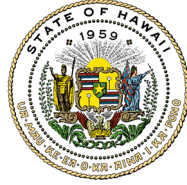


JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



KENNETH S. HARA
DIRECTOR OF EMERGENCY
MANAGEMENT

JAMES DS. BARROS
ADMINISTRATOR OF
EMERGENCY MANAGEMENT

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF DEFENSE
KA 'OIHANA PILI KAUA
OFFICE OF THE ADJUTANT GENERAL
3949 DIAMOND HEAD ROAD
HONOLULU, HAWAI'I 96816-4495

STATE OF HAWAI'I
DEPARTMENT OF DEFENSE
HAWAI'I EMERGENCY MANAGEMENT AGENCY

TESTIMONY ON SENATE BILL 298
RELATING TO THE HAWAI'I EMERGENCY MANAGEMENT AGENCY

BEFORE THE SENATE COMMITTEES ON **PUBLIC SAFETY AND INTERGOVERNMENTAL
AND MILITARY AFFAIRS AND WATER AND LAND**

BY

JAMES DS. BARROS
ADMINISTRATOR
HAWAI'I EMERGENCY MANAGEMENT AGENCY

FEBRUARY 10, 2023

Aloha Chair Wakai, Chair Inouye, Vice-Chair Elefante, and members of the committees:

I am James Barros, Administrator of the Hawai'i Emergency Management Agency (HI-EMA).

The HI-EMA provides written testimony to **OFFER COMMENTS** on Senate Bill 298.

SB298 authorizes HI-EMA to own, hold, improve and take a variety of other actions with respect to real, personal and mixed property, for current or future use, and amends the definition of public lands.

Although HI-EMA has no plans to exercise such authority absent all appropriate executive and legislative oversight and transparency, this authority would provide HI-EMA with additional flexibility to carry out its mission.

The existing headquarters complex for HI-EMA at Diamond Head dates to World War I, which creates complications and costs that impact our ability to fulfill our mission. Work is continuing to explore new locations for the State Emergency Operation Center, to be situated out of the hurricane and tsunami inundation zone, that would enable a more flexible and modern approach to emergency management.

However, the timeline for development of any new facility remains uncertain. Battery Birkhimer remains an old facility with significant maintenance and upkeep challenges. If any other facility

problem were to impact HI-EMA's operational capacity, the flexibility afforded by SB298 could provide useful tools to speedily restore and augment operational capacity.

In addition, this authority could expand HI-EMA's ability to reduce hazards, whether during an emergency response or in the recovery phase. The State Department of Defense and HI-EMA have no mechanism or procedures currently in place for such an authority. The additional authority would offer the State more flexibility in the mechanisms it employs to protect the people and property of Hawai'i, and flexibility is a crucial element of effective emergency management.

We are in general support of this bill, provided that its passage does not replace or adversely impact priorities indicated in our Executive Budget.

Thank you for the opportunity to provide testimony.

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



**Hawaiian
Electric**

**TESTIMONY BEFORE THE SENATE COMMITTEES ON
PUBLIC SAFETY AND INTERGOVERNMENTAL AND MILITARY AFFAIRS
AND WATER AND LAND**

**SB 298
Relating to the Hawaii Emergency Management Agency**

Monday, February 13, 2023
3:02 pm, Agenda Item #3
State Capitol, Conference Room 225

Dave Nagata
Land Agent
Hawaiian Electric

Aloha Chairs Wakai and Inouye, Vice Chair Elefante, and Members of the Committees:

My name is Dave Nagata and I am testifying on behalf of Hawaiian Electric opposing SB 298 as currently drafted, and offering suggested amendments.

Hawaiian Electric believes that the redundancies in this bill may impact the rights already afforded to the state and county governments, their agencies, and certain public utilities with the right to acquire public and private property through the exercise of condemnation. Hawaiian Electric believes that this bill can be amended to suit the needs of the Hawai'i Emergency Management Agency (HI-EMA) without creating such legislative redundancy.

As an agency of the State, HI-EMA has a preexisting right to acquire private and public property under HRS Chapter 101. However, HI-EMA's possession of public property is subject to HRS §101-53, which enables another state or county agency to appropriate HI-EMA's public property if that other entity's need for the public property held by HI-EMA is "more necessary than the purpose to which it has already been appropriated." SB 298 addresses this risk by providing that public property acquired by

HI-EMA “shall not thereafter be taken for any other public use without the consent of the agency.”

Since HI-EMA’s right to acquire private and public property is already codified under HRS Chapter 101, SB 298 should only address the above latter concern. Based on the foregoing, Hawaiian Electric proposes that SB 298’s proposed amendment to HRS §127A-3 be amended as follows:

On page 5, starting on line 16 (suggested amendments are bolded and underlined or stricken):

(f) Except as otherwise limited by this chapter, the agency may acquire or contract to acquire by grant or purchase any real, personal, or mixed property or any interest therein for its immediate or future use for the purposes of this chapter; own, hold, improve, and rehabilitate any real, personal, or mixed property acquired; and sell, assign, exchange, transfer, convey, lease or otherwise dispose of, or encumber the same. ~~The agency, upon making a finding that it is necessary to acquire any real property for its immediate or future use for the purposes of this chapter, may acquire the property by condemnation pursuant to chapter 101, including No~~ property acquired by the agency that was already devoted to a public use at the time of its acquisition by the agency. ~~Such property~~ shall ~~not~~ thereafter be taken for any public use without the consent of the agency.

Thank you for this opportunity to testify.



SB298

RELATING TO THE HAWAII EMERGENCY MANAGEMENT AGENCY
Senate Committee on Public Safety and Intergovernmental and Military Affairs
Senate Committee on Water and Land

February 13, 2023

3:02 PM

Room 225

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on SB298, which would amend the definition of “public lands” to no longer include lands that the Hawai‘i Emergency Management Agency (HIEMA) owns. **OHA has concerns that this measure would facilitate the permanent alienation of public land trust lands from which OHA receives a pro rata share for the betterment of conditions of Native Hawaiians.**¹

OHA wishes to emphasize that over the years, the public land trust has been gradually eroded to afford a ‘work-around’ for public entities to own lands outside of the jurisdiction of the Department of Land and Natural Resources (DLNR). The unintentional consequences of this erosion directly result in the undermining of the State’s trust obligations to the Native Hawaiian people – one of the most critical of these obligations being the appropriation of adequate funding to address, in significant part, the inequities and disparities faced by Native Hawaiians.

If HIEMA can acquire public lands and then those lands become alienated through this measure’s proposal, then it would be to the detriment of the Native Hawaiian people. Should the Legislature proceed with this measure, OHA offers the following amendment, which would mitigate OHA concerns:

(16) Lands to which the Hawaii Emergency Management Company hold title, except for crown and government lands commonly referred to as “ceded lands” that were conveyed to the State by virtue of section 5(b) and 5(f) of the Act of March 18, 1959 (73 Stat. 4, the Admissions Act).

OHA appreciates this opportunity to provide comments on SB298 and respectfully asks the Legislature to uphold its obligations to the Native Hawaiian people. Mahalo nui loa.

¹ Pub. L. 86-3, 73 Stat. 4; Hawai‘i Admissions Act of 1959; Haw. Stat. Con. Article XII, Sec. 4-6 (1978).