

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



STEPHEN F. LOGAN
MAJOR GENERAL
ADJUTANT GENERAL
KA 'AKUKANA KENELALA

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

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

LATE

STATE OF HAWAII
DEPARTMENT OF DEFENSE
HAWAII EMERGENCY MANAGEMENT AGENCY

TESTIMONY ON SENATE BILL 353 SD1,
RELATING TO EMERGENCY MANAGEMENT

BEFORE THE SENATE COMMITTEE ON
JUDICIARY

BY

JAMES DS. BARROS
ADMINISTRATOR
HAWAII EMERGENCY MANAGEMENT AGENCY

FEBRUARY 11, 2025

Aloha Chair Rhoads, Vice-Chair Gabbard, and Members of the Committee:

Thank you for the opportunity to submit a testimony in **OPPOSITION** of Senate Bill 353 SD1.

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 command 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 SD1.

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

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: Senate Committee on Judiciary

From: Carlotta Amerino, Director

Date: February 11, 2025, 10:00 a.m.
State Capitol, Conference Room 016

Re: Testimony on S.B. No. 353, S.D. 1
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 agency response deadlines for requests for public records under chapter 92F, HRS, the Uniform Information Practices Act (UIPA), or for 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 in receipt of agency responses to their record requests, and the UIPA did not fulfill its stated purpose of giving the public timely access to government records.



Senate Committee on Judiciary

Tuesday, February 11, 2025, 10 AM Hearing in Conference Room 016 on
SB 353, SD1, Relating to Emergency Management

TESTIMONY

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

Chair Rhoad, Vice Chair Gabbard, and Committee Members:

The League of Women Voters of Hawaii supports SB 353, SD1. 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 executive use of executive emergency powers under Chapter 127A, Hawaii Revised Statutes.

Thank you for the opportunity to submit testimony.



Feb. 11, 2025

Karl Rhoads
Senate Judiciary Committee
Room 016 State Capitol
Honolulu, HI 96813

Re: Senate Bill 353, SD1

Chairman Rhoads and Committee Members:

This bill blocks the governor or a mayor from suspending agency response deadlines for requests for public records or vital statistics during an official state of emergency.

We consider this bill to be a good one because such openness is important particularly during emergencies, and the measure already allows for reasonable delays in responding to such requests because of extenuating circumstances. This should help with request overloads as experienced by the Department of Human Resources.

Please pass this bill.

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 S.B. 353 S.D. 1, Relating to Emergency Management
Hearing: February 11, 2025 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 **in support** of S.B. 353 S.D. 1. We **recommend an amendment** to better effectuate the intent of this measure.

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

But S.B. 353 S.D. 1 only safeguards one part of the public records law. We thus recommend the following amendment (in bold) at page 2, lines 14 - 18, clarifying that *all* of chapter 92F is shielded from suspension:

(a) The governor or mayor shall not, through any proclamation or declaration of emergency or any rule or order adopted pursuant to this chapter, suspend **[agency response deadlines for requests] access to: [Public records] Records** pursuant to ~~[part II of]~~ chapter 92F . . .

This amendment would ensure that members of the public are still able to access their personal records under part III of chapter 92F. It would also ensure that the Office of Information Practices (OIP) remains empowered, under part IV of chapter 92F, to administer the law, which addresses the operational challenges faced by OIP when former Governor David Ige suspended the entirety of chapter 92F during the COVID-19 pandemic.

Thank you again for the opportunity to testify in support of S.B. 353 S.D. 1.



Feb. 11, 2025, 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 SB353 SD1 — 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 **strong support** for [SB353 SD1](#), which would amend the state's emergency management statute to prohibit the suspension of requests for 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 crisis 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.

Fortunately, there is no reason for any concern 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.

The addition of reasonable limitations on the ability to suspend laws also would help protect the 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 there is room 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



LATE

Testimony **in Support** of SB353

The Libertarian Party of Hawaii strongly supports SB353. This legislation is a much-needed step toward transparency, accountability, and the preservation of civil liberties during states of emergency. The Governor & Mayor should already be prohibited from suspending requests for public records during a state of emergency. SB353 safeguards the public's right to know. In times of crisis, when decisions are made swiftly and often without comprehensive public input, citizens must have the ability to hold their leaders accountable by accessing vital information.

We must delineate the powers of the Governor and Mayor to prevent the types of overreach from the past. We must end arbitrary use of "emergency powers". Allowing the Legislature and city councils to terminate a state of emergency, in whole or in part, is a vital mechanism for checks and balances.

Elected representatives should retain the power to assess and respond to emergencies, reflecting the will of the people they directly serve, rather than having a top-down mandatory system. This is a giant step toward protecting Hawaii from the types of needless mandates and authoritarian lock-downs experienced during the Covid-19 era.

This principled approach to governance prioritizes individual rights and public transparency. We urge the committee to support this bill to protect the freedoms of all citizens, especially in challenging times.

Mahalo for considering our testimony,

The Libertarian Party of Hawaii

SB-353-SD-1

Submitted on: 2/7/2025 5:22:32 PM

Testimony for JDC on 2/11/2025 10:00:00 AM

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

Comments:

Aloha Committee Members,

I am glad to see this bill progressing through the legislative process. Ensuring government transparency and accountability during a crisis/emergency is crucial to rebuilding public trust in government actions. Let's get this bill through! I'm glad to continue urging this Committee to SUPPORT this bill!

SB-353-SD-1

Submitted on: 2/10/2025 1:26:34 AM

Testimony for JDC on 2/11/2025 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Brett Kulbis	Individual	Support	Written Testimony Only

Comments:

Chair Rhoads and Committee Members,

My name is Brett Kulbis, I'm a 26yr Navy Veteran and Retired Civil Servant. I live in Ewa Beach.

I STRONGLY SUPPORT SB-353.

SB-353 is a crucial piece of legislation that upholds the principles of transparency and accountability in government. It strengthens the checks and balances within the state's emergency management system, and is a necessary step towards protecting the rights of Hawaii's citizens.

It explicitly forbids the Governor or Mayor from suspending requests for public records or vital information during a state of emergency. Transparency must not be a casualty of emergency powers. Citizens have a right to know how their government is handling critical situations.

This bill provides a clear definition of the term "severe warning," ensuring that there is no ambiguity when it comes to declaring states of emergency. A well-defined terminology is essential for effective communication and response.

Perhaps most significantly, this bill grants the Legislature and city councils the authority to terminate a state of emergency, either in whole or in part. This provision ensures a system of checks and balances, preventing the concentration of power solely in the hands of the Governor or Mayor.

In times of crisis, it is easy for government overreach to occur under the guise of emergency powers. This bill takes a stand against this potential abuse of authority. The people of Hawai'i deserve to have their elected representatives oversee the executive branch, ensuring that emergency measures are justified and temporary.

Respectfully, I STRONGLY encourage you to vote YES on SB-353.

LATE

SB-353-SD-1

Submitted on: 2/10/2025 12:28:42 PM

Testimony for JDC on 2/11/2025 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Austin "Shiloh" Martin	Individual	Support	Written Testimony Only

Comments:

Aloha,

The Libertarian Party of Hawaii supports limiting the excessive emergency powers of the Governor, an office which has repeatedly proven willing to usurp and abuse emergency powers as a normal course of business, effectively ruling by executive decree.

I, personally, was wrongfully imprisoned in 2021 by the executive, and falsely charged with crimes for my verbal opposition to the abuse of emergency powers. I called them "Nazi Policies". These charges against my mild verbal protest were not dismissed until hours after I was elected to party office, in direct response to the prosecution finding out about my elevation.

When I initially refused to plea, the administration's goons began charging my innocent family members to pressure me into a coercive plea deal. It would take another for my wife to get elected to a position so her trumped-up charges could be dropped too. Apparently, public visibility was a concern for the prosecutors.

Eventually, they were forced to admit they invented the whole thing (obviously for political purposes). I never pressed for compensation, despite the ruin that was done to my family by emergency dictates. There is no recourse. The courts are festering with the same filthy corruption as the rest of Hawaii's government. We just have to eat the cost of what this government did to us - solely to punish our constitutionally protected political activities. This is a strong reason why I support limiting the emergency powers of the governor.

The colleagues of those gangster-attorneys who did this to me (along with other members of my party) are probably here today to oppose this bill.

The irony is that the defenders of these abuses acted against me initially because I (rightly) characterized them as "Nazis". Contrary to popular ignorance, the Nazi model was one that fused socialism & fascism with ethno-nationalism; not unlike the current economic policy of Hawaii,

except we are pushing a more inclusive, multicultural form of tyranny.

I solemnly attest to this body today that those who would defend the administration, who threw me into jail, and who used my family as leverage to enforce an ethnically-charged-socialistic-fascistic-tyrannical-political-agenda are, in fact, Nazis. That's who would oppose this bill.

They may, like predators in nature, camouflage themselves as humanists, liberals, conservatives, or any political label... but you shall know them by their deeds.

I recommend not aligning with them.

Josh Green's corrupt administration (and their enablers in the legislature) will be remembered as a tyrannical stain on the pages of Hawaii's history - and I urge you not to go down with their sinking ship.

This body must reject authoritarianism, and stop giving any legitimacy to those members who are fighting to limit individual freedom and to usurp the power & the will of the people.

A warm mahalo to the sane and responsible legislators who brought this bill to limit emergency powers. The REAL people of Hawaii are grateful.

I urge each of you to pass this bill, one of only a few bills which can rightly be categorized as "sane" this session.

Austin Martin

Chairman | Libertarian Party of Hawaii

LATE

SB-353-SD-1

Submitted on: 2/10/2025 9:35:16 PM

Testimony for JDC on 2/11/2025 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Nicholas Zehr	Individual	Support	Written Testimony Only

Comments:

Honorable Chair, Vice Chair, and Members of the Committee,

I strongly support of SB353, which clarifies the legal framework surrounding emergency management in Hawaii. This bill is a necessary step toward ensuring that government emergency powers remain transparent, accountable, and limited in scope, even during times of crisis. While emergency powers can be useful for responding to urgent situations, they must be subject to appropriate checks and balances to prevent government overreach and long-term harm to individual rights, businesses, and public trust.

The COVID-19 pandemic demonstrated both the necessity and the dangers of broad emergency powers. **While some emergency measures were intended to protect public health, others led to unintended consequences, including excessive business closures, job losses, infringements on personal freedoms, and government decisions made behind closed doors without public input.** This bill ensures that emergency declarations remain within constitutional limits and are not used indefinitely without legislative oversight.

Specifically, this bill strengthens government accountability by:

- **Prohibiting the suspension of public records requests**, ensuring transparency even during crises. While reasonable delays may occur, full suspension of transparency mechanisms undermines public trust.
- **Requiring specificity when suspending laws**, preventing overly broad or arbitrary emergency orders that could harm businesses, individuals, or civil liberties.
- **Clarifying the termination process for emergency orders**, ensuring that legislative and county councils have the ability to check executive power when necessary.

Some may argue that placing limits on emergency powers could slow down the government's ability to respond effectively. However, history has shown that unchecked authority often leads to government overreach and economic harm. **Effective emergency management does not require suspending transparency or indefinitely extending executive powers**—it requires clear, limited, and well-defined authority that respects individual rights while responding to crises.

Others might claim that fulfilling public records requests during an emergency places undue strain on government agencies. However, reasonable delays are already acknowledged in this

bill. What must be avoided is the outright suspension of public access to government actions, as seen during COVID-19, which allowed sweeping orders to go into effect without sufficient public scrutiny.

Hawaii's small businesses suffered greatly during COVID-19, with many forced to close permanently due to prolonged government restrictions. A study by the University of Hawaii Economic Research Organization (UHERO) found that the state experienced a higher-than-average small business closure rate compared to other states. **Arbitrary rules that deemed some businesses "essential" while others were forced to close disproportionately harmed entrepreneurs and workers.** This bill prevents such injustices by requiring more precise justifications for emergency orders.

To further improve the balance between emergency response and civil liberties, I encourage the Legislature to consider:

- **A mandatory public report** following any emergency declaration, detailing the necessity and impact of measures taken.
- **A legislative vote for extensions beyond a set timeframe**, ensuring that emergency declarations do not continue indefinitely without oversight.
- **Independent oversight mechanisms**, such as requiring a judicial review of emergency suspensions affecting fundamental rights.

This bill is a critical step toward restoring the balance between public safety and individual rights. Emergency powers should never be a blank check for government control—they must be transparent, time-limited, and subject to oversight. By passing this bill, the Legislature will reaffirm its commitment to democratic accountability, economic stability, and the protection of civil liberties.

Mahalo for the opportunity to testify. I respectfully urge you to pass SB353 with these considerations in mind.

Sincerely,
Nicholas Zehr