



**All Hawaii News \* P.O. Box 612 \* Hilo, HI 96721 \* [www.allhawaiinews.com](http://www.allhawaiinews.com)**

**March 31, 2024**

**Senate Committee on Judiciary**

**From: Nancy Cook Lauer, publisher, All Hawaii News**

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**In STRONG SUPPORT of HB2581 HD1, Relating to Emergency Management**

**To the Honorable Chairman Karl Rhoads and Vice Chairman Mike Gabbard and the Committee:**

**All Hawaii News, a state government and political news aggregate and commentary blog covering Hawaii since 2008, supports HB2581 HD1 removing the ability of the governor or a mayor to unilaterally suspend electronic media transmission during a state of emergency.**

**The hunger for fact-based information is never stronger than during an emergency, and when that information is hard to come by, people often resort to rumors and speculation. One would think that's the last thing the government would want in a declared emergency.**

**While the First Amendment protects freedom of the press, likely rendering the current law unconstitutional, actions of the state under its current state law could exercise prior restraint on the media as it attempts to do its job covering the emergency and informing the citizenry. It would only be later, in the courts, that the matter would almost certainly be resolved in favor of the media.**

**Mahalo nui for considering this important bill.**



April 4, 2024

Karl Rhoads  
Senate Judiciary Committee  
State Capitol  
Honolulu, HI 96813

Re: House Bill 2581, HD1

Chairman Rhoads and Committee Members:

We support this bill, which would revoke the authority of the mayor or governor to suspend electronic media transmissions during an emergency.

The constitutionality of the current law is highly questionable.

Please pass this measure.

Thank you for your attention,

Stirling Morita  
President  
Hawaii Chapter SPJ



Senate Committee on Judiciary  
Honorable Karl Rhoads, Chair  
Honorable Mike Gabbard, Vice Chair

**RE: Testimony in support of H.B. 2581 H.D. 1, Relating to Emergency Management**

Hearing: April 4, 2024 at 10:00 a.m.

Dear Chair and Members of the Committee:

My name is Ben Creps. I am a staff attorney at the Public First Law Center, a nonprofit organization that promotes government transparency. Thank you for the opportunity to submit testimony **supporting** H.B. 2581 H.D. 1.

This bill proposes to revoke the purported authority of the Governor or a county mayor to “suspend electronic media transmission” during an emergency. The constitutionality of any such authority under existing law is highly questionable. It is commendable that this Committee is taking steps to address the issue before any state action is taken that deprives the press and others of their right to broadcast, and the public of its right to listen to, electronic media under the First Amendment.

Thank you again for the opportunity to testify **in support of** H.B. 2581 H.D. 1.



**HB-2581-HD-1**

Submitted on: 4/1/2024 10:33:16 AM

Testimony for JDC on 4/4/2024 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
ROBERT DUERR	Testifying for Albatross News	Support	Written Testimony Only

Comments:

We **STRONGLY SUPPORT** HB2581. Section 127A-13, Hawaii Revised Statutes, specifically says in its original form, “suspend electronic media transmission.” Communication is a fundamental democracy right and an emergency necessity in both Hawaii and America. Allow media transmission in all formats while the Emergency Act is in force.

Emergency Act guarantees powers to the Governor and Mayors to override freedoms and rights guaranteed by both the US and Hawaii constitution. Granted there are disastrous times when this is necessary. However, free speech and freedom of the press, which is now includes electronic media, are fundamental democratic rights that must not be silenced.

Citizens, government officials, and emergency responders during a crisis often rely on the free press and media for information and guidance. We know from history how necessary free and independent radio, TV broadcasts and newspapers are for Hawaii disasters.

Communication is now electronic. Allow electronic media transmission during emergencies.  
Mahalo Albatross News Hilo, Hawaii



Testimony of Chris Leonard  
President – Hawai'i Association of Broadcasters, Inc.  
President – New West Broadcasting Corp.  
Chairman – Hawai'i State Emergency Communications Committee (SECC)

Re: HB 2581 H.D. 1  
Hearing: Senate Committee on Judiciary  
4/4/24 – 10:00am

***In strong support of HB 2581 H.D. 1 Relating to Emergency Management***

Good afternoon Chairman Rhoads, Vice Chair Gabbard and committee members. For the record, my name is Chris Leonard and I am the President of the Hawai'i Association of Broadcasters. The Association represents over 100 television and radio stations that serve local communities across the State of Hawai'i. I am also the President of New West Broadcasting Corp., a locally-owned broadcast company that owns and operates six radio stations in Hilo and Kona including KWXX, B97/B93 and KPUA. I also serve as the Chairman of the Hawaii State Emergency Communications Committee and as a member of our Local Emergency Planning Committee in Hawai'i County. I am a lifelong broadcaster that has dedicated my professional career to serving the public. I have over 30 years of experience with emergency management communications and significant knowledge of the technical systems and equipment used to provide that communication. We strongly support HB2581 as it addresses a threat to public safety and fixes an unconstitutional provision in HRS § 127A and humbly ask you to perfect the date to "upon approval."

As you may know, Hawai'i's radio and television broadcasters and broadcasters across our nation play a vital role in emergency alerting. Our stations are an integral part of the communities that we serve and have proven time and again that we will not hesitate to put ourselves and resources in harm's way to deliver critical emergency information to the public.

Often times, local radio and television stations are the only available communications medium during disasters. Our transmission systems are not subject to outages due to network congestion. The robust "one-to-many" nature of our technology and the redundancy provided by multiple broadcasters who have invested heavily in equipment and generators ensure that we are uniquely situated to remain on air and deliver critical information before, during and after natural disasters. During the tragic Maui fires, mostly all internet, phone and wireless

service failed, while broadcast stations remained available for use by emergency management officials. We are very concerned that we have a law on the books that would jeopardize our ability to deliver a vital lifeline to the public by allowing for the suspension of electronic media transmission under an emergency declaration.

We share your concern about public safety in the State of Hawaii and understand the need to grant additional authority to the Governor and Mayors during a State of Emergency, however HRS § 127A grants unnecessary, unconstitutional and unwarranted additional powers in an emergency period that pose a threat to public safety. The current language in 127A-13(6) states that the Governor may exercise the following additional powers....

*“Shut off water mains, gas mains, electric power connections , and, to the extent permitted by or under federal law, suspend electronic media transmission.”*

Subsection (b)(3) contains the same language as subsection (6) but bestows the same power to Mayors.

There are numerous issues with this statute. I have listed a handful of the more significant issues below:

1. The statute is clearly an unconstitutional prior restraint. Prior restraint is censorship that allows the government to prevent publication. Allowing the Governor or Mayors the ability to suspend any all “electronic media transmissions” during a state of emergency, the statute creates a clear prior restraint on lawful free speech and publication and violates the First Amendment. Prior restraints against lawful speech have been resoundingly rejected by the Supreme Court of the United States.
2. The language grants a “blank check” to shut down electronic media transmission (all) without providing for why this would be necessary, what systems, for how long and how the determination would be made. All electronic media potentially includes radio, television, internet, cable, cell service, text messaging, social media, etc.
3. There are jurisdictional issues with the law. I am unaware of any Federal Law that grants this authority at the state or county level. However, multiple federal laws including the Integrated Public Alert and Warning System Modernization Act of 2015 and Executive Order 13407 mandate very specific requirements to ensure that **UNDER ALL CIRCUMSTANCES** the president can communicate with the American People. Furthermore, Sec. 11.51 of the Emergency Alert System Code requires that analog and digital broadcast stations (radio & tv) **MUST** transmit national level EAS messages. A state or county suspension of broadcast feeds would prohibit our ability to be compliant with Federal law and put the public at risk.

4. The Provision is loosely based on a repealed Civil Defense Air Raid law from 1951 that was created to provide power to Governor's during air raids. HRS § 128-6, Civil Defense powers, in general provided:

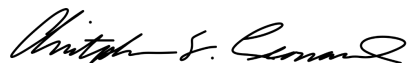
*“The governor may [(1)-(7)] (8) Air raid drills, etc. Direct or control, as may be necessary for civil defense [(A)-(D)] (E) Shutting off water mains, gas mains, . . . suspension of radio transmission.”*

This may have been practical in 1951 to prevent triangulating radio/tv signals to find coordinates for attacks by our enemies but serves no purpose today.

Chairman Rhoads, Vice Chair Gabbard and committee members, broadcasters, elected officials and emergency managers are bound by a common thread. We all have a duty to serve the public interest. Hawai'i's broadcasters are committed to meet these obligations. HRS § 127A needs to be revised! We strongly support HB2581 and ask you to perfect the date to “upon approval.” A simple edit to HRS § 127A will allow us to continue to deliver potentially life-saving information and keep our communities informed during a state of emergency, a time when we need **MORE**, not less communication.

Thank you for your consideration of this matter.

Sincerely,



Christopher S. Leonard  
President – Hawai'i Association of Broadcasters  
Chairman - Hawai'i State Emergency Communications Committee (SECC)  
President/General Manager - New West Broadcasting Corp.

April 4, 2024, 10 a.m.  
Hawaii State Capitol  
Conference Room 016 and Videoconference

**To: Senate Committee on Judiciary**  
**Sen. Karl Rhoads, Chair**  
**Sen. Mike Gabbard, Vice-Chair**

**From: Grassroot Institute of Hawaii**  
**Ted Kefalas, Director of Strategic Campaigns**

RE: TESTIMONY IN SUPPORT OF HB2581 HD1 — RELATING TO EMERGENCY MANAGEMENT

Aloha Chair Rhoads, Vice-Chair Gabbard and other members of the Committee,

The Grassroot Institute of Hawaii would like to offer its comments in **support** of [HB2581 HD1](#), which would remove the ability of a mayor or governor to suspend electronic media transmissions during a state of emergency.

The current statute dates back to 1951. It was crafted in a very different time when the term “electronic communications” did not encompass the wide range of technologies that it does today.

As written, the law could cover text messaging, phone calls, television, video streaming, email and various forms of social media. Today, these decentralized forms of communication are foundational to the United States’ democratic form of government.

The current statute raises significant questions of constitutionality, and the committee should be commended for acting to address that problem before it can be used to infringe upon civil liberties.

The fact that it remains unclear as to whether a state of emergency could be prolonged indefinitely via supplemental proclamations makes it even more important that the Legislature constrain powers that could affect free speech.



In addition, there is a substantial difference between the suspension of electronic communications as part of a governor or mayor’s emergency proclamation and any action required to disrupt cellular transmissions to prevent terrorist attacks.

The latter example, though extreme, has been raised in the past as an objection to this bill. However, suspension of cellular service is the sole prerogative of the federal government, and this bill would not prevent federal officials from carrying out activities necessary for public safety.

HB2581 deals only with the powers of a Hawaii executive under the emergency management statute — that is to say, whether the governor can suspend electronic communications for an indefinite amount of time.

In our 2021 policy brief “[Lockdowns Versus Liberty](#),” we looked at how the state’s emergency management law could be reformed in light of the lessons learned during the COVID-19 crisis.

One of the points made in that brief is that government accountability is even more important in times of emergency, not less. Instead of imposing blanket prohibitions, government actions during emergencies should be narrowly tailored to demonstrate a connection between the actions and the protection of public health or safety.

Freedom of communication is not only at the core of our constitutional principles, it is also essential to keeping the general public informed on matters of critical importance during crises.

Recent experiences have forced us to reevaluate the state’s emergency management statute. This bill would be a good start toward protecting civil rights and accountable government during an emergency.

Thank you for the opportunity to submit our comments.

Sincerely,

Ted Kefalas  
Director of Strategic Campaigns  
Grassroot Institute of Hawaii



Joshua L. Mednick  
Regional Vice President – Pacific Media Group  
✉: 1100 Alakea St., 29<sup>th</sup> Floor | Honolulu, HI 96813  
☎: 808.481.7566 cell | 808.947.1500 office  
@: Joshua@PMGHawaii.com

VIA ELECTRONIC MAIL

Monday, April 1, 2024

Testimony of Joshua Mednick  
Member – Hawai'i Association of Broadcasters  
Regional VP/CRO – Pacific Media Group

Re: HB 2581 H.D. 1

***Testimony supporting HB 2581 H.D. 1 Relating to Emergency Management and Broadcasts***

Chairman Rhoades, Vice Chair Gabbard and Honorable Committee Members:

My name is Joshua Mednick. I am a member of the Board of the Hawai'i Association of Broadcasters (HAB). The HAB represents over 100 television and radio stations that serve local communities across the State of Hawai'i. I am also the Regional VP/CRO for Pacific Media Group, LLC. Pacific Media Group is a locally owned broadcast company that owns and operates 21 radio stations across the state. Our operations include radio stations and studios in Honolulu, Kahului, Lihue, Hilo, and Kona. We are the only statewide audio platform in Hawaii. In my role, I directly manage the operations on Oahu. I wish to lend my voice and support for HB2581 as it addresses a threat to public safety and fixes an unconstitutional provision in HRS § 127A.

As a broadcast veteran nearing my 40<sup>th</sup> year in the industry, I have had numerous personal experiences with the role of broadcasting during times of natural disaster and crisis. From my role as VP of Sales and Marketing for New York radio stations during the aftermath of 9-11, to my operation of New Orleans radio stations during Hurricane Isaac, to my role as COO of Lazer Media during the devastating Thomas Fires in California, to Pacific Media Group's immediate and invaluable response to the Lahaina Fires, I have literally been a contributor, supervisor, and on-air broadcaster for emergency broadcast operations during periods of significant crisis. Throughout each experience, one theme was constant. The communities we served relied almost exclusively on the vital emergency information provided by local broadcasters.

Local radio and television stations are essentially lifelines during disasters. When power is lost, and cell service is down, over-the-air broadcast often represents the sole point of contact for local emergency management, local relief organizations, and local first responders to provide information to the public at large. The Federal Communications Commission has invested heavily in the Emergency Alert System and conducts annual nationwide tests to ensure that broadcasters stand ready to deliver critical information in times of crisis. For these reasons, Hawaii Broadcasters like me are concerned that we have a law on the books that would jeopardize broadcasters' ability to deliver vital news and information to the public. Currently HRS § 127A allows for the suspension of electronic media transmission under an emergency declaration.

We understand the need to grant additional authority to the Governor and Mayors during a State of Emergency, however HRS § 127A grants unnecessary and unconstitutional powers to the Governor and Mayors during emergency periods that pose a threat to public safety. The current language in 127A-13(6) states that the Governor may exercise the following additional powers....

*“Shut off water mains, gas mains, electric power connections, and, **to the extent permitted by or under federal law, suspend electronic media transmission.**”*

Subsection (b)(3) contains the same language as subsection (6) but bestows the same power to Mayors.

There are numerous issues with this statute:

1. The statute is clearly an unconstitutional “prior restraint”. Prior restraint is censorship that allows the government to prevent publication. Allowing the Governor or Mayors the ability to suspend any/all “electronic media transmissions” during a state of emergency, creates a clear prior restraint on lawful free speech and publication, violating the First Amendment. This specific activity has been rejected by the Supreme Court of the United States.
2. Additionally, the language grants a “blank check” to shut down electronic media transmission (all) without providing for the following:
  - Why would this be necessary?
  - Which electronic media would be suspended?
  - How long would these services be suspended?
  - How will the determination be made?

All electronic media potentially includes radio, television, internet, cable, cell service, text messaging, social media, etc.

3. There are jurisdictional issues with the law. I am unaware of any Federal Law that grants this authority at the state or county level. However, multiple federal laws including the Integrated Public Alert and Warning System Modernization Act of 2015 and Executive Order 13407 mandate specific requirements ensuring that **UNDER ALL CIRCUMSTANCES** the President of the United States can communicate with the American People.

4. Furthermore, Sec. 11.51 of the Emergency Alert System Code requires that analog and digital broadcast stations (radio & tv) **MUST** transmit national level EAS messages. A state or county suspension of broadcast feeds would prohibit our ability to be compliant with Federal law and would put the public at risk should we be unable to disseminate emergency information.

Chairman Rhoades, Vice Chair Gabbard, and Honorable Members of the Committee,

With great respect, we are all in the same business... to serve the public interest. Pacific Media Group and our fellow Hawaii Broadcasters are committed to be disciplined stewards of information and public service for the residents of our state. For the reasons previously stated, HRS § 127A must be revised!

As proposed in HB2581, an edit to HRS § 127A allows Hawaii's Broadcasters to deliver on our promise to serve the public interest and provide potentially life-saving information during an emergency, crisis, or natural disaster. As I have seen firsthand during 9-11, Hurricane Issac, the Thomas Fires and most recently with the tragedy in Lahaina, times of crisis are when broadcasters and the vital communication we provide to our communities (your constituents) are needed most.

The wisdom of your decision to pass HB2581 will be proven in the years to come as Hawaii's broadcasters stand prepared to serve the people of this State in times of prosperity and times of crisis.

Mahalo for your time.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Joshua Mednick', with a long horizontal flourish extending to the right.

Joshua Mednick

Michael J. Konowicz  
68-1845 Waikoloa Road, Suite 106-228  
Waikoloa HI 96738

March 29, 2024

Senate Committee on the Judiciary  
Hawaii State Capital  
415 South Beretania Street  
Honolulu, HI 96813

**RE: SUPPORT FOR HB 2581 HD1**

Aloha Senators--

As I've done earlier in this process with the prior hearings, I'm writing to you today encouraging you to support HB 2581 HD1 , "Emergency Management; State of Emergency; Electronic Media Transmission."

This bill corrects a flaw with Section 127A-13, Hawaii Revised Statutes, which unconstitutionally gives the Governor and Mayors the ability to "suspend electronic media transmission", a broad and vague phrase that infringes on freedom of press and speech.

As we saw with the tragedy that impacted the state on August 8, 2023, as wildfires ravaged our communities, misinformation and speculation fills the void when media is not able to communicate the facts on the ground immediately. Because of limited access and information coming from sites burned by fire, incredulous rumors about lasers from space, government land grabs, and kidnapped and/or killed children flooded social media; some of those harmful lies continue to spread on social media today, spreading discontent and mistrust of the officials employed to keep people safe.

In an emergency, electronic media transmission should never be suspended. The government needs to facilitate fair and open access to everything it does, including how it responds to any emergency facing it.

Please pass HB 2581 HD1 as written so this wrong in legislation can be righted.

Signed,



Michael J. Konowicz  
Big Island Resident

**HB-2581-HD-1**

Submitted on: 4/1/2024 8:21:48 AM

Testimony for JDC on 4/4/2024 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Glen Kagamida	Individual	Support	Written Testimony Only

Comments:

STRONG SUPPORT.

THIS CAN SAVES LIVES!

MAHALO!

Janice S. Gin

[janicegin@yahoo.com](mailto:janicegin@yahoo.com)

7708 Kalohelani Place, Honolulu, Hawaii 96825

808-395-7574

April 2, 2024

TO: Senate JDC Committee  
Senator Karl Rhoads, Chair  
Senator Mike Gabbard, Vice Chair  
Senator Brandon Elefante.  
Senator Joy San Buenaventura  
Senator Brenton Awa

**RE: In Support of HB 2581 HD1 Relating to Emergency Management**

Good afternoon, Chairman Rhoads, Vice Chair Gabbard and committee members. I appreciate the opportunity to submit written testimony in support of HB 2581 HD1 related to Emergency Management. I am asking that you vote yes on HB 2581.

I am a concerned and informed citizen. I recently retired as News Director at KITV4, where HB 2581 would have a direct effect. I have been a journalist and broadcaster for more than 40 years and have served on several national/regional industry boards including the Radio Television Digital News Association (RTDNA), an organization that embraces the media's important role and responsibility to serve in the public interest, particularly in the time of an emergency.

Hawai'i's radio and television stations play a vital role in emergency alerting. Radio and television are an integral part of this community. The public relies on local broadcasters to provide critical emergency information during times of public crisis. Often times, local radio and television stations are the only available communications medium during disasters. Hard working broadcasters have proven time and again that they do not hesitate to bring information to the public even if it puts them in in harm's way or exhausts resources. It is our mission and responsibility to serve.

As noted by the Hawai'i Association of Broadcasters (HAB), radio and television transmission systems are not subject to outages due to network congestion. The robust "one-to-many" nature of our "free-to-all" technology and the redundancy provided by multiple broadcasters who have invested heavily in equipment and generators ensure that broadcasters are uniquely situated to remain on air and deliver critical information before, during and after natural disasters. During the tragic Maui fires, most internet, phone and wireless services failed, while broadcast stations remained dependable and available for use by emergency management officials.

Current law, HRS § 127A-13(6) and Subsection (b)(d) respectively, is in need of revision. It allows the Governor and the Mayors unnecessary and far-reaching power related to suspending media transmission. When the statue was enacted in 1951, I doubt that the framers intended to silence broadcasters, nor did they realize at the time that media transmission (broadcasting) would grow into a vital and reliable method to get potentially life-saving information quickly to the public that it has become today.

Written Testimony in Support of HB 2581

Page 2

Chairman Rhodes, Vice Chair Gabbard and committee members, HRS § 127A needs to be revised to ensure that broadcasters can continue to fulfill their public and essential duty without fear of interference by the Governor or a Mayor. Please vote in support of HB 2581.

Mahalo for the opportunity to testify before your committee and for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Janice S. Gin". The signature is written in black ink and is positioned above the printed name.

Janice S. Gin