

STATE OF HAWAII
DEPARTMENT OF DEFENSE

TESTIMONY ON HOUSE BILL 849 HD1
A BILL RELATING TO EMERGENCY MANAGEMENT

PRESENTATION TO
THE HOUSE COMMITTEE ON JUDICIARY

BY

MR. DOUG MAYNE
VICE DIRECTOR OF STATE CIVIL DEFENSE
February 19, 2013

Chair Rhoads, Vice Chair Har, and Members of the Judiciary Committee:

I am Doug Mayne, Vice Director of State Civil Defense. I am testifying in **FAVOR** of House Bill 849 HD1.

HB 849 HD1 proposes needed recodification of, and a small number of additions to, the current Hawaii civil defense statutes. These changes will help better protect the people of Hawaii. The civil defense statutes we are using today were written in the 1940's, and, over time, civil defense authorities have been placed into at least 4 different chapters of the Hawaii Revised Statutes. Among other things, HB 849 HD1 will streamline the law by placing all emergency management authorities in one chapter and will update the language of the law.

One new section in HB 849 HD1 establishes the Emergency Specialist Reserve Corps (ESRC). We know we cannot afford a full-time force that is large enough to staff medium and large-scale disasters for 24 hour operations for weeks on-end. The ESRC will be a low-cost surge staff to assist government (state and local) during emergencies. The ESRC will be recruited from community members, trained, and ready to assume their duties when mobilized by the Administrator of Emergency Management. The ESRC members will be required to attend 4 one-day training periods each year to ensure they are ready to respond. Up to \$100,000 of the cost of the required training (salaries, facilities and training material) for the ESRC will be taken from the major disaster fund. The ESRC will provide a low cost, fully-trained surge staffing capability.

A second new section codifies our existing support of the State Warning Point, a 24/7 watch facility staffed by State Civil Defense personnel. This is a function we have performed since 2005.

HB 849 HD1 recodifies the powers and authorities of the Governor. Some of the powers under the current statute are outmoded and need to be repealed. HRS 128-6(5)(A), for example, authorizes the Governor to provide for "Compulsory RHo blood typing on females of child bearing age or younger..." This power is dropped in the new bill as unnecessary. Other powers are very broad in nature and are moved to a more restrictive category. For example, the Governor now has the authority to take over direct operational control of an emergency at any time; this becomes a power he will only have during an emergency period. All of the Governor's powers in sections 12, 13 and 14 are authorities that are listed in the current statute; HB 849 clarifies one authority – the ability to identify emergency response personnel among government workers and order them to report for duty regardless of the availability of leave. This clarification

is designed to ensure that employees who are needed for disaster response and recovery can be ordered to report for work, even if administrative leave is granted to the general work force.

The biggest change in HB 849 HD1 concerns the role of the county Mayor. The current civil defense statutes place all civil defense authorities with the Governor, which can be delegated to the Director of Civil Defense and sub-delegated to the Mayors. Under the current statutes, Mayors have no authority over civil defense matters until they are appointed as a Deputy Director of Civil Defense by the Director (The Adjutant General). HB 849 HD1 provides the Mayors their emergency management authorities as a function of being the chief elected executive of the county. This law will establish clear emergency management roles and responsibilities for the Mayor of each county, establish a county emergency management agency under the direction of each Mayor, and provide specific emergency management authorities for the Mayor. These changes will make clear the roles and responsibilities of the county and state level governments, ensuring a clear understanding of who is responsible for what.

HB 849 HD1 is a comprehensive recodification of the emergency management laws in our state. This bill will simplify the law by placing all emergency management authorities in one chapter of the HRS. It will strengthen emergency management by making the County Mayors responsible for emergency management in their counties and providing them clear powers and authorities to act in their jurisdictions. It promotes partnership by clarifying the powers and authorities of the Governor and the Mayors. And it increases our capabilities by providing a mechanism to hire and train a low-cost surge staff.

I strongly urge you to pass HB 849 HD1 as written.

Thank you for the opportunity to provide this testimony.

DEPARTMENT OF EMERGENCY MANAGEMENT
CITY AND COUNTY OF HONOLULU

650 South King Street Honolulu, Hawaii 96813 / (808) 723-8960

KIRK CALDWELL
MAYOR



MELVIN N. KAKU
DIRECTOR

PETER J.S. HIRAI
DEPUTY DIRECTOR

February 15, 2013

The Honorable Karl Rhoads, Chair
and Members
Committee on Judiciary
House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

SUBJECT: H.B. 849 Relating to Emergency Management


I am Melvin Kaku, Director of the Department of Emergency Management, City and County of Honolulu.

The Department of Emergency Management, City and County of Honolulu, strongly supports H.B. 849 which provides a legislative basis for performing missions and tasks that we are already performing when members of our community are faced with a natural or man-made hazard incident. This bill allows the State to organize more efficiently to support our counties, communities, and citizens through the establishment of the Office of Homeland Security in the State Department of Defense. Through consolidating office functions that the state is already performing and codifying roles and responsibilities, the Office of Homeland Security will further strengthen the State's Homeland Security program.

H.B. 849 also authorizes but does not require the counties to establish local offices of homeland security. For the City and County of Honolulu, the Department of Emergency Management already performs these homeland security missions and tasks. Therefore, to recognize that the City's Department of Emergency Management is performing this role and responsibilities, it is requested that "Paragraph 5 County organizations for homeland security" last sentence be amended to read "If a county does not establish a separate organization for homeland security, the functions listed in section -4 shall be incorporated into the responsibilities of the county civil defense agency/City and County of Honolulu, Department of Emergency Management."

I urge your committee to support and pass H.B. 849. Thank you for the opportunity to testify.

Sincerely,


Melvin N. Kaku
Director

cc: Ember Shinn, Managing Director

NEIL ABERCROMBIE
GOVERNOR



Testimony of
GLENN M. OKIMOTO
DIRECTOR

Deputy Directors
JADE BUTAY
FORD N. FUCHIGAMI
RANDY GRUNE
JADINE URASAKI

IN REPLY REFER TO:
(808) 586-2165

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 19, 2013
3:00 p.m.
State Capitol, Room 325

H.B. 849, H.D. 1
RELATING TO EMERGENCY MANAGEMENT

House Committee on Judiciary

The Department of Transportation **supports** HB 849 as it conforms Hawaii's emergency management statutes to nationwide practices.

Regardless of how prepared we are for emergency, disasters can strike anywhere and at any time.

As the threats and hazards we face as a state develop and change, so too must our emergency management so we can better improve the capabilities and obtain the necessary resources we need to deal with an array of threats and hazards.

Inasmuch as counties are the first to respond to a wide variety of events, the DOT plays an essential role as part of the emergency management. We understand the importance of effective coordination with the counties who usually have initial and primary responsibility for disaster response.

The enactment of HB 849 underlines the importance of working with all partners in order to effectively prepare for, protect against, respond to, recover from, and mitigate all hazards. HB 849 modernizes our emergency management and augments our capacity to prepare and respond to the numerous threats and hazards we face.

Thank you for the opportunity to testify.



POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu.police.org



KIRK W. CALDWELL
MAYOR

LOUIS M. KEALOHA
CHIEF

DAVE M. KAJIHIRO
MARIE A. McCAULEY
DEPUTY CHIEFS

OUR REFERENCE **GK-BL**

February 19, 2013

The Honorable Karl Rhoads, Chair
and Members
Committee on Judiciary
State House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

Subject: House Bill No. 849, H.D. 1, Relating to Emergency Management

I am Gerald Kaneshiro, Acting Major of the Major Events Division, Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department supports House Bill No. 849, H.D. 1, Relating to Emergency Management. The present way we plan for, respond to, mitigate, and recover from man-made and natural catastrophic events is not reflected in Hawaii's present emergency management laws. House Bill No. 849, H.D. 1, will update Hawaii's emergency management laws to conform to nationwide practices in emergency management.

This legislation will clearly delineate the lines of authority between the governor and the county mayors with regard to emergency management. It will also establish county emergency management agencies that are independent from state control on a day-to-day basis. This provides for a more timely response to emergency management issues and enhances interagency operations at the county level.

Thank you for the opportunity to testify. I urge your committee to support and pass House Bill No. 849, H.D. 1.

Sincerely,

APPROVED BY:



LOUIS M. KEALOHA
Chief of Police


GERALD KANESHIRO, Acting Major
Major Events Division

William P. Kenoi
Mayor

Walter K.M. Lau
Managing Director



LATE

Darryl J. Oliveira
Director of Civil Defense

County of Hawaii

CIVIL DEFENSE AGENCY

920 Ululani Street • Hilo, Hawai'i 96720-3958
(808) 935-0031 • Fax (808) 935-6460

February 19, 2013

Representative Karl Rhoads, Chair
House Committee on Judiciary
State of Hawaii

Dear Representative Rhoads,

I would like to request your support and passage of House Bill 849 relating to Emergency Management. As proposed, House Bill 849 will provide for the following:

- It will remove the Governor, the Director and the state civil defense agency from day-to-day oversight of the county civil defense agencies.
- It will make the Mayor and the county emergency management agency responsible for all emergency management activities in the county
- Provide the Mayor of each county with explicit functions, responsibilities and powers (including the power to order an evacuation within their county)
- Recodifies the powers and authorities of the Governor and Mayors
- Places all emergency management responsibilities, functions and authorities in one chapter, easing the confusion of having to search different chapters for powers and authorities and determining which takes precedence
- Establishes the Emergency Specialist Reserve Corps (ESRC), a low-cost surge staff to assist state and local government during emergencies. The ESRC will be recruited from community members across the islands, and will be fully trained and ready to respond during a disaster.
- Will simplify the law by placing all emergency management authorities in one chapter of the HRS. It will strengthen emergency management by making the County Mayors responsible for emergency management in their counties and providing them clear powers and authorities to act in their jurisdictions. It promotes partnership by clarifying the powers and authorities of the Governor and the Mayors. And it increases our capabilities by providing a mechanism to hire and train a low-cost surge staff.

Thank you for the opportunity to provide testimony on HB 849 and I strongly urge and request your passage of this measure as written.

Thank you,

Darryl Oliveira, Director





HOUSE COMMITTEE ON JUDICIARY
Rep. Karl Rhoads, Chair

February 19, 2013 at 3:00 p.m.
Conference Room 325

Supporting HB 849 HD 1: Relating to Emergency Management

The Healthcare Association of Hawaii advocates for its member organizations that span the entire spectrum of health care, including all acute care hospitals, as well as long term care facilities, home care agencies, and hospices. In addition to providing quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 40,000 people. Thank you for this opportunity to testify in support of HB 849 HD 1, which recodifies Hawaii's emergency management statutes by clarifying the roles of the various agencies and individuals involved with emergency management.

Hawaii's emergency management statutes were established more than a half century ago, and few updates have been made since then. During that time, however, conditions in Hawaii have changed dramatically. In addition, the field of emergency management has changed significantly, including a reorganization of the federal emergency management infrastructure.

Many State and county agencies are involved with emergency management. This bill clarifies their roles and responsibilities to improve coordination and to ensure that decisions are made at the appropriate level. In improving the effectiveness of Hawaii's emergency management infrastructure, this bill will ultimately result in lives being saved.

Thank you for the opportunity to testify in support of HB 849 HD 1.

STATE OF HAWAII
DEPARTMENT OF DEFENSE

TESTIMONY ON HOUSE BILL 849 HD1
A BILL RELATING TO EMERGENCY MANAGEMENT

PRESENTATION TO
THE HOUSE COMMITTEE ON JUDICIARY

BY

MAJOR GENERAL DARRYLL D. M. WONG
ADJUTANT GENERAL

February 19, 2013

Chair Rhoads, Vice Chair Har, and Members of the Judiciary Committee:

I am Major General Darryll D. M. Wong, State Adjutant General. I am testifying in **SUPPORT** of House Bill 849 HD1.

HB 849 HD1 proposes needed recodification of the current Hawaii civil defense statutes. The current statutes were written in the 1940's and civil defense authorities were added in at least three other chapters of the Hawaii Revised Statutes. HB 849 will streamline the law by placing all emergency management authorities in one chapter and will update the language of the law.

HB 849 HD1 recodifies the powers and authorities of the Governor. The bill does not add any gubernatorial powers – all powers listed are in the current statutes. The bill moves some authorities from general powers to emergency powers and deletes outmoded powers.

The biggest change in HB 849 HD1 concerns the role of the county Mayor. The current civil defense statutes place all civil defense authorities with the Governor, which can be delegated to me as the Director of Civil Defense and sub-delegated to the Mayors. This law will establish clear emergency management roles and responsibilities for the Mayor of each county, establish a county emergency management agency under the direction of each Mayor, and provide specific emergency management authorities for the Mayor. These changes promote partnership by clarifying the powers and authorities of the Governor and the Mayors.

I strongly urge you to pass HB 849 HD1 as written.

Thank you for the opportunity to provide this testimony.

Elaine Dunbar
POB 861 Lihue, HI 96766
inunyabus@gmail.com

COMMITTEE ON JUDICIARY
HB849

RELATING TO
EMERGENCY
MANAGEMENT.

Department of Defense; Emergency Management

Recodifies Hawaii's emergency management statutes by updating the statutes, clarifying the relationship between the state and county emergency management agencies, and delineating the emergency management functions and powers of the Governor and mayors. Effective July 1, 2050.
(HB849 HD1)

Aloha Chair, Vice Chair and Committee Members,

I would like to comment on HB 849 (in opposition) but I am presenting only some of my concerns at this time.

I sincerely believe there are far too many dangerous sections in the bill that need to have closer scrutiny. It is a long draft and maybe there has not been enough time for legislators to give it the attention it requires.

Your Committees have amended this measure by:

(1) Removing language that authorizes the Governor or a designated representative to order the National Guard into active service as "emergency personnel for emergency management functions";

The deletion doesn't even begin to address the sweeping powers, flaws and the remaining power and authority granted the governor. If it becomes law it can present seriously harmful repercussions with no recourse to undo in the likely event it is abused. This is the same way legislation for torture, rendition, assassination of Americans, and all the other unconstitutional acts being perpetrated by the U.S. came to be. And we wonder, what happened. My father was a JAG Officer, with the Pentagon, an attorney in Honolulu for 30 years, my mother a WAVE, Executive Secretary for a U.S. Congressman and ambassadors with the Korean Consulate. My brother is a former Navy SEAL. They did not serve the U.S. government to live to see these types of acts with the potential for so much harm and annihilation of their children's rights nor those of any others' children. This governor has never served a millisecond for his country, therefore he has no right to be grabbing power he does not deserve. We have no Monarchy in Hawaii at this time and this governor would certainly never be king material, as this bill appears to do.

The word "governor" was used **129 times** in this bill with the exception of one reference removed in committee and two other times that were deleted on the draft that leaves **126** references to the governor and powers granted to him.

PLEASE READ this section which seems to overwrite the Judiciary/powers/due process. It is structured like a war tribunal: **Section § -28 Preliminary or interlocutory injunctions and temporary restraining orders:** "Any provision of law to the contrary notwithstanding, no preliminary or interlocutory injunction, or temporary restraining order, suspending, enjoining, or restraining the enforcement, operation, or execution of, or setting aside, in whole or in part, on the ground of unconstitutionality or for any other reason or reasons, any provision of this chapter or any proclamation, order, rule, or regulation prescribed, made or issued under the authority of this chapter, shall be issued or granted by any court of the State,..."

This is particularly disturbing and far reaching; unless it is Martial Law then you should just come out and say that. If it is posing as a quasi Martial Law then it is duplicative regulation of federal laws and unnecessary, presenting itself as even more stringent than the federal government. What makes it so egregious is the Separation of Powers it conflicts.

It should read: Injunctive relief. The director may institute a civil action in any court of competent jurisdiction for injunctive relief to prevent any violation of this chapter, of any rule adopted pursuant to this chapter, or of any order issued pursuant to this chapter. The court shall grant relief in accordance with the Hawaii rules of civil procedure. [L 1990, c 298, pt of §17]

§ -4 Hawaii advisory council on emergency management. Is this an advisory council appointed by the governor to provide a public body with whom the governor may consult and by whom the governor may be advised in the performance of the governor's duties? This is an example of the far reaching power the governor grants himself that he will provide the public body with no other oversight. Your committee removed ONLY the language referencing the National Guard and the governor. Nothing else pertaining to the governor was removed nor fixed.

There are sections in this that have nothing to do with emergencies or national disasters and are simply power grabs.

Legislation this broad needs more time. Please defer.

HB849

Submitted on: 2/16/2013

Testimony for JUD on Feb 19, 2013 15:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Troy Abraham	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

Bernard P. Carvalho, Jr.
Mayor



Gary K. Heu
Managing Director

LATE

OFFICE OF THE MAYOR
County of Kauai, State of Hawaii
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Testimony of Mayor Bernard P. Carvalho Jr.

Before the House Committee on Judiciary

Tuesday, February 19, 2013
3:00 p.m.
Conference Room 325
State Capitol

House Bill 849 Relating to Emergency Management

Honorable Chair Karl Rhoads and Members of the Committee on Judiciary,

We are writing in full support of HB 849 An Act Relating to Emergency Management as it relates to Kauai County. The current laws are old and out of date and these new proposed Acts will bring the County in line nationally. We wish to serve the people of Kauai and these Acts will help define roles and responsibilities much needed to accomplish those objectives. Please give full consideration and do the right thing for the people we serve.

I support the passage of House Bill 849 and thank the committee for the opportunity to present testimony on this important measure.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Bernard P. Carvalho Jr.", written over a horizontal line.

Bernard P. Carvalho Jr.
Mayor

NEIL ABERCROMBIE
GOVERNOR



Testimony of
GLENN M. OKIMOTO
DIRECTOR

Deputy Directors
JADE BUTAY
FORD N. FUCHIGAMI
RANDY GRUNE
JADINE URASAKI

IN REPLY REFER TO:
(808) 586-2165

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 19, 2013
3:00 p.m.
State Capitol, Room 325

**H.B. 849, H.D. 1
RELATING TO EMERGENCY MANAGEMENT**

House Committee on Judiciary

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Inasmuch as counties are the first to respond to a wide variety of events, the DOT plays an essential role as part of the emergency management. We understand the importance of effective coordination with the counties who usually have initial and primary responsibility for disaster response.

The enactment of HB 849 underlines the importance of working with all partners in order to effectively prepare for, protect against, respond to, recover from, and mitigate all hazards. HB 849 modernizes our emergency management and augments our capacity to prepare and respond to the numerous threats and hazards we face.

Thank you for the opportunity to testify.

