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DEPARTMENT OF DEFENSE
KA 'OIHANA PILI KAUA
HAWAI'I EMERGENCY MANAGEMENT AGENCY
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STATE OF HAWAI'I
DEPARTMENT OF DEFENSE
HAWAI'I EMERGENCY MANAGEMENT AGENCY

TESTIMONY ON SENATE BILL 2843,
RELATING TO EMERGENCY MANAGEMENT

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

BY

JAMES DS. BARROS
ADMINISTRATOR
HAWAI'I EMERGENCY MANAGEMENT AGENCY

JANUARY 31, 2024

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

The August 2023 wildfires on Maui has starkly pointed out the need for quick and decisive action by leaders when lives and property are on the line. The Hawai'i Emergency Management Agency (HI-EMA) **SUPPORTS** SB 2843 that identifies the need of the Governor and/or local mayors to have the authority to declare states of emergency when natural or man-made disasters occur.

The bill codifies within statute the legislature's intent to provide and confer comprehensive powers before, during, and after an emergency while making clear, the responsibilities of leadership to adhere to the state and federal constitutions.

Within this legislation the governor shall direct HI-EMA to prepare a state comprehensive emergency management plan, which shall be integrated into and coordinated with the emergency management plans of the federal and state government agencies. The plan shall contain provisions to ensure that the State prepares for, mitigates against, responds to, and recovers from emergencies and minor, major, and catastrophic disasters.

HI-EMA works closely with federal, state, and local agencies and organizations with emergency management responsibilities to provide effective action plans to mitigate any situations. This measure establishes lead and support responsibilities to state agencies and personnel for emergency management functions and other support activities and adopt standards for public awareness to better prepare for emergencies.

Thank you for the opportunity to provide testimony on Senate Bill 2843.

James Barros: james.barros@hawaii.gov; 808-733-4300

January 31, 2024

The Honorable Glenn Wakai, Chair

Senate Committee on Public Safety and Intergovernmental and Military Affairs

The Honorable Jarrett Keohokalole, Chair

Senate Committee on Commerce and Consumer Protection
State Capitol, Conference Room 229 & Videoconference

RE: Senate Bill 2843, Relating to Emergency Management

HEARING: Wednesday, January 31, 2024, at 9:40 a.m.

Aloha Chair Wakai, Chair Keohokalole, and Members of the Joint Committees:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i and its over 11,000 members. HAR **strongly supports** Senate Bill 2843, which clarifies that the Governor's and mayors' emergency management powers shall be consistent with the state constitution. Clarifies the scope of the comprehensive emergency management plan. Clarifies the powers of the Governor and mayors to extend or terminate a state of emergency. Shortens the duration of price control periods from ninety-six hours to seventy-two hours.

Under Hawai'i Revised Statutes §127A-30, whenever the Governor or a Mayor for their respective county declares a state of emergency, it automatically triggers a prohibition on "any increase in the selling price of any commodity, whether at the retail or wholesale level, in the area that is the subject of the proclamation or the severe weather warning." This provision also applies to rental housing.

The original intent of the price freeze protections was likely to protect the public in times of natural disasters or other calamities to allow them access to important goods, such as food, water, gas, housing, etc. without the fear of being unable to afford these products. However, the use of Emergency Proclamations has expanded in recent years and there is almost always an active Emergency Proclamation at any given time. Both consumers and businesses are often confused on whether price freezing needs to happen in a given situation and on what products. A broader interpretation of the law suggests that these price controls could apply to all goods and services in the state, including contracts, during any state of emergency or active proclamation. These differences in interpretation have led to confusion and inconsistent business practices.

While we are grateful the Administration has begun to specify which commodities the price freeze statute applies to in the Governor's recent Emergency Proclamations, we believe a permanent legislative fix is necessary to help provide needed clarity to both business and consumers.

We commend the Legislature for introducing this measure and strongly support its passage. Mahalo for the opportunity to testify.

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HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

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

The Thirty-Second Legislature, State of Hawaii
The Senate
Committee on Public Safety and Intergovernmental and Military Affairs
Committee on Commerce and Consumer Protection

Testimony by
Hawaii Government Employees Association

January 31, 2024


S.B. 2843 — EMERGENCY MANAGEMENT

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of S.B. 2843, which clarifies that the Governor's and mayors' emergency management powers shall be consistent with the state constitution, the scope of the comprehensive emergency management plan, and the powers of the Governor and mayors to extend or terminate a state of emergency. **However, we respectfully request a proposed amendment to authorize the legislature to terminate or extend a state of emergency after sixty-days by an affirmative two-thirds vote in both chambers.**

While this bill includes several essential changes, including ensuring consistency with our state constitution and providing justification for the suspension of laws, it is glaringly obvious that it lacks the most important amendment of all: a necessary legislative check and balance to the executive that empowers the legislature to terminate a state of emergency. We respectfully request that this committee amend this measure to authorize the legislature to terminate or extend, in part or in whole, a state of emergency by two-thirds affirmative vote of both chambers.

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 with the proposed amendment will ensure that emergency actions are balanced, constitutional, and justifiable.

Thank you for the opportunity to provide testimony in support of S.B. 2843.

Respectfully submitted,

Randy Perreira
Executive Director



**TESTIMONY OF TINA YAMAKI, PRESIDENT
RETAIL MERCHANTS OF HAWAII
January 31, 2024
Re: SB 2843 RELATING TO EMERGENCY MANAGEMENT**

Good morning, Chair Keohokalole and Chair Wakai and members of the Senate Committee on Commerce & Consumer Protection and the Senate Committee on Public Safety & Intergovernmental & Military Affairs. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii was founded in 1901 and is a statewide, not for profit trade organization committed to supporting the growth and development of the retail industry in Hawaii. Our membership includes small mom & pop stores, large box stores, resellers, luxury retail, department stores, shopping malls, on-line sellers, local, national, and international retailers, chains, and everyone in between.

We are in SUPPORT of SB 2843 Relating to Emergency Management. This measure clarifies that the Governor's and mayors' emergency management powers shall be consistent with the state constitution; clarifies the scope of the comprehensive emergency management plan; clarifies the powers of the Governor and mayors to extend or terminate a state of emergency; and shortens the duration of price control periods from ninety-six hours to seventy-two hours.

As the law currently reads, when an emergency proclamation is issued HRS 127A-30 is automatically invoked and requires pricing of all commodities to be frozen as of the date of the proclamation. If the proclamation continues to be extended over and over for a period of time, as we seen during the recent COVID pandemic, this automatic price freeze trigger can lead to nonsensical results, particularly where the governor or mayor does not specify the commodities that are subject to the price freeze.

We are aware that emergencies and disasters vary and there may be a need to freeze prices for certain items. However, retailers are uncertain as to how this provision applies and to which commodities. We are especially in support of the proposed language that would require the governor and the mayor to specify the type of goods and products that would be subject to a price freeze 72 hours after the initial emergency proclamation. This will provide certainty to businesses of their obligations under emergency declarations.

We would like to point out the majority of the retailers during any time of impending or during an emergency or disaster do NOT price gouge their customers for items that include but are not limited to bottled water, toilet paper, cleaning supplies or batteries. Retailers are falsely accused of price gouging when customers pick up items in larger quantities or higher end products that cost more than the smaller sized or generic ones. In addition, with social media, retailers are even more aware of keeping their prices stable.

Mahalo again for this opportunity to testify.

SB-2843

Submitted on: 1/27/2024 1:54:54 PM

Testimony for PSM on 1/31/2024 9:40:00 AM

Submitted By	Organization	Testifier Position	Testify
Victor K. Ramos	Individual	Support	Written Testimony Only

Comments:

I support. The proposed clarifications are reasonable.

SB-2843

Submitted on: 1/30/2024 8:43:42 AM

Testimony for PSM on 1/31/2024 9:40:00 AM

Submitted By	Organization	Testifier Position	Testify
Yvonne Alvarado	Individual	Support	Written Testimony Only

Comments:

I, Yvonne L Alvarado is in support of Bill 2843

Jan. 31, 2024, 9:40 a.m.
Hawaii State Capitol
Conference Room 229 and Videoconference

LATE

To: Senate Committee on Commerce & Consumer Protection

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice-Chair

Senate Committee on Public Safety and Intergovernmental and Military Affairs

Senator Glenn Wakai, Chair
Senator Brandon J.C. Elefante, Vice-Chair

From: Grassroot Institute of Hawaii

Ted Kefalas, Director of Strategic Campaigns

RE: SB2843 — RELATING TO EMERGENCY MANAGEMENT

Comments only

Aloha Chairs and Committee Members,

The Grassroot Institute of Hawaii would like to offer its comments on [SB2843](#), which would amend the state's emergency-management statute to state that the powers granted for emergency purposes must be consistent with the Hawaii Constitution; clarify the powers of the governor and mayors to extend an emergency via proclamation; and shorten the duration of price control periods in an emergency .

We agree that the emergency management statute is in need of an update, but we are concerned about the potential effect of these amendments. The requirement that the exercise of emergency powers be consistent with the Hawaii Constitution is a welcome addition, but we think it does not go far enough to protect civil liberties.

In particular, the clause allowing the governor or mayors to extend an emergency via proclamation would exacerbate a problem in the state's current emergency-management law that was not apparent until the COVID-19 lockdowns, which is the lack of a meaningful legislative check on the governor's emergency powers.

Currently, the law includes a 60-day limit on emergencies, but it does not address what should happen if an emergency exceeds that limit. This bill would make that problem even more severe by guaranteeing that the governor and mayors would be able to extend their emergency proclamations indefinitely, with little input or oversight from the legislative branch.

As we discuss in our Policy Brief, “Lockdowns Versus Liberty: How Hawaii’s Experience in 2020-2021 Demonstrates the Need to Revise the State’s Emergency Powers,” the lack of accountability in the current law creates the potential for abuse of executive power via the emergency management statute.¹ What is needed is a legislative check on the possibility of an unending emergency arising from the governor’s or a mayor’s ability to issue supplemental proclamations extending the original emergency period.

Such a check would be more meaningful if multiple extensions of an emergency required legislative approval, regardless of whether the Legislature is in session.

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

1. In Section 3, amend Section 127A-14, 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

¹ Malia Hill, “[Lockdowns Versus Liberty: How Hawaii’s Experience in 2020-2021 Demonstrates the Need to Revise the State’s Emergency Powers.](#)” Grassroot Institute of Hawaii. January 2021.

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.

2. In addition, add the following after Section 127-A14 (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.

(g) The governor or mayor shall proclaim the termination of a state of emergency or local state of emergency, respectively, at the earliest possible date that conditions warrant

During the COVID-19 emergency, we had the opportunity to learn more about what we do well and what could be improved. These proposed amendments would help ensure that the public retains a voice in an ongoing emergency, and that the emergency powers do not become a tool for unchecked executive power.

Finally, shortening the period of price controls during emergencies would be a step in the right direction. Economists frown on price controls — even during emergencies² — as they tend to create economic inefficiencies and distort the market, often hurting the disadvantaged and vulnerable populations they are designed to help.³

If anything, such controls incentivize those with more resources and advantages to take advantage of artificially lower prices, leading to hoarding and unnecessary purchases. One study found that pandemic-era price controls actually undermined COVID-19 mitigation efforts, as they exacerbated shortages and forced consumers to travel to more stores in order to locate goods, thereby frustrating social-distancing efforts.⁴

Keeping the duration of price controls to a minimum, or even eliminating price controls completely, would help address the problems caused by the market disruptions they cause.

² [Price Gouging Poll](#), Chicago Booth: Kent A. Clark Center for Global Markets. May 2, 2012.

³ Ryan Bourne, "[Abolish Price and Wage Controls](#)," Cato Institute. Sept. 15, 2020.

⁴ Chakraborti, R., Roberts, G. "[How price-gouging regulation undermined COVID-19 mitigation: county-level evidence of unintended consequences](#)," Public Choice 196, 51–83 (2023). <https://doi.org/10.1007/s11127-023-01054-z>

It is important that Hawaii's emergency management law reflects the lessons we have learned over the past few years. There is room to protect civil rights and the balance of powers without handicapping the executive's ability to respond quickly and effectively to emergency situations. The goal should be to amend the law so that Hawaii is better able to address future emergencies.

Thank you for the opportunity to submit our comments.

Sincerely,

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii