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

TESTIMONY ON HOUSE BILL 2515 HD1
RELATING TO EMERGENCY MANAGEMENT

BEFORE THE SENATE COMMITTEE ON
PUBLIC SAFETY AND INTERGOVERNMENTAL AND MILITARY AFFAIRS

BY

JAMES DS. BARROS
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MARCH 11, 2024

Aloha Chair Wakai, Vice-Chair Elefante, and Members of the Committee:

Thank you for the opportunity to submit testimony to **OPPOSE** HB 2515 HD1.

The Hawai'i Emergency Management Agency (HI-EMA) opposes the language in HB 2515 HD1. Hawai'i Revised Statute Section 127A-2 defines disasters, and emergencies to expand the definition of the emergency management mission of HI-EMA and county emergency management agencies.

By explicitly defining the types of events that constitute disasters and emergencies, we limit the flexibility and adaptability of response measures. Disasters and emergencies can take various forms, and their nature may evolve over time. A rigid definition could exclude emerging or unforeseen events that require immediate attention and response. It is crucial to allow for discretion and adaptability in determining what qualifies as a disaster or emergency to ensure an effective response.

HI-EMA does not believe it is necessary to define what is written in law and the language within HB 2515 HD1 is redundant in its scope, and not necessary to alter.

Thank you for the opportunity to provide testimony on House Bill 2515 HD1.

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March 11, 2024, 3 p.m.
Hawaii State Capitol
Conference Room 225 and Videoconference

To: Senate Committee on Public Safety and Intergovernmental and Military Affairs
Sen. Glenn Wakai, Chair
Sen. Brandon J.C. Elefante, Vice-Chair

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

TESTIMONY IN SUPPORT OF HB2515 HD1 — RELATING TO EMERGENCY MANAGEMENT

Aloha Chairs and Committee Members,

The Grassroot Institute of Hawaii would like to offer its **comments in support** of [HB2515 HD1](#), which would clarify the definitions of “emergency” and “disaster” for the purposes of Hawaii’s emergency management statute.

By specifying what constitutes an “emergency” or “disaster” under chapter 127A, this bill would go a long way toward addressing a growing problem in the application of the emergency management statute — the unchecked expansion of executive power via emergency proclamations.

As we discussed in our January 2021 policy brief, “Lockdowns Versus Liberty: How Hawaii’s Experience in 2020-2021 Demonstrates the Need to Revise the State’s Emergency Powers,” the governor has extremely broad powers to define what constitutes an emergency under the current law.¹

This has resulted in an ever-growing list of “emergencies” outside of the “immediate” and “catastrophic” threats described in this bill. Thus, important social issues such as homelessness or the lack of affordable housing are declared “emergencies” so as to benefit from the broad powers granted to the executive under the statute.

¹ Malia Hill, “[Lockdowns Versus Liberty: How Hawaii’s Experience in 2020-2021 Demonstrates the Need to Revise the State’s Emergency Powers.](#)” Grassroot Institute of Hawaii. January 2021.

This use of emergency power might be an effective way to streamline decision-making and cut through red tape. However, it also upsets the state’s constitutional balance of powers; allows the governor to act as a “super legislator” by waiving or suspending statewide laws; deprives the Legislature of its constitutional prerogative in the crafting of state policy; and frustrates efforts to enact permanent reforms.

Governing via executive order also has the effect of denying the public a voice on important issues, forcing the people to rely on the courts for redress — a slow and expensive process that acts as an additional barrier to public input.

Even those who agree with the goals or actions of these questionable emergency orders have expressed concern about the methodology behind them.

This problem is then compounded by the lack of any meaningful time limit on emergency orders. The legal ambiguity over the power to extend emergencies via supplemental proclamation means that an abuse of executive power could be extended indefinitely.

By creating a clear definition of the events that constitute an “emergency” or “disaster” under the law, HB2515 HD1 would limit the potential for executive overreach via emergency orders.

The bill’s list of emergency events, combined with its emphasis on immediate danger and timely action, gives a clear indication of legislative intent and would bring the statute in line with the common understanding of an emergency.

The experiences of the past few years have given us a better understanding of the need to reform Hawaii’s emergency management statute. There is room to restore the constitutional balance of powers without handicapping the executive’s ability to respond quickly and effectively to emergency situations.

By providing guidance on what an emergency is, HB2515 HD1 would help reassert the Legislature’s role in the use of emergency powers.

Thank you for the opportunity to submit our comments.

Sincerely,

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii