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## **Aloha Airlines Crisis Will Test Emergency Powers**

By Representative Gene Ward

If the rumors heard at the state capitol are true, then some of my colleges have lost all their sense of reality. Over the past few days, the media has reported that the Senate will consider offering a bail-out to Aloha Airlines. Senators from the majority have proposed giving Aloha loan guarantees, waiving their landing fees, and eliminating the excise tax on their jet fuel. They have called upon the Governor under the guise of an "emergency" to use state funds (or lack thereof) to prop-up this private company.

The sad irony of this episode comes from the attention that my majority colleagues are giving this "emergency." While the majority intends to subsidize a failing business, they have repeatedly denied that our state has faced homeless crises that have called for real emergency actions. Why would the majority make such an absurd disclaimer? Why does a failing business qualify as an emergency, while homelessness does not?

The answer is Governor Lingle. The majority performs these political and intellectual gymnastics because of the phobia known as *IFOL*, or the *Irrational Fear of Lingle*. For the past six-years, the majority in the state legislature has made it a habit of trying to prevent the Governor from taking actions and enacting reforms which would greatly benefit our state. A specific target of the majority's ire has been the Governor's emergency powers, the actions she has taken to handle actual crises that have we have faced. For example, Governor Lingle used such an action to help the homeless following the abrupt closure of Ala Moana Beach Park-an incident that the majority now denies as an emergency. Evidently, the majority's *IFOL* condition has now led to grand delusions.

Because of what she did for the homeless, she has been threatened by a bill to strip her of emergency powers as governor. Senate Bill 2828 would require the Governor, before taking action in response to a disaster not caused by an enemy attack, to submit a report verifying that the emergency has produced "tangible and measurable harm or damage" as "resulted as a consequence of the disaster and that the disaster relief could not otherwise be achieved through legislation enacted in the next occurring regular session of the legislature or a special session of the legislature."

Only after jumping through these bureaucratic hoops could Governor Lingle then use her emergency powers to tend to such an event. If the legislature finds that relieving the disaster can be achieved through legislation, then "the governor shall not execute any action to further provide for disaster relief under this chapter." This bill would turn the executive into a reactive office, eliminating its preventative powers, and there are no provisions in this bill allowing for executive actions while emergency legislation is in debate.

Senate Bill 2828 literally puts public safety in jeopardy and ties the Governor's hands to rapidly respond to a crisis without first filing "Findings" or a report to the legislature. However, this is only the latest *IFOL* measure that has been heard at the state capitol this session. A few weeks ago we heard House Bill 2686 which now sits in the Senate. This bill would also curb the authority of the governor's state agencies at the expense of legislative power. It all started in 2005 when the legislature passed Senate Bill 1808 over the Governor's veto. This bill prevented Gov. Lingle from enacting administrative rules which would have reformed workers' compensation laws; laws that are hurting Hawaiian laborers and businesses.

Also in that same year, House Bill 1224 was passed over a veto and took away the Governor's power to appoint members to the Hawaii Simplified Sales and Use Tax Advisory Council. The executive is now hindered from making sure that Hawaii complies with the Streamlined Sales and Use Tax Agreement. Just this past year, the legislature passed, once again over a veto, Senate Bill 1063, changing the procedures for filling vacancies in the State Legislature and U.S. Senate. The Governor now must select a replacement from a list submitted by the political party of the former incumbent, giving further power to political parties and taking away public accountability, while preventing the replacement from taking place in a timely manner. Ditto this same process for the University of Hawaii's Board of Regents selection process.

The events of this week with Aloha Airlines filing for Chapter 11 bankruptcy brings all of this into focus. Though for the past six-years it has been the compulsive behavior of the majority to undermine the efforts of the Governor, this week it suddenly appears convenient to pass the buck back to her while wringing their hands about an airline emergency.

If the present legislation in this 2008 Session passes taking away her emergency powers, then real emergencies, like the homeless crises, hurricanes, earthquakes, floods-may receive only sluggish, burdensome, and ineffective relief. But if Aloha Airlines fails after the legislature passes SB 2828 and takes away the Governor's emergency powers, whose fault will it be?

The State Legislature needs to let Governor Lingle do what all previous governors have been allowed to do – govern the state of Hawaii without tying their hands to the legislative branch.