

Honolulu, Hawaii

FEB 05 2025

RE: S.B. No. 353
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Third State Legislature
Regular Session of 2025
State of Hawaii

Sir:

Your Committee on Public Safety and Military Affairs, to which was referred S.B. No. 353 entitled:

"A BILL FOR AN ACT RELATING TO EMERGENCY MANAGEMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Amend chapter 127A, HRS, relating to executive emergency powers, to clarify State and local authority;
- (2) Prohibit the Governor or Mayor from suspending requests for public records or vital specifics during a state of emergency;
- (3) Add a definition of the term "severe warning"; and
- (4) Allow the Legislature and city councils to terminate a state of emergency, in whole or in part, issued by the Governor or Mayor, respectively.

Your Committee received testimony in support of this measure from the Grassroot Institute of Hawaii, League of Women Voters of Hawaii, Public First Law Center, and three individuals.

Your Committee received testimony in opposition to this measure from the Hawai'i Emergency Management Agency.



Your Committee received comments on this measure from the Department of Human Services, Office of Information Practices, and one individual.

Your Committee finds that at the outset of the COVID-19 pandemic, the Governor suspended the State's open-records and sunshine laws, raising questions from the public regarding the health rationale for the suspension and undermining public trust in the workings of government at a time when trust was needed most. Government actions during a state of emergency should be narrowly tailored and must demonstrate a clear connection between the actions taken and the protection of public health and safety. This measure will ensure that government transparency is maintained even during a state of emergency.

Your Committee finds that there is limited reason for concern that open records requests could hinder government operations during a state of emergency, as the State's open-records laws already provide flexibility to agencies that require additional time to respond. This measure would reinforce that provision by expressly giving agencies permission to delay a response under extenuating circumstances. Your Committee further finds that reasonable limitations on the ability to suspend laws also helps protect the constitutional balance of powers.

Your Committee notes the concerns raised by the Department of Human Services regarding the ability of Department staff to respond to the high volume of priority requests for assistance by individuals during states of emergency while also replying to requests for government records as the Department lacks dedicated staff to respond to information requests. According to the Department of Human Services, the Department continues to experience an increase in Uniform Information Practices Act ("UIPA") requests since the COVID-19 pandemic and Maui wildfires as follows:

- (1) There was an eighty-nine percent increase in UIPA requests between 2019 and 2020;
- (2) There was a seventy-seven percent increase in UIPA requests between 2020 and 2021;



- (3) There was a forty-three percent increase in UIPA requests between 2021 and 2022; and
- (4) There was a thirty percent increase in UIPA requests between 2022 and 2023.

Your Committee also notes that opposition was raised by the Hawaii Emergency Management Agency regarding the provisions that would authorize the Legislature and county councils to terminate a state of emergency by a two-thirds vote.

Your Committee, though noting the comments and opposition from stakeholders, ultimately determined that the benefits of governmental transparency and the public's right to access information are significant factors that presently outweigh the potential risks to government functionality raised, and therefore believes this measure should move forward in the legislative process.

Your Committee has amended this measure by:

- (1) Inserting an effective date of July 1, 2077, to encourage further discussion; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 353, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 353, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Public Safety and
Military Affairs,



BRANDON J.C. ELEFANTE, Chair



