

Feb 26, 2024, 2 p.m.
Hawaii State Capitol
Conference Room 308 and Videoconference

To: House Committee on Finance
Rep. Kyle T. Yamashita, Chair
Rep. Lisa Kitagawa, Vice-Chair

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

TESTIMONY IN SUPPORT OF HB2515 HD1 — RELATING TO EMERGENCY MANAGEMENT

Aloha Chairs and Committee Members,

The Grassroot Institute of Hawaii would like to offer its comments in support of [HB2515 HD1](#), which would clarify the definitions of “emergency” and “disaster” for the purposes of Hawaii’s emergency management statute.

By specifying what constitutes an “emergency” or “disaster” under chapter 127A, this bill would go a long way toward addressing a growing problem in the application of the emergency management statute — the unchecked expansion of executive power via emergency proclamations.

As we discussed in our January 2021 policy brief, “Lockdowns Versus Liberty: How Hawaii’s Experience in 2020-2021 Demonstrates the Need to Revise the State’s Emergency Powers,” the governor has extremely broad powers to define what constitutes an emergency under the current law.¹

This has resulted in an ever-growing list of “emergencies” outside of the “immediate” and “catastrophic” threats described in this bill. Thus, important social issues such as homelessness or the lack of affordable housing are declared “emergencies” so as to benefit from the broad powers granted to the executive under the statute.

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.

This use of emergency power might be an effective way to streamline decision-making and cut through red tape. However, it also upsets the state’s constitutional balance of powers; allows the governor to act as a “super legislator” by waiving or suspending statewide laws; deprives the Legislature of its constitutional prerogative in the crafting of state policy; and frustrates efforts to enact permanent reforms.

Governing via executive order also has the effect of denying the public a voice on important issues, forcing the people to rely on the courts for redress — a slow and expensive process that acts as an additional barrier to public input.

Even those who agree with the goals or actions of these questionable emergency orders have expressed concern about the methodology behind them.

This problem is then compounded by the lack of any meaningful time limit on emergency orders. The legal ambiguity over the power to extend emergencies via supplemental proclamation means that an abuse of executive power could be extended indefinitely.

By creating a clear definition of the events that constitute an “emergency” or “disaster” under the law, HB2515 HD1 would limit the potential for executive overreach via emergency orders.

The bill’s list of emergency events, combined with its emphasis on immediate danger and timely action, gives a clear indication of legislative intent and would bring the statute in line with the common understanding of an emergency.

The experiences of the past few years have given us a better understanding of the need to reform Hawaii’s emergency management statute. There is room to restore the constitutional balance of powers without handicapping the executive’s ability to respond quickly and effectively to emergency situations.

By providing guidance on what an emergency is, HB2515 HD1 would help reassert the Legislature’s role in the use of emergency powers.

Thank you for the opportunity to submit our comments.

Sincerely,

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii

HB-2515-HD-1

Submitted on: 2/24/2024 9:10:35 AM

Testimony for FIN on 2/26/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Seth Kamemoto	Individual	Support	Written Testimony Only

Comments:

I fully support this amendment, as the current law is too broad, allowing the governor to call “any occurrence” an emergency that can then suspend or modify our laws, leading to a potential abuse of power and severe overreach of the executive branch into legislative affairs.

HB-2515-HD-1

Submitted on: 2/24/2024 2:23:58 PM

Testimony for FIN on 2/26/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Brett Kurashige	Individual	Oppose	Written Testimony Only

Comments:

I continue to strongly SUPPORT HB 2515 which will clarify and limit the conditions under which the Governor may seek to declare a State of Emergency. As made clear in the recent case of Governor Green's Declaration of a State of Emergency for Housing, and in the subsequent series of evolving Emergency Proclamations on Housing (and the resulting lawsuits filed against it), Governor Green has likely misinterpreted and wrongly sought to exceed emergency authorities intended under the law. To stop this practice (and to ensure this does not happen again in the future), HB2515 is a welcome step in the right direction to clearly clarify the limits on the Governor's emergency authorities, and to clarify the emergency conditions under which these emergency authorities may apply. Mahalo for your support for HB 2515!

HB-2515-HD-1

Submitted on: 2/25/2024 11:10:22 AM

Testimony for FIN on 2/26/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Janyce Mitchell	Individual	Support	Written Testimony Only

Comments:

Dear Legislators,

I urge you to support this bill to bring balance back to our state government. Emergency proclamations should be used only for unexpected, severe events, not policy goals (however laudable they may be) or to address long-standing issues. This use of emergency proclamations usurps the authority of the legislature and flies in the face of the 3 coequal branches of government we are supposed to have. Please support this measure. Thank you for your time and consideration.