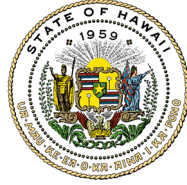


JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



KENNETH S. HARA
DIRECTOR OF EMERGENCY
MANAGEMENT

JAMES DS. BARROS
ADMINISTRATOR OF
EMERGENCY MANAGEMENT

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF DEFENSE
KA 'OIHANA PILI KAUA
HAWAI'I EMERGENCY MANAGEMENT AGENCY
3949 DIAMOND HEAD ROAD
HONOLULU, HAWAI'I 96816-4420

STATE OF HAWAI'I
DEPARTMENT OF DEFENSE
HAWAI'I EMERGENCY MANAGEMENT AGENCY

TESTIMONY ON HOUSE BILL 522 HD1
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

MARCH 15, 2023

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

I am James Barros, Administrator of the Hawai'i Emergency Management Agency (HI-EMA).

The HI-EMA provides written testimony to **OPPOSE** House Bill 522 HD1 in its current form.

However, we would ask that this committee advance the bill for further consideration while we continue to discuss compromise language with its proponents. HI-EMA and the Hawaii Association of Broadcasters have made substantial progress toward an agreed amendment that would address the concerns raised by the bill's supporters, explicitly protecting constitutionally protected speech while preserving the State's ability to protect people and property during an emergency.

The emergency powers enumerated in Hawaii Revised Statutes section 127A are intended to give the Governor and Mayors flexibility in responding to emergency situations, recognizing that the circumstances of emergencies may be variable and unexpected. While HI-EMA recognizes the concern raised by the language on suspending electronic media transmission that is addressed by this bill, we also have grave concerns that an *ad hoc* approach to editing the executive branch emergency powers may inadvertently endanger the life or safety of Hawaii's people, including first responders, in some future emergency.

The bill expresses concern that the current language of 127A “could potentially include text messages, emails and posts to social media platforms” if the power to suspend transmission of electronic media is invoked during an emergency. HI-EMA has concerns that eliminating that power in the way set forth by HB522 HD1 also could have consequences, such as preventing the restriction of electronic transmissions that could trigger an explosive device or ignite volatile chemicals.

To the best of HI-EMA’s knowledge, the provision of the emergency powers addressed by HB522 HD1 has never been invoked in Hawai‘i. Any governor or mayor who invokes emergency powers weighs the benefits of doing so against the harm which doing so might cause.

This bill, in its current form, would eliminate the executive branch’s authority to take actions which, in certain circumstances, could save lives, based on the fear of a hypothetical restriction of free speech rights. The language in question was originally written decades ago and is due for an update, but simply deleting it, as currently proposed, is a course which HI-EMA cannot support.

I commit to the members of this committee that HI-EMA will work with the Hawai‘i Association of Broadcasters to propose a future amendment to HRS 127A that addresses their concerns while still preserving flexibility for action by the State’s emergency managers.

Thank you for the opportunity to provide testimony.

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



SENATE COMMITTEE ON PUBLIC SAFETY AND INTERGOVERNMENTAL AND MILITARY AFFAIRS

March 17, 2023, 3:02 pm, State Capitol Room 225 & Videoconference

HB 522, HD1

Relating to Emergency Management

TESTIMONY

Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Wakai, Vice Chair Elefante, and Committee Members:

The League of Women Voters of Hawaii supports HB 522, HD1.

Neither the Governor nor a county mayor should have statutory authority to suspend or censor “electronic media” during any kind of emergency.

Thank you for the opportunity to submit testimony.

THE CIVIL BEAT
LAW CENTER FOR THE PUBLIC INTEREST

700 Bishop Street, Suite 1701
Honolulu, HI 96813

Office: (808) 531-4000
Fax: (808) 380-3580
info@civilbeatlawcenter.org

Senate Committee on Public Safety and
Intergovernmental and Military Affairs
Honorable Glenn Wakai, Chair
Honorable Brandon J.C. Elefante, Vice Chair

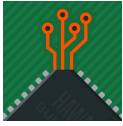
RE: Testimony Supporting H.B. 522 H.D. 1, Relating to Emergency Management
Hearing: March 17, 2023 at 3:02 p.m.

Dear Chair and Members of the Committee:

My name is Brian Black. I am the Executive Director of the Civil Beat Law Center for the Public Interest, a nonprofit organization whose primary mission concerns solutions that promote governmental transparency. Thank you for the opportunity to submit testimony **supporting H.B. 522 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 **supporting H.B. 522 H.D. 1.**



Testimony of
Ryan Kawailani Ozawa
Publisher, Hawaii Bulletin
Founder, Hawaii Hui LLC / Kilinahe Foundation

Before the
COMMITTEE on PUBLIC SAFETY and
INTERGOVERNMENTAL and MILITARY AFFAIRS
Hawaii State Capitol in Conference Room 225
Friday, March 17, 2023

HB522 — Relating to Emergency Management

Senator Glenn Wakai, Chair; Senator Brandon J.C. Elefante, Vice Chair; and Members of the Committee:

I am submitting this testimony to express my **STRONG SUPPORT** of **HB522** relating to Emergency Powers.

The first time I submitted testimony on this bill, it was one sentence long. It seemed preposterous that there was even a question that this change needed to be made.

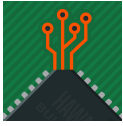
“I would prefer to ascribe the inclusion of the clause regarding suspending electronic media transmission to simple error rather than nefarious overreach, but either way, it does not belong in any law.”

For this bill’s second hearing, I added the question, “In what way is ‘transmission of electronic media’ different from ‘speech?’”

Today, I find I must file a more robust response, as I am utterly flabbergasted reading the opposing testimony submitted by HI-EMA.

With all respect due to HI-EMA Administrator James Barros, I offer the following retort.

Mr. Barros dismisses the extensive support expressed for this bill as “the fear of a hypothetical restriction of free speech rights.” And his ostensibly reassuring justification? That the power has never



been exercised, but if it is invoked, “any governor or mayor” would do so thoughtfully. I’m sorry, but it’s fair to say that the Hawaii public’s confidence in its political leaders to exercise restraint is dismally low—even in mundane, day-to-day circumstances, let alone a real emergency.

Mr. Barros then goes even further, suggesting that electronic transmissions “could trigger an explosive device or ignite volatile chemicals.” A scenario that, might I first suggest, is significantly more hypothetical than the abrogation of the First Amendment?

Yes, remote detonators are a thing, via radio or digital signals. But the authority to regulate these signals lies solely within the purview of the FCC, and—practically speaking—effectively unstoppable. Is it out of fear of this Hollywood-style scenario that we are to allow the government to shut down civilian communications networks?

HI-EMA’s request to leave this vague and dangerous power in place is unconscionable. And for it to offer an olive branch to the Hawai’i Association of Broadcasters to negotiate a compromise is insulting. While I would expect that the association would take as firm a stance on this matter as the rest of Hawaii’s journalists and media outlets have, to suggest that it alone speaks for our broad and diverse community is laughable.

Thank you for your consideration.



For Our Rights

a non-profit organization

P.O. Box 1633
Kapa'a, Hi. 96746
www.forourrights.org

March 14, 2023

COMMITTEE ON PUBLIC SAFETY AND INTERGOVERNMENTAL AND MILITARY AFFAIRS
SENATOR GLENN WAKAI, CHAIR
SENATOR BRANDON J.C. ELEFANTE, VICE CHAIR

RE: TESTIMONY IN SUPPORT OF HB 522 HD 1

Freedom of speech is one of the most highly protected rights of the citizens of this country. Our organization, a Kauai based nonprofit that advocates for the rights of the people of Hawai'i, stands in strong support of House Bill 522 HD 1 which would eliminate the ability for a mayor or governor to suspend the transmission of electronic media during a state of emergency because such actions may violate the First Amendment to the United States Constitution and Article I, Section 4 of the Hawaii State Constitution.

Please vote yes on this bill to eliminate such provisions and protect the first amendment rights of the people of Hawai'i.

Sincerely,

Levana Lomma
CEO and President



March 17, 2023

Glenn Wakai
Senate Committee on Public Safety and Intergovernmental and Military Affairs
State Capitol
Honolulu, HI 96813

Re: House Bill 522, HD1

Chairman Wakai 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 such a law is highly questionable. It is an outdated law crafted after the fears of World War II.

In April 2020, the Reporters Committee for Freedom of the Press surveyed news media exemptions in the U.S. emergency management laws, and found more than half had a so-called carve-out exemption for media.

In about a third of the states, most notably California, emergency powers “cannot ‘[i]nterfere with dissemination of news or comment on public affairs,’ ” the RCFP said. However, the laws can require news outlets to carry public service announcements about emergencies.

We believe that Hawaii should follow suit.

Please pass this measure.

Thank you for your attention,

Stirling Morita
President
Hawaii Chapter SPJ



March 17, 2023

3:02 p.m.

VIA VIDEOCONFERENCE

Conference Room 225

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

Sen. Glenn Wakai, Chair

Sen. Brandon J.C. Elefante, Vice Chair

From: Grassroot Institute of Hawaii

Joe Kent, Executive Vice President

RE: HB522 HD1 — RELATING TO EMERGENCY MANAGEMENT

Comments Only

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer comments on [HB522 HD1](#), which would remove the power of the governor or the mayors to suspend electronic media communications 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.

In our 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.

Hawaii's experience with COVID-19 has forced us to reevaluate the state's emergency management statute. This bill is a good start toward protecting civil rights and accountable government during an emergency.

Thank you for the opportunity to submit our comments.

Sincerely,

Joe Kent
Executive Vice President
Grassroot Institute of Hawaii



Big Island Press Club

Since 1967, protecting the public's right to know

Big Island Press Club
P.O. Box 1920
Hilo, Hawaii 96721

CONTACT:
mphillips@bigislandpressclub.org

March 16, 2023

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

From: Michael Phillips, President, Big Island Press Club

In SUPPORT of HB 522, HB522 HD1, HSCR933, SB 103 Relating to Emergency Management

The Big Island Press Club, Hawaii's oldest press club, is in strong support of HB 522, HB 522_HD1, HSCR 933, and SB 103 relating to Emergency Management.

Since 1967, the Big Island Press Club has been protecting the public's right to know. Serving as a watchdog for openness and credibility for Hawaii Island, we believe government agencies exist to aid the people in the formation and conduct of public policy. We also believe that the media is responsible for relaying

important information from the government to the people it represents at all times.

Even in times of a declared state of emergency, no government leader or state or county agency should ever be able to suspend media, or as Section 127A-13, Hawaii Revised Statutes, specifically says in its original form, “suspend electronic media transmission,” which could have a wide range of interpretation.

The hunger for fact-based information is never higher than during an emergency, and when that information is hard to come by, people will sometimes resort to rumors and speculation. That should be the last thing the government would want in a declared emergency.

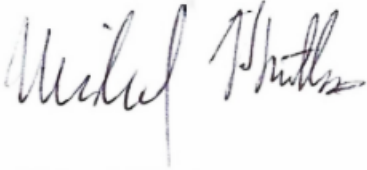
This is why we also object to HI-EMA’s previously submitted testimony in opposition of this bill. HI-EMA’s Administrator, James Barros, wrote, “The bill would eliminate the Executive Branch’s authority to take actions which, in certain circumstances, could save lives, based on a fear of a hypothetical restriction of free speech rights.” However, there is nothing hypothetical about this: HI-EMA explicitly states that they want to take away such free speech rights in an emergency, an action the Constitution doesn’t allow.

In his transmission to the House with regards to the passage of HB 522_HD1 by his Committee on Judiciary and Hawaiian Affairs, Chair David Tarnas wrote, “Your Committee finds that the constitutionality of the Governor's or a mayor's authority to suspend electronic media transmission during an emergency is highly questionable. This measure addresses the issue before any state action is taken that deprives the public and press of their First Amendment rights.” The Big Island Press Club concurs with that assessment.

While we believe rights and protections provided by the Constitution protect the media’s right to transmit information at all times, emergency or not, the potential exists that any dispute of the language and its meaning would need to be litigated. In times of emergency, the priority of the press should be to quickly get information out and not be burdened by unnecessary litigation. As such, correcting the language in this statute through this House Bill would eliminate that unnecessary risk and burden.

With that said, we wholeheartedly support HB 522 and its current forms and the original Senate companion bill, SB 103. Thank you for the opportunity to testify on this important matter.

Signed,

A handwritten signature in black ink, appearing to read "Michael Phillips". The signature is written in a cursive style with a horizontal line at the end.

Michael Phillips
President, Big Island Press Club



All Hawaii News * P.O. Box 612 * Hilo, HI 96721 * www.allhawaiinews.com

March 16, 2023

Senate

Public Safety and Intergovernmental and Military Affairs

From: Nancy Cook Lauer, publisher, All Hawaii News

www.allhawaiinews.com * publisher@allhawaiinews.com * 808.781.7945

In SUPPORT of HB 522 HD1, Relating to Emergency Management

To the Honorable

Chairman Glenn Wakai and Vice Chairman Brandon Elefante and the Committee:

All Hawaii News, a state government and political news aggregate and commentary blog covering Hawaii since 2008, supports HB 522 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.



Testimony of Chris Leonard
President – Hawai'i Association of Broadcasters, Inc.
President – New West Broadcasting Corp.
Chairman – Hawai'i State Emergency Communications Committee (SECC)
Hearing: Public Safety and Intergovernmental and Military Affairs
3/17/23 – 3:00PM

In strong support of HB 522 Relating to Emergency Management

Good afternoon Chairman Wakai, Vice Chair Elefante 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 HB522 as it addresses a threat to public safety and fixes an unconstitutional provision in HRS § 127A

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.

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.**”*

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 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. There are jurisdictional issues with this law. I am unaware of any federal law that grants this authority at the state or county level and nobody at the state or county level has been able to provide language that grants this unconstitutional right. While the language says “to the extent permitted under federal law,” the language leaves this up to the administration’s interpretation during an emergency. The state or counties could force a shutdown under a state of emergency and electronic media outlets would have to litigate the issue after the fact to get it resolved. This would be a time-consuming and costly endeavor and more importantly, jeopardize public safety during an emergency.
3. 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.
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.”

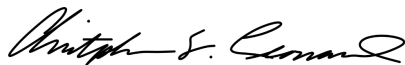
This may have been practical in 1951 to prevent triangulating radio/tv signals to find coordinates for attacks by our enemies but serves no purpose today.

5. In previous testimony regarding this bill, HI-EMA acknowledged that the "...language in question was originally written decades ago and may be due for an update..." but suggested that somehow this language allows the Governor or Mayors to protect us from a hypothetical situation where electronic media "...could trigger an explosive device or ignite volatile chemicals." The language in HRS 127A does **NOT** say this. It does, however, allow for the shutdown of electronic media with no extenuating circumstances other than an emergency declaration.

Chairman Wakai, Vice Chair Elefante and committee members we have been in communication with HI-EMA and will continue to work with them regarding their concerns. HRS § 127A needs to be revised to guarantee that we can 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. We ask that you pass HB522.

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.

March 16, 2023

Members of the Hawai'i Senate Committee
on Public Safety and Intergovernmental and Military Affairs
Hawai'i State Capitol
415 South Beretania Street
Honolulu, HI 96813

Re: Support for S.B. 103 and H.B. 522, Relating to Emergency Management

Dear Committee Members:

The National Association of Broadcasters¹ takes this opportunity to add our voice to those of Hawai'i's radio and television broadcasters and other parties supporting S.B. 103 and H.B. 522. These bills would amend an existing Hawai'i statute that currently permits the governor and mayors to "suspend electronic media transmission" during declared emergencies.² NAB believes that the current statute permitting the suspension of electronic media transmission could hinder local radio and TV stations in providing vital emergency information to your citizens during times of crisis. We also believe that the existing statute appears inconsistent with federal law and is contrary to the First Amendment. NAB therefore urges passage of S.B. 103 and H.B. 522, eliminating that statutory language allowing suspension of electronic media transmissions.

The nation's local broadcasters have long been "first informers" relied upon by Americans to deliver vital, and at times lifesaving, information during natural disasters and other

¹ NAB is an incorporated, non-profit association that represents thousands of radio and television stations and broadcast networks across the nation. Founded in 1923, NAB protects and promotes the ability of our members to provide entertainment and informational programming of all types, including emergency information, to the American public.

² Sections 127A-13(a)(6) and 127A-13(b)(3) of the Hawaii Revised Statutes provide that the governor and mayors may exercise additional power during a state of emergency declared by the governor, including the power to "[s]hut off water mains, gas mains, electric power connections, or suspend other services, and, to the extent permitted by or under federal law, suspend electronic media transmission." S.B. 103 and H.B. 522 would remove the suspension of electronic media transmission from Section 127A-13's lists of additional powers granted to officials during an emergency.

emergencies.³ Indeed, Craig Fugate, a former director of the Federal Emergency Management Agency (FEMA), has frequently observed that broadcast stations, especially radio, are often the only media to provide essential information when electricity, the internet and cable TV go out.⁴ Your state's radio and TV stations are no exception, providing critical information about floods, hurricanes, volcanic eruptions and other emergencies over-the-air and free to the people of Hawai'i. No doubt that is why both FEMA and the Hawai'i Emergency Management Agency strongly recommend that people include a battery operated radio as part of their emergency preparedness kits.⁵

NAB is concerned, however, that the existing Sections 127A-13(a)(6) and 13(b)(3) allowing suspension of electronic media transmissions during states of emergency could jeopardize local broadcasters' ability to fulfill their role as first informers when they are most needed. If broadcast station transmissions were suspended, NAB does not know of any other individuals or entities able to quickly and reliably communicate detailed local news and information to the public before, during and after any emergency.

The existing statutory language, moreover, appears inconsistent with federal law and violates the Constitution. Radio and TV broadcast stations are licensed by the Federal Communications Commission (FCC) under federal law, and they have legal duties under FCC rules to participate in the Emergency Alert System (EAS). A state law granting certain state and local officials the power to suspend station transmissions during a state-declared emergency could conflict with stations' EAS obligations. NAB therefore questions whether Sections 127A-13(a)(6) and 13(b)(3) rest on a sound jurisdictional basis.⁶

The current statutory provisions also are contrary to the First Amendment. Under the constitutional guarantees of free speech and press, governmental entities or officials cannot suspend electronic media transmissions (or printed publications) by fiat. Such a blanket

³ In 2018, Congress formally codified broadcasters' status as "first informers," which designates them as "essential service providers" entitled to access federal disaster sites to restore service. See Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, § 302, 132 Stat. 348 (2018); Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub L. No. 100-707, 42 U.S.C. § 5189e(a).

⁴ See, e.g., Inside Radio, *Former FEMA Administrator Craig Fugate On Radio's Role During Disasters* (Sept. 29, 2022).

⁵ See [Hawaii Emergency Management Agency | Preparedness Information](#); [How to Build a Kit for Emergencies | FEMA.gov](#).

⁶ The caveat in these sections – limiting the power to suspend electronic media transmission "to the extent permitted by or under federal law" – is confusing, rather than enlightening. NAB is not aware of any federal law that gives state or county authorities permission to suspend the operation of federally-licensed broadcast stations. Even if such a federal law or rule existed, it would not remedy the constitutional problems of Sections 127A-13(a)(6) and 13(b)(3).

prohibition on media communications would be a wide-ranging prior restraint, a form of censorship under which the government prevents speech or publication in advance. The Supreme Court regards “prior restraints on speech and publication” as the “most serious and the least tolerable infringement on First Amendment rights” because they “freeze[]” speech with “an immediate and irreversible sanction.”⁷ The prior restraints in Sections 127A-13(a)(6) and 13(b)(3), moreover, are both vague and extraordinarily broad, applicable to “electronic media transmission,” which could presumably stretch beyond radio and TV broadcasts to include cable TV, satellite TV and radio, and internet-based and online media, whether video and audio streaming or posts on social media. The vast overbreadth and vagueness of the prior restraint further exacerbates the statute’s affronts to the First Amendment.⁸ Accordingly, NAB supports S.B. 103 and H.B. 522. We urge expeditious passage of these bills and appreciate the opportunity to express our views.

Respectfully submitted,

A handwritten signature in cursive script that reads "Curtis J. LeGeyt".

Curtis LeGeyt

⁷ *Neb. Press Ass’n v. Stuart*, 427 U.S. 539, 559 (1976).

⁸ The Supreme Court has repeatedly stressed the necessity for clarity in speech-related regulations and has struck down vague speech restrictions that fail to “rigorous[ly] adhere[]” to the requirement of clarity. *FCC v. Fox Television Stations, Inc.* 557 U.S. 239, 253-54 (2012); accord *Interstate Circuit, Inc. v. Dallas*, 390 U.S. 676, 683-84 (1968). The courts also consistently strike down as unconstitutional speech-related laws that are overbroad (i.e., not “narrowly tailored”) because they burden more speech than necessary. See, e.g., *McCullen v. Coakley*, 573 U.S. 464, 486 (2014).

HB-522-HD-1

Submitted on: 3/15/2023 4:19:59 PM

Testimony for PSM on 3/17/2023 3:02:00 PM

Submitted By	Organization	Testifier Position	Testify
Michdelle Melendez	Individual	Oppose	Written Testimony Only

Comments:

The Government CANNOT run people's lives! This is NOT a communist country and the Governor is NOT the KING! STOP THIS NOW!

HB-522-HD-1

Submitted on: 3/15/2023 5:39:57 PM

Testimony for PSM on 3/17/2023 3:02:00 PM

Submitted By	Organization	Testifier Position	Testify
alison hamman	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose as this "emergency " and the powers have gone in and been extended endlessly.

there is no emergency in which this bill would require

enacting . Please help make Maui PONO again.

the Governor and government has been using the " emergency " to grab control over us citizens.

i vote NO!

thank tou

alison

HB-522-HD-1

Submitted on: 3/15/2023 5:44:31 PM

Testimony for PSM on 3/17/2023 3:02:00 PM

Submitted By	Organization	Testifier Position	Testify
Rita Wong	Individual	Oppose	Written Testimony Only

Comments:

I OPPOSE HB522

The Government cannot run people's lives! This is not a communist country. Stop this NOW!

HB-522-HD-1

Submitted on: 3/15/2023 6:40:55 PM

Testimony for PSM on 3/17/2023 3:02:00 PM

Submitted By	Organization	Testifier Position	Testify
Teresa Lyons	Individual	Oppose	Written Testimony Only

Comments:

he Government CANNOT run people's lives! This is NOT a communist country and the Governor is NOT the KING! STOP THIS NOW

HB-522-HD-1

Submitted on: 3/15/2023 6:42:47 PM

Testimony for PSM on 3/17/2023 3:02:00 PM

Submitted By	Organization	Testifier Position	Testify
Joanna Weber	Individual	Oppose	Written Testimony Only

Comments:

Please, OPPOSE HB522

MAHALO, JOANNA WEBER

HB-522-HD-1

Submitted on: 3/15/2023 6:55:16 PM

Testimony for PSM on 3/17/2023 3:02:00 PM

Submitted By	Organization	Testifier Position	Testify
Andrew Crossland	Individual	Support	Written Testimony Only

Comments:

I support this Bill.

HB-522-HD-1

Submitted on: 3/15/2023 7:13:47 PM

Testimony for PSM on 3/17/2023 3:02:00 PM

Submitted By	Organization	Testifier Position	Testify
Susan Barrackman	Individual	Comments	Written Testimony Only

Comments:

I strongly oppose the overreach of power . The governor should not use emergency declarations to bypass the laws and suspend the rights of the people.

It ignores the basis of our constitution and give the Governor king like powers.We have no need for this.

HB-522-HD-1

Submitted on: 3/15/2023 8:17:07 PM

Testimony for PSM on 3/17/2023 3:02:00 PM

Submitted By	Organization	Testifier Position	Testify
tania victorine	Individual	Oppose	Written Testimony Only

Comments:

The governor and government CANNOT have more emergency powers because they will create more emergencies to control the FREE people!

This is NOT a communist country and we do not need to be micromanaged.

Let people make their own decisions for their lives.

HB-522-HD-1

Submitted on: 3/15/2023 8:59:21 PM

Testimony for PSM on 3/17/2023 3:02:00 PM

Submitted By	Organization	Testifier Position	Testify
Mike Arguello	Individual	Oppose	Written Testimony Only

Comments:

The Governor already has excessive authority in Emergency Management as evidenced by Ige's actions during COVID where he maintained the emergency powers long after they were necessary and past any reasonable statute of limitations. End the reign of Royal Governors acting like kings. Opposed.

HB-522-HD-1

Submitted on: 3/15/2023 9:06:59 PM

Testimony for PSM on 3/17/2023 3:02:00 PM

Submitted By	Organization	Testifier Position	Testify
juhl rayne	Individual	Oppose	Written Testimony Only

Comments:

The Government CANNOT run people's lives! This is NOT a communist country and the Governor is NOT the KING! STOP THIS NOW!

HB-522-HD-1

Submitted on: 3/15/2023 9:11:42 PM

Testimony for PSM on 3/17/2023 3:02:00 PM

Submitted By	Organization	Testifier Position	Testify
Mane Futo	Individual	Oppose	Written Testimony Only

Comments:

One thing that I've learned from the last pandemic is that the governor has too much power. Some of It should be taken away instead!

HB-522-HD-1

Submitted on: 3/15/2023 10:01:56 PM

Testimony for PSM on 3/17/2023 3:02:00 PM

Submitted By	Organization	Testifier Position	Testify
gary post	Individual	Oppose	Written Testimony Only

Comments:

This bill puts the First Amendment at risk by giving power to the Hawaii executive to censor information that the executive disagrees with.

Recent history shows that the Government is not trustworthy in this regard.

This kind of power to be vested in the executive of any state reeks of tyranny.

Any elected official who would support such a bill had ZERO respect to either the State or Federal constitution. It smells like the former Soviet Union shame on any American that would surrender their first amendment rights to a government official

HB-522-HD-1

Submitted on: 3/16/2023 6:48:39 AM

Testimony for PSM on 3/17/2023 3:02:00 PM

Submitted By	Organization	Testifier Position	Testify
Sarah Martins	Individual	Oppose	Written Testimony Only

Comments:

I Oppose giving the Governor more emergency power. This is not democratic.

HB-522-HD-1

Submitted on: 3/16/2023 7:32:56 AM

Testimony for PSM on 3/17/2023 3:02:00 PM

Submitted By	Organization	Testifier Position	Testify
Caroline Azelski	Individual	Support	Written Testimony Only

Comments:

In support of HD1. Thank you.

HB-522-HD-1

Submitted on: 3/16/2023 7:46:23 AM

Testimony for PSM on 3/17/2023 3:02:00 PM

Submitted By	Organization	Testifier Position	Testify
Donna Grabow	Individual	Oppose	Written Testimony Only

Comments:

I oppose HB 522

Hawaii's Department of Health and Department of the Attorney General want to create a task force to change parenting laws.

I'm writing to remind the State of Hawaii, that it will not *strategically* become the Big Brother State of the people.

Why else would the Act say that it comes into effect in the year 2075?

The health department and attorney general cannot make laws of how parents will raise their children!

HB-522-HD-1

Submitted on: 3/16/2023 7:50:47 AM

Testimony for PSM on 3/17/2023 3:02:00 PM

Submitted By	Organization	Testifier Position	Testify
noela von	Individual	Oppose	Written Testimony Only

Comments:

I oppose. Thank you.

HB-522-HD-1

Submitted on: 3/16/2023 8:46:05 AM

Testimony for PSM on 3/17/2023 3:02:00 PM

Submitted By	Organization	Testifier Position	Testify
Ali Ameden	Individual	Oppose	Written Testimony Only

Comments:

Everything falls on deaf ears since "covid". Even the process to file a written testimony is a cumbersome headache, I'm sure on purpose. We will not allow you any more power over us. HELP us! You ARE us too! Why are you digging your own slave grave?

HB-522-HD-1

Submitted on: 3/16/2023 9:29:44 AM

Testimony for PSM on 3/17/2023 3:02:00 PM

Submitted By	Organization	Testifier Position	Testify
Chase Uwaine	Individual	Oppose	Written Testimony Only

Comments:

I do not consent for more Government. The Governor does not need more "powers."

HB-522-HD-1

Submitted on: 3/16/2023 9:32:33 AM

Testimony for PSM on 3/17/2023 3:02:00 PM

Submitted By	Organization	Testifier Position	Testify
Jeffrey Willard-Mack	Individual	Oppose	Written Testimony Only

Comments:

It is unconstitutional for the government to try to run people's lives! The United States of America is not a communist country and the governor of Hawaii is not a monarch! This bill must fail!

HB-522-HD-1

Submitted on: 3/16/2023 9:45:34 AM

Testimony for PSM on 3/17/2023 3:02:00 PM

Submitted By	Organization	Testifier Position	Testify
Adrienne Hew	Individual	Oppose	Written Testimony Only

Comments:

We do NOT live in a dictatorship or totalitarian state! Let the communities decide how to act in emergencies and come to consensus on issues. Your office's track record for preventing homelessness and keeping the cost of living reasonable during the perpetual emergency we have been living under for 3 years is abysmal. You don't live like the rest of us, therefore, have no right to take on such a responsibility. Let US decide!

HB-522-HD-1

Submitted on: 3/16/2023 10:19:02 AM

Testimony for PSM on 3/17/2023 3:02:00 PM

Submitted By	Organization	Testifier Position	Testify
Melissa S. Chang	Individual	Oppose	Written Testimony Only

Comments:

This bill is unconstitutional. It must not be passed!

HB-522-HD-1

Submitted on: 3/16/2023 1:22:36 PM

Testimony for PSM on 3/17/2023 3:02:00 PM

Submitted By	Organization	Testifier Position	Testify
Diane Neuman	Individual	Oppose	Written Testimony Only

Comments:

No police officer, mayor, governor or elected official should be given this much power. It is an infringement on our constitutional rights. I vote a big NO for HB522

HB-522-HD-1

Submitted on: 3/16/2023 2:43:19 PM

Testimony for PSM on 3/17/2023 3:02:00 PM

Submitted By	Organization	Testifier Position	Testify
Terri Yoshinaga	Individual	Oppose	Written Testimony Only

Comments:

The Government CANNOT run people's lives! This is NOT a communist country and the Governor is NOT the KING! STOP THIS NOW!

HB-522-HD-1

Submitted on: 3/16/2023 2:58:42 PM

Testimony for PSM on 3/17/2023 3:02:00 PM

Submitted By	Organization	Testifier Position	Testify
Ken Honma	Individual	Oppose	Written Testimony Only

Comments:

I oppose HB522. This bill gives dictatorial powers to the Governor. It is in direct opposition to our republican form of government that vests all powers first with the people and I oppose giving blanket authority to any entity. On a simple declaration of an emergency by the Governor, the people lose their constitutionally protected rights. I am opposed to giving the Governor and unelected officials legislative justification to institute unconstitutional mandates that abridge and suspend our rights. No need to be proven guilty of anything, just a suspicion, no trial, no defense, no rights all you need is “in the governor’s opinion”, what happened to innocent until proven guilty or is this waived because of the Governors opinion? You also want the right to: force inoculation on people... The people are being asked to grant you the power to tyrannically rule over the citizens of Hawaii. Or is your fear, so great that you would destroy our constitutional republic in the hope that no one will notice. I say absolutely not to this bill. Could this bill possibly have anything to do with providing cover for legislators, unelected officials and others so that past and future crimes against the people can be codified into law?

I would suggest you all get yourself a copy of “The Federalist Papers”, study these publications well and ask yourself, if this proposed bill HB522, is not asking for what the founders of this republic reviled and fought against. If you are honest you will vote no on this bill.

Sincerely,

Keh Honma

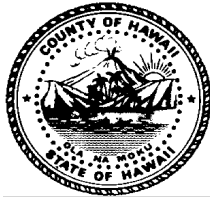
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Ashley L. Kierkiewicz
County Council District IV

*Policy Committee on Planning,
Land Use and Development – Chair*



(808) 961-8265
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*Policy Committee on Infrastructure
and Assets – Vice-Chair*

HAWAI‘I COUNTY COUNCIL
25 Aupuni Street • Hilo, Hawai‘i 96720

LATE

March 17, 2023

Senate Committee on Public Safety and Intergovernmental and Military Affairs

Sen. Glenn Wakai, Chair
Sen. Brandon Elefante, Vice-Chair

RE: Support for HB522 HD1, relating to emergency management

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

Mahalo nui for hearing this important public safety measure. I write in **strong support for HB522 HD1.**

In 2022, our office led a comprehensive analysis and rewrite of our County’s natural disaster and emergency management section of code to align with Hawai‘i Revised Statutes as well as incorporate lessons learned from previous disasters. During this process we discovered a line in HRS that grants the Governor and County Mayors authority “*to the extent permitted by or under federal law, suspend electronic media transmission.*”

Our Council was concerned about this kind of blanket authority, so clarified in our code language to now read “*to the extent permitted by or under Federal law, authorize any actions necessary to ensure continuity of electronic media transmission.*” We crafted this strategic edit because in times of emergency and natural disasters, the public needs more information – *not less* – and communication must flow through all possible channels as frequently as possible.

As someone who has coordinated emergency response efforts during the 2018 Kīlauea eruption and coronavirus pandemic, I can tell you that clear and consistent information is critical to fostering a sense of calm, managing misinformation, and building trust in leadership. The absence or lack of communication stokes fear, chaos, and confusion, which is what we want to avoid during disaster situations. Electronic media platforms are vital to deploying information so that communities are empowered to make decisions that keep their districts and households safe.

Cheers,

Ashley Lehualani Kierkiewicz
COUNCIL MEMBER, DISTRICT IV

HB-522-HD-1

Submitted on: 3/16/2023 3:04:57 PM

Testimony for PSM on 3/17/2023 3:02:00 PM

Submitted By	Organization	Testifier Position	Testify
Paula Blum	Individual	Support	Written Testimony Only

Comments:

I support limited government into our lives. After living in the City & County Honolulu & State of Hawaii, during the Covid lock downs everyone was dragged thru hell....Restaurants going out of businessbusinesses in general scewed over. Being coerced into getting shots or lose your job Why? Because of a Stasi government dictating rules that made no sense. Stand 6 feet apart? Not sick where a mask or else? et cetera et cetera etcetera

HB-522-HD-1

Submitted on: 3/17/2023 9:36:48 AM

Testimony for PSM on 3/17/2023 3:02:00 PM

LATE

Submitted By	Organization	Testifier Position	Testify
Mabelle Bastien	Individual	Oppose	Written Testimony Only

Comments:

The Government CANNOT run people's lives! This is NOT a communist country and the Governor is NOT the KING! STOP THIS NOW!

HB-522-HD-1

Submitted on: 3/16/2023 6:43:14 PM

Testimony for PSM on 3/17/2023 3:02:00 PM

LATE

Submitted By	Organization	Testifier Position	Testify
Donna Melcher	Individual	Oppose	Written Testimony Only

Comments:

The Government nor the Governor has no say in our lives. This is not a communist country. You need to stop this now!

HB-522-HD-1

Submitted on: 3/17/2023 11:44:03 AM
Testimony for PSM on 3/17/2023 3:02:00 PM

LATE

Submitted By	Organization	Testifier Position	Testify
Charles Hook	Individual	Comments	Written Testimony Only

Comments:

I agree that the Governor's current emergency powers violate the rights of the people and that they need to be restricted. However, it is unconscionable, having that awareness, that you will wait 77 years to take action IF this bill passes.

I support the part of this bill that protects the rights of the people.

I oppose the part of this bill that waits over three-quarters of a century to actually do anything.