

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
TELEPHONE: 808-586-1400 FAX: 808-586-1412
EMAIL: oip@hawaii.gov

To: House Committee on Finance

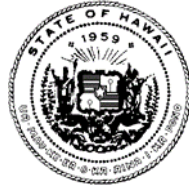
From: Carlotta Amerino, Director

Date: April 1, 2025, 2:00 p.m.
State Capitol, Conference Room 308

Re: Testimony on S.B. No. 353, S.D. 2, H.D. 2
Relating to Emergency Management

Thank you for the opportunity to submit testimony on this bill, which would prohibit the Governor or a mayor from suspending access to public records under chapter 92F, HRS, the Uniform Information Practices Act (UIPA), or to vital statistics, during a declared state of emergency. The Office of Information Practices (OIP) **takes no position** on this bill because it is a policy decision for the Legislature to determine what limit, if any, is appropriate and what potential emergencies would warrant the Governor's use of emergency powers. However, OIP can confirm that the two-and-a-half-month full suspension of the UIPA in 2020, and subsequent year-plus partial suspension of only the UIPA's agency response deadlines, had a significant effect on requesters, agencies, and OIP's own operations. During that time, many requesters experienced long delays receiving agency responses to their record requests, and the UIPA did not fulfill its stated purpose of giving the public timely access to government records.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



RYAN I. YAMANE
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
KA 'OIHANA MĀLAMA LAWELawe KANAKA
Office of the Director
P. O. Box 339
Honolulu, Hawaii 96809-0339

TRISTA SPEER
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

March 31, 2025

TO: The Honorable Representative Kyle T. Yamashita, Chair
House Committee on Finance

FROM: Ryan I. Yamane, Director

SUBJECT: **SB 353 SD2 HD2 – RELATING TO EMERGENCY MANAGEMENT.**

Hearing: April 1, 2025, 2:00 p.m.
Conference Room 308 & Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent and respectfully opposes the measure as drafted, specifically Section 2, paragraph (a) is too restrictive and appears to conflict with existing law in Chapter 92F, Hawaii Revised Statutes (HRS), and Chapter 346, HRS, that provide exceptions to the general rule to disclose. Additionally, Section 2, paragraph (b), as drafted, is ambiguous regarding whether "extenuating circumstances" include the emergency management incident itself. DHS defers to the Hawaii Emergency Management Agency and other impacted departments and provides comments.

PURPOSE: This measure amends emergency management laws to clarify state and county authority. Prohibits the Governor or Mayor from suspending requests for records or vital records and statistics during a state of emergency. Adds definition of the term "severe weather warning". Allows the Legislature and county councils to terminate a state of emergency, in whole or in part, issued by the Governor or Mayor, respectively. Effective 7/1/3000. (HD2)

The Committee on Public Safety and Military Affairs amended this measure by:

- (1) Inserting an effective date of July 1, 2077, to encourage further discussion; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

The Committee on Judiciary made additional technical amendments.

The Committee on Public Safety amended the measure by:

- (1) Changing its effective date to July 1, 3000, to encourage further discussion; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

The Committee on Judiciary and Hawaiian Affairs made additional amendments by:

- (1) Clarifying that the Governor or a mayor is prohibited from suspending agency response deadlines for all public records during a state of emergency;
- (2) Changing the defined term "severe warning" to "severe weather warning", as used in chapter 127A, Hawaii Revised Statutes, relating to emergency management;
- (3) Deleting language that would have amended when the governor assumes direct operational control over all or any part of the emergency management functions within an affected area;
- (4) Clarifying that a county council may terminate a state of emergency declared by a mayor by an affirmative vote of two-thirds of the members to which the council is entitled; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

The suspension of provisions of the Uniform Information Practices Act (UIPA), especially during the initial emergency response, is necessary, as DHS does not have the workforce capacity to review or consider all requests for information in a timely manner. When an emergency declaration is made, the demands on agency leadership and staff can vary depending on the magnitude of the declared emergency. When an emergency requires a complete shift in operations, such as the COVID-19 pandemic, or is entirely devastating, like the 2023 Maui Wildfires, DHS leadership and staff are committed to the state's emergency response while maintaining regular programming and operationalizing new disaster-responsive initiatives.

From a human resources perspective, DHS programs lack sufficient staff dedicated to responding to the numerous information requests received by the department during "blue skies." DHS has only one public information officer (PIO) who leads the Department's communications. The PIO and several key staff members from the Director's office, administrative officers, and representatives from all divisions and attached agencies also participate in emergency support functions, including the Joint Information Center, as part of the state's emergency management response.

Many staff responding to an emergency management incident are the same staff who are called upon to respond to requests for information pursuant to the Uniform Information Practices Act (UIPA) during "blue skies."

The suspension of UIPA, as per the Governor's emergency proclamations during the COVID-19 pandemic, enabled DHS to quickly pivot its processes and service delivery, providing necessary and updated information to the public, staff, and contracted providers. Without the suspension, DHS would not have been able to meet the UIPA response times, which would have led to additional administrative processes.

The Department experienced historic and dramatic increases in the number of applications for benefits when COVID-19 impacted Hawaii in March 2020. Prior to the COVID-19 pandemic, DHS served one in four Hawaii residents; by late 2020, one in three Hawaii residents had accessed at least one DHS program. The caseloads remained at historic highs while we were “unwinding” from the federal pandemic program changes in 2023, and coinciding with the Maui Wildfires. Responding to the Maui Wildfires was on a different scale and magnitude than the COVID-19 response and involved a different level of departmental resources to address the immediate sheltering and other needs of Maui residents; DHS continues to implement significant new programming on Maui. Additionally, with a federal declaration, specific programs that are only available during emergencies may need to be established, and along with these new programs, accurate communication must be developed to inform the public and facilitate access to the new services. Lastly, we are challenged to fill vacancies as workers seek higher salaries and less stressful positions in the private sector or other departments, and we are losing institutional knowledge through the retirements of long-time staff.

Further, as part of the public’s response to emergencies, we experience an increase in call volume and requests for assistance. Residents who are economically impacted or experiencing a loss of food during an extended power outage, as well as community advocates, legislators, and service providers, are increasing calls and emails for immediate assistance or information. Requests for individual assistance take priority over requests for government records. Unless we have additional dedicated resources for information sharing, requests for assistance will continue to be our top priority.

During the pandemic, DHS also experienced an increase in inquiries from information brokers tracking Request for Proposal dates, winning proposals, and score sheets from winning contracts. Many of these requests were in the broker's best interest, rather than the public interest.

However, DHS received multiple UIPA requests from members of the media for data relating to the public health emergency specific to child abuse and neglect intakes. The Associated Press and other media entities asked, if there are fewer eyes on children (i.e., less interaction with mandated reporters) during stay-at-home orders, would this put more children at risk? The DHS made an effort to respond to

these inquiries in a timely manner, despite a heavier workload, due to the importance of the particular inquiry. These requests exemplified UIPA requests from the media that prioritized the public's interest.

During the pandemic, DHS diligently tracked information requests and gathered records to ensure responses to all requests eventually. DHS continues to experience an increase in UIPA requests since the COVID-19 pandemic and the Maui Wildfires:

- (19) FY2019 – (39) FY2020 – increase 105%,
- (39) FY2020 – (64) FY2021 – increase 64%,
- (64) FY2021 – (92) FY2022 – increase 43%,
- (92) FY2022 – (54) FY2023 – decrease 41%, and
- (54) FY2023 – (123) FY2024 – increase 127%.

DHS also has concerns with the proposal to allow the Legislature or county councils to terminate a state of emergency declared by the governor or mayor. Undermining the executive's leadership during a declared emergency would further erode the public's trust in the government. Further, it may lead residents to respond in ways that are detrimental to their own interests or the interests of others.

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



STATE OF HAWAII
KA MOKU'ĀINA O HAWAII
DEPARTMENT OF DEFENSE
KA 'OIHANA PILI KAUA
HAWAII EMERGENCY MANAGEMENT AGENCY
4204 DIAMOND HEAD ROAD
HONOLULU, HAWAII 96816-4420

JAMES DS. BARROS
ADMINISTRATOR OF
EMERGENCY MANAGEMENT
KAHU HO'OMALU PŪLIA

STATE OF HAWAII
DEPARTMENT OF DEFENSE
HAWAII EMERGENCY MANAGEMENT AGENCY

TESTIMONY ON SENATE BILL 353 SD2 HD2,
RELATING TO EMERGENCY MANAGEMENT

BEFORE THE HOUSE COMMITTEE ON
FINANCE

BY

JAMES DS. BARROS
ADMINISTRATOR
HAWAII EMERGENCY MANAGEMENT AGENCY

APRIL 1, 2025

Aloha Chair Yamashita, Vice-Chair Takenouchi, and Members of the Committee:

Thank you for the opportunity to submit a testimony in **OPPOSITION** of Senate Bill 353 SD2 HD2.

During emergencies the ability to respond effectively relies on the immediate authority of the governor of the state and/or the mayors of each county. As this bill suggests, to prematurely end emergency proclamations - would limit executive powers; similarly, there would be limitations to the use of any monies from the Major Disaster Fund.

Preserving the unity of effort approach is a critical principle in emergency management that ensures a clear chain of authority and responsibility. It enables effective decision-making and coordinated response efforts during crises. In times of emergency, it is essential that executive leaders maintain the ability to execute agile and decisive action during any emergency management crisis or disaster.

Furthermore, preserving the current structure will ensure effective leadership and a timely response to protect our communities.

Thank you for the opportunity to provide testimony on Senate Bill 353 SD2 HD2.

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



House Committee on Finance

Tuesday, April 1, 2025, 2 PM Hearing in Conference Room 308 on
SB 353, SD2, HD2 Relating to Emergency Management

TESTIMONY

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

Chair Yamashita, Vice Chair Takenouchi, and Committee Members:

The League of Women Voters of Hawaii supports SB 353, SD2, HD2. State law should not authorize either the Governor or any county mayor to completely suspend or unreasonably delay public access to public records during an emergency. And state law should authorize the appropriate state or county legislative body to stop arbitrary or abusive use of executive emergency powers under Chapter 127A, Hawaii Revised Statutes.

Thank you for the opportunity to submit testimony.

April 1, 2025, 2 p.m.
Hawaii State Capitol
Conference Room 308 and Videoconference

To: House Committee on Finance
Rep. Kyle T. Yamashita, Chair
Rep. Jenna Takenouchi, Vice Chair

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

RE: TESTIMONY IN SUPPORT OF SB353 SD2 HD2 — RELATING TO EMERGENCY MANAGEMENT

Aloha Chair, Vice Chair and other members of the Committee,

The Grassroot Institute of Hawaii would like to offer its **strong support** for [SB353 SD2 HD2](#), which would amend the state's emergency management statute to prohibit the suspension of access to public records or vital statistics during states of emergency.

The bill would also require justification for the suspension of laws, limit the length of such suspensions to the times necessary to fulfill the emergency functions, and allow the Legislature and county councils to terminate declared states of emergency, in whole or in part, by an affirmative two-thirds vote.

These are all excellent ways to preserve the intent of the emergency statute while simultaneously protecting the public interest and ensuring that the emergency powers do not become a tool for unchecked executive power.

Regarding the suspension of public records or vital statistics during an emergency, Gov. David Ige at the outset of the COVID-19 lockdowns suspended Hawaii's open-records and sunshine laws — an extreme response not taken by any other state governor.

Not only did his action raise questions about the health rationale for the suspension, it also undermined public trust in the workings of government at a time when trust was needed most. This bill would address that error by ensuring that government transparency is maintained even during states of emergency.

As a practical matter, there really is no reason for any concern anyway that open-records requests could hinder government operations during an emergency. Hawaii's [open-records statute](#) already provides flexibility to agencies that require additional time to respond, and this bill would reinforce that provision by expressly giving agencies permission to delay a response under extenuating circumstances while at the same time prohibiting agencies from rejecting requests due to an emergency.

The addition of reasonable limitations on the ability to suspend laws also would help protect Hawaii's constitutional balance of powers. The governor and mayors need leeway to handle emergencies as needed, but they should not have carte blanche to suspend laws indefinitely or arbitrarily. Government actions during an emergency should be narrowly tailored and must demonstrate a clear connection between the actions taken and the protection of public health or safety.

As for the duration of states of emergency, Hawaii's emergency statute currently includes a 60-day time limit, but also allows an emergency to be extended by proclamation. Thus, there is no protection against the possibility that the governor or mayors would be able to extend a state of emergency indefinitely, with little input or oversight from the legislative branch.

Given the increased use of emergency orders for situations that do not pose an immediate threat to life, health or property — such as housing policy — the emergency management statute could be abused as a public policy tool that allows the governor to bypass the legislative process.

What is needed is a legislative check on the possibility of an unending emergency, and SB353 would fulfill that purpose by enabling the Legislature and county councils to end emergencies by a two-thirds vote.

In conclusion, it is important that Hawaii's emergency-management law reflects the lessons we have learned over the past few years.

The main lesson is that it is possible to protect open government and the constitutional balance of powers without handicapping the ability of the governor and mayors to respond quickly and effectively to emergency situations.

This bill would correct current deficiencies in the emergency management statute and ensure that Hawaii is better able to address future emergencies.

We urge you to pass SB353.

Sincerely,

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii



House Committee on Finance
Honorable Kyle T. Yamashita, Chair
Honorable Jenna Takenouchi, Vice Chair

RE: Testimony in Support of S.B. 353 S.D. 2 H.D. 2, Relating to Emergency Management
Hearing: April 1, 2025 at 2:00 p.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 in **strong support** of S.B. 353 S.D. 2 H.D. 2.

Public records laws are a critical mechanism to ensure government transparency. This bill would safeguard that promise of openness for the public during government-declared emergencies, when transparency is especially crucial.

Government transparency holds government accountable for its actions and decisions. It also helps government address the misinformation that can proliferate in times of crisis and erode the public's trust in government. Transparency builds trust by providing clarity about a given situation and the steps being taken to address it.

Thank you again for the opportunity to testify in support of S.B. 353 S.D. 2 H.D. 2.



SB-353-HD-2

Submitted on: 3/30/2025 5:34:05 PM

Testimony for FIN on 4/1/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jacob Wiencek	Individual	Support	Written Testimony Only

Comments:

Aloha Committee Members,

I am very glad to see this bill continue to advance through the legislative process. High levels of public trust during an emergency is crucial to navigating and ultimately resolving it. Suspending access to public records only breeds mistrust. This power was sadly abused during the COVID-19 pandemic and public trust in emergency actions declined. We need transparency during crises like these.

I urge this Committee to SUPPORT this bill!