank you for the opportunity to submit testimony on this bill, which would create a confidentiality requirement for “critical infrastructure information” held by the Office of Homeland Security. **The Office of Information Practices (OIP) has no concerns regarding the bill in its current form.** However, OIP understands that the Attorney General (AG) plans to request an amendment to return this bill to its original form, supported by the Office of Homeland Security (OHS), and OIP offers comments on that request.

Currently, the definition of “critical infrastructure information” made confidential by this bill specifically excludes information that is public under Hawaii’s open record law, chapter 92F, HRS, the Uniform Information Practices Act (UIPA). In the bill’s original form, that definition excluded information that is in the “public domain.” Since **the term “public domain” may mean different things to different people and thus is vague**, OIP recommended the original bill refer instead to the UIPA, which sets the legal standard for what government

records are in the public domain. That change was made in the H.D. 1 version of the bill.

Whether the confidentiality provision excludes “public domain” information or information that is public under the UIPA, the bill’s apparent effect in either version is not to take information that is currently public and make it confidential, but rather to ensure **confidential treatment for information that is not public**. Thus, under the original or HD 1 of this bill, such information must be held confidential, can only be shared in limited circumstances, and cannot be made public.

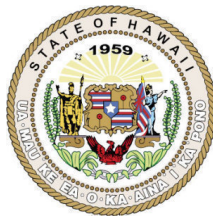
Although the apparent focus of this bill is protection of critical infrastructure information provided to OHS by third parties, the confidentiality provision created by this bill applies more broadly to information “received or maintained” by OHS, and it **would thus make confidential whatever records OHS itself creates and maintains, and not just information provided by a third party**. OIP discussed language with the OHS and its deputy AG that would have limited the bill’s applicability to information provided to OHS by a third party, such as a private company or another state or federal government, and also eliminated the reference to the UIPA; however, no agreement on such language was reached.

If the exclusion of public information from the definition of critical infrastructure information is amended to again refer to information in the “public domain,” instead of to records that are public under the UIPA as in the current version, OIP will once again be concerned that the term “public domain” is too vague, so **OIP would prefer the bill in its current form. However, should this Committee decide to make that change, OIP would respectfully ask for clarification in the bill or the Committee Report as to what OHS records or**

information are not in the “public domain,” yet at the same time are public record under the UIPA – in other words, what currently public records or information OHS intends this bill to make confidential.

Thank you for considering OIP’s testimony.

JOSH GREEN
GOVERNOR



JORDAN LOWE
DIRECTOR

MICHAEL S. VINCENT
Deputy Director
Administration

STATE OF HAWAII | KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF LAW ENFORCEMENT
Ka 'Oihana Ho'opalekana Lehulehu

1177 Alakea Street
Honolulu, Hawaii 96813
(808) 587-2562

Vacant
Deputy Director
Law Enforcement

No.

TESTIMONY ON HOUSE BILL 1035, HD 1
RELATING TO HOMELAND SECURITY

Before the Senate Committee on
Public Safety and Intergovernmental and Military Affairs
Wednesday, March 15, 2023; 3:00 p.m.
State Capitol Conference Room 225, via Videoconference
Testifiers: Jordan Lowe or Michael Vincent

Chair Wakai, Vice Chair Elefante, and members of the Committee:

The Department of Law Enforcement (DLE) supports House Bill 1035, HD 1 with an appropriate amendment to bring the language back into conformity with the original language of the bill.

This bill Establishes protections for critical infrastructure information that is received or maintained by the Office of Homeland Security for use regarding the security of critical infrastructure in Hawai'i.

For the Office of Homeland Security and the Hawaii State Fusion Center to work closely with the private sector involved in the ownership, operation, or management of critical infrastructure, it must be able to assure its private partners that proprietary information relating to the security of critical infrastructure is protected from disclosure to the public. Protection of such information helps the Office of Homeland Security to establish and develop relationships and access to information necessary for it to help protect the public and critical infrastructure relied upon by all members of our community. This bill originally made it clear that very limited and specific information is protected. However, the amendment in HD 1 essentially treats Critical Infrastructure Information the same as any other government record for purposes of the Uniform

Information Practices Act. In its current form, we anticipate that owners and operators of critical infrastructure in Hawai'i will be reluctant to share proprietary information relating to the security thereby placing our communities at risk.

The DLE strongly recommends that the Critical Infrastructure Information definition language of the original bill be used to make it clear that Critical Infrastructure Information provided voluntarily to the Office of Homeland Security, or the Hawaii State Fusion Center is protected from disclosure to the public. To correct this, we recommend that the language in Section 3 of HD 1, found on page two, lines 14 through 17 be replaced with the following from the original version of this bill:

"Critical infrastructure information" means information not [~~subject to public disclosure under chapter 92F~~] customarily in the public domain and related to the security of critical infrastructure or protected systems, including documents, records, or other information concerning:

Thank you for the opportunity to testify in support of this bill.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2023**

ON THE FOLLOWING MEASURE:

H.B. NO. 1035, H.D. 1, RELATING TO HOMELAND SECURITY.

BEFORE THE:

SENATE COMMITTEE ON PUBLIC SAFETY AND INTERGOVERNMENTAL AND
MILITARY AFFAIRS

DATE: Wednesday, March 15, 2023 **TIME:** 3:00 p.m.

LOCATION: State Capitol, Room 225

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Trista N. Speer, Deputy Attorney General

Chair Wakai and Members of the Committee:

The Department of the Attorney General supports this bill and provides the following comments.

The purpose of this bill is to establish protections for critical infrastructure information (CII) that is received or maintained by the Office of Homeland Security, on behalf of the State of Hawai'i, for use regarding the security of critical infrastructure and protected systems, analysis, warning, interdependency study, recovery, reconstitution, or other information purposes (section 1 on page 1, lines 6-11). The bill amends chapter 128A, Hawaii Revised Statutes (HRS), to protect CII from public disclosure, notwithstanding section 92F-11, HRS, or any other law to the contrary. Proper protection of CII and its confidentiality is essential to enhance the sharing of this information between infrastructure owners and operators and the state government and to ensure the protection, security, and resiliency of the State.

Section 3 of House Draft 1 of the bill on page 2, lines 14-15, limits the definition of CII to "information not subject to public disclosure under chapter 92F", HRS. This limitation makes CII subject to the same disclosure requirements as other government records under chapter 92F and defeats the purpose of this bill.

To address this concern, we recommend reverting to the definition of CII contained in the original draft of the bill by amending page 2, lines 14-17, to read as follows:

"Critical infrastructure information" means information not ~~[subject to public disclosure under chapter 92F]~~ customarily in the public domain and related to the security of critical infrastructure or protected systems, including documents, records, or other information concerning:

Thank you for the opportunity to provide these comments.

JOSH GREEN
GOVERNOR
KE KIA'ĀINA



STATE OF HAWAII
DEPARTMENT OF DEFENSE
KA 'OIHANA PILI KAUA
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STATE OF HAWAII
DEPARTMENT OF DEFENSE
HAWAII OFFICE OF HOMELAND SECURITY

TESTIMONY ON HOUSE BILL 1035
RELATING TO HOMELAND SECURITY
BEFORE THE SENATE COMMITTEE ON PUBLIC SAFETY AND INTERGOVERNMENTAL AND
MILITARY AFFAIRS

BY

FRANK J. PACE
ADMINISTRATOR
HAWAII OFFICE OF HOMELAND SECURITY

MARCH 15, 2023

Aloha Chair Wakai, Vice-Chair Elefante, and members of the committee:

I am Frank Pace, Administrator for the Hawaii Office of Homeland Security.

Thank you for the opportunity to submit testimony in **SUPPORT** of HB1035 as it was originally written and comments on House Draft 1.

The purpose of this bill is to establish protections for critical infrastructure information that is received or maintained by the Office of Homeland Security (OHS) – on behalf of the State of Hawaii - for use regarding the security of critical infrastructure and protected systems, analysis, warning, interdependency study, recovery, reconstitution, or other informational purposes.

The protections offered by this bill will enhance sharing of critical infrastructure information (CII) between infrastructure owners and operators and the state government. Critical infrastructure information protected under the bill is crucial for OHS for the direct support of the security and resilience of the State of Hawaii. The protections will provide homeland security partners reassurance that their proprietary information provided to the State of Hawaii government will be protected.

Section 3 of House Draft 1 of the bill on page 2, lines 14-15, restricts the definition of critical infrastructure information to “information not subject to disclosure under chapter 92F”, HRS. This limitation makes CII subject to the same disclosure requirements as other government records under chapter 92F. This definition defeats the purpose of the bill as it provides no reassurance that the information is any more protected from disclosure than it is currently. Without this protection, there will continue to be a hesitancy around sharing information with the state and the state may never have the complete picture of its CII risks.

Voluntary collaboration is crucial in providing for critical infrastructure security. Up-front protections in statute for non-disclosure of specific security-related information underpins the homeland security mission and our understanding and identification of:

- Security risks and threats from physical and cyber-attack (like the types and characteristics of physical security or technology systems);
- Vulnerabilities and mitigation strategies during special events (including actions taken to manage potential threats at an event venue);
- Overall critical infrastructure security (such as understanding the nature of previous incidents to identify and ultimately close vulnerability gaps).

To address these concerns, we request that the definition of CII revert back to the definition contained in the original form of the bill by amending page 2 lines 14-17, to read as follows:

“Critical infrastructure information” means information not [~~subject to public disclosure under chapter 92F~~] customarily in the public domain and related to the security of critical infrastructure or protected systems, including documents, records, or other information concerning: ...”

To succeed in the legislated responsibilities of the State regarding protection of critical infrastructure under chapter 128A, Hawai'i Revised Statutes, it is necessary to establish state-based protections for critical infrastructure information.

If passed with the amendment listed above, this measure would establish protections for the critical infrastructure information that is received and/or maintained by OHS on par with the protections that our federal counterpart, the Department of Homeland Security, can afford to those entities under the Critical Infrastructure Information Act of 2002. With ever-increasing threats across all the critical infrastructure sectors nationwide, the ability to offer commiserate protections to those entities within the state is paramount. The protections give the Office of Homeland Security added ability to truly partner with the critical infrastructure entities within the state crucial to the security and resilience of the State of Hawaii.

Thank you for the opportunity to provide testimony in SUPPORT of HB1035.

Frank Pace, Administrator: frank.i.pace@hawaii.gov, 808-369-3570

BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU
630 SOUTH BERETANIA STREET
HONOLULU, HI 96843
www.boardofwatersupply.com



March 15, 2023

RICK BLANGIARDI, MAYOR

BRYAN P. ANDAYA, Chair
KAPUA SPROAT, Vice Chair
MAX J. SWORD
NA'ALEHU ANTHONY
JONATHAN KANESHIRO

DAWN B. SZEWCZYK, P.E., Ex-Officio
EDWIN H. SNIFFEN, Ex-Officio

ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer

ERWIN M. KAWATA
Deputy Manager

The Honorable Glenn Wakai, Chair
and Members
Senate Committee on Public Safety and
Intergovernmental and Military Affairs
Hawaii State Capitol, Room 225
Honolulu, Hawaii 96813

Dear Chair Wakai and Members:

SUBJECT: House Bill 1035, HD1: Relating to Homeland Security

The Honolulu Board of Water Supply (BWS) supports the original version of House Bill (HB) 1035. We echo the comments of the State Department of Defense on House Draft (HD) 1.

This purpose of this bill is to establish protections for critical infrastructure information (CII) that is received or maintained by the Hawai'i Office of Homeland Security (OHS). The proposed protections are aligned with those under the Critical Infrastructure Information Act of 2002 and would enhance the sharing of critical infrastructure information between owners and operators (such as the Honolulu Board of Water Supply) and the State of Hawai'i, with additional reassurance that shared proprietary information will be protected.

Section 3 of HD 1 of the bill on page 2, lines 14-15, restricts the definition of critical infrastructure information to "information not subject to disclosure under chapter 92F", Hawaii Revised Statute. This limitation makes CII subject to the same disclosure requirements as other government records under chapter 92F. This definition defeats the purpose of the bill as it provides no reassurance that the information is any more protected from disclosure than it is currently.

To address these concerns, we request that the definition of Critical Infrastructure Information be reverted back to the definition contained in the original form of the bill. Amending page 2, lines 14-17, by deleting the bracketed language and restoring the underscored language as follows:

Critical infrastructure information" means information not [~~subject to public disclosure under chapter 92F~~] customarily in the public domain and related to the security of critical

The Honorable Glenn Wakai, Chair
and Members
March 15, 2023
Page 2

infrastructure or protected systems, including documents, records, or other information concerning: ..."

If passed with the amendment listed above, this bill would establish protections for the critical infrastructure information that is received and/or maintained by OHS on par with the protections afforded by the federal Department of Homeland Security, under the Critical Infrastructure Information Act of 2002. These protections are crucial to the security and resilience of the State of Hawaii as it will enable the Office of Homeland Security to truly partner with the critical infrastructure entities within the state.

Thank you for the opportunity to provide testimony in support of HB1035 as originally drafted.

Very truly yours,



ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer

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**Testimony to
The Committee on Public Safety and Intergovernmental and Military Affairs**

**Wednesday, March 15, 2023
3:00 PM
Conference Room 225, Hawaii State Capitol**

HB 1035 HD1

Chair Wakai, Vice Chair Elefante, and members of the committee,

Hawaii Gas **supports** HB 1035 HD1, which establishes protections for critical infrastructure information that is received or maintained by the Office of Homeland Security for use regarding the security of critical infrastructure.

Established in 1904, Hawaii Gas serves over 70,000 customers on all islands through its pipeline and delivery services, all of whom depend on the company for sustainable, reliable, and affordable gas for water heating, cooking, drying, and other commercial and industrial applications. The company employs some 350 professionals, over 75% of whom are members of the Teamsters Union, and provides both regulated and unregulated utility operations.

Keeping this confidential information secure is critically important to ensure our pipeline remains in safe operating condition and that other proprietary and confidential information does not fall into the wrong hands. Hawaii Gas is proud of its reliability and resiliency history, having only one major outage in our history – a purposeful shut-down during the Pearl Harbor attack to mitigate further damage.

We urge the committee to pass this bill.

Thank you for the opportunity to testify.



**Hawaiian
Electric**

**TESTIMONY BEFORE THE SENATE COMMITTEE ON
PUBLIC SAFETY AND INTERGOVERNMENTAL AND MILITARY AFFAIRS**

HB 1035, HD 1

Relating to Homeland Security

March 15, 2023

3:00 pm, Agenda Item #7

State Capitol, Conference Room 225

Lisa Dangelmaier

Director, System Operations (Hawaii-Maui)

Hawaiian Electric

Chair Wakai, Vice Chair Elefante, and Members of the Committee:

I am testifying on behalf of Hawaiian Electric in support of HB 1035 HD 1.

If enacted, this bill would provide assurances that information about our critical infrastructure shared during emergency events will be kept confidential. This would be useful when providing transmission system diagrams for emergency situations, when Hawaiian Electric is involved in discussing potential community impacts. For example, Hawaiian Electric shared critical infrastructure information with government entities when we were involved in considering the potential impact on the electric system associated with the recent lava flow on the Big Island on the electric system. This type of shared information should remain confidential.

Accordingly, Hawaiian Electric supports H.B. No. 1035 HD 1. Thank you for this opportunity to testify.

HB-1035-HD-1

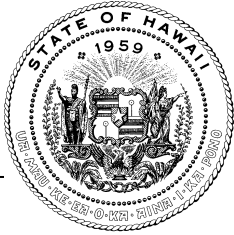
Submitted on: 3/13/2023 10:03:36 AM

Testimony for PSM on 3/15/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose HB1035, HB1036 & HB1037. No to the Homeland Security Fusion Center; no to militarization of police forces; no to the police state.



HAWAII STATE ENERGY OFFICE STATE OF HAWAII

JOSH GREEN, M.D.
GOVERNOR

MARK B. GLICK
CHIEF ENERGY OFFICER

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LATE

Testimony of
MARK B. GLICK, Chief Energy Officer

before the
**SENATE COMMITTEE ON PUBLIC SAFETY
AND INTERGOVERNMENTAL AND MILITARY AFFAIRS**

Wednesday, March 15, 2023
3:00 PM
State Capitol, Conference Room 225 and Videoconference

In SUPPORT of
HB 1035, HD1

RELATING TO HOMELAND SECURITY.

Chair Wakai, Vice Chair Elefante, and Members of the Committee, the Hawai'i State Energy Office (HSEO) offers support for and comments on HB 1035, HD1, which seeks to establish protections for critical infrastructure information that is received or maintained by the Office of Homeland Security (OHS) for use regarding the security of critical infrastructure.

HSEO collaborates with OHS on planning activities related to the protection and resilience of critical energy infrastructure that often requires sensitive information and data from critical infrastructure owners and operators. This measure could offer strong reassurance that proprietary information and data shared with OHS will have statutory protection. HSEO has coordinated with OHS and prefers the definition of critical infrastructure information found in the original version of this bill to best achieve this purpose.

Thank you for the opportunity to testify.