



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

S.B. NO. 846, RELATING TO EMERGENCY POWERS.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Friday, January 31, 2025

TIME: 9:15 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Stella M.L. Kam, Deputy Attorney General

Chair Rhoads and Members of the Committee:

The Department of the Attorney General provides the following comments on this bill.

The purpose of this bill to prohibit the Governor or a mayor from suspending agency response deadlines, through an emergency proclamation or declaration, or any rule or order adopted pursuant to chapter 127A, Hawaii Revised Statutes (HRS), for records requests pursuant to part II of chapter 92F, HRS, or requests for vital records or statistics pursuant to section 338-18, HRS.

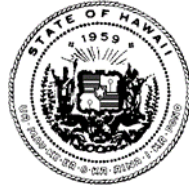
Subsection (b) of the proposed new section states that an agency shall not "reject a request at any time, regardless of whether an emergency has been declared." Page 3, lines 9-10. This wording is unnecessary and potentially confusing because subsection (a) of the new section already prohibits the Governor or a mayor from suspending agency response deadlines, and section 92F-11(b), HRS, already requires agencies to respond to government records requests.

Additionally, the wording in subsection (b) is ambiguous and could be misinterpreted as conflicting with agencies' authority to withhold records or specific information under the disclosure exceptions in section 92F-13, HRS.

For these reasons, we recommend deleting the wording "; provided that an agency shall not reject a request at any time, regardless of whether an emergency has been declared" in the proposed subsection (b) on page 3, lines 9-10.

We respectfully ask the Committee to consider the recommended amendments.
Thank you for the opportunity to testify.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



RYAN I. YAMANE
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
KA 'OIHANA MĀLAMA LAWELawe KANAKA
Office of the Director
P. O. Box 339
Honolulu, Hawaii 96809-0339

TRISTA SPEER
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

January 30, 2025

TO: The Honorable Senator Karl Rhoads, Chair
Senate Committee on Judiciary

FROM: Ryan I. Yamane, Director

SUBJECT: **SB 846 – RELATING TO EMERGENCY POWERS.**

Hearing: January 31, 2025, 9:15 a.m.
Conference Room 016 & Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of the measure, defers to the Hawaii Emergency Management Agency and the Department of Health, and provides comments.

PURPOSE: This bill prohibits the Governor or a Mayor from suspending requests for public records or vital statistics during a declared state of emergency. Allows for a reasonable delay in an agency's response to a request as a result of extenuating circumstances.

DHS appreciates the addition of (b) (page 3, line 7), recognizing that there may be a reasonable delay in an agency's response. When emergency declarations are declared, many of the staff responsible for responding to records requests are often called upon to support the State's response to the emergency, all while maintaining regular programmatic operations. In times of declared emergencies, the priorities of the department are the safety of clients and staff, responding to individual requests for assistance with benefits or services, and supporting the state's emergency response.

The suspension of UIPA per the Governor's emergency proclamations during the COVID-19 pandemic assisted DHS in pivoting its processes and service delivery quickly and providing necessary and updated information to the public, staff, and contracted providers. Without the suspension, DHS would not have been able to meet the UIPA response times, which would have led to additional administrative processes.

The Department also experienced historic and dramatic increases in the number of benefits applications when COVID-19 impacted Hawaii in March 2020. Pre-COVID-19, DHS served 1 in 4 Hawaii residents; by late 2020, 1 in 3 Hawaii residents accessed one or more DHS programs. The caseloads remained at historic highs while we were "unwinding" from the federal pandemic program changes in 2023 when the Maui Wildfires happened.

Responding to the Maui Wildfires was on a different scale and magnitude than the COVID-19 response and involved a different level of department resources to respond to the needs of Maui residents; DHS continues significant new programming on Maui. Also, with a federal declaration, specific programs only available during emergencies may have to be stood up.

Here are updated (from prior testimony) statistics regarding DHS UIPA requests since the COVID-19 pandemic, showing spikes in the number of requests following emergency declarations:

- (19) FY2019 – (39) FY2020 – increase 105 (following the COVID-19 declaration),
- (39) FY2020 – (64) FY2021 – increase 64,
- (64) FY2021 – (92) FY2022 – increase 43,
- (92) FY2022 – (54) FY2023 – decrease 41 (though still higher than pre-COVID-19), and
- (54) FY2023 – (123) FY2024 – increase 127 (following the Maui Wildfires declaration).

Also, DHS has concerns that the term in (b) regarding "not reject" is overly broad and conflicts with provisions of section 92F-13, Hawaii Revised Statutes, that provides for exceptions to the general rule to disclose.

Thank you for the opportunity to provide testimony in support of this measure.

OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Judiciary

From: Carlotta Amerino, Director

Date: January 31, 2025, 9:15 a.m.
State Capitol, Conference Room 016

Re: Testimony on S.B. No. 846
Relating to Emergency Powers

Thank you for the opportunity to submit testimony on this bill, which would prohibit the Governor or a mayor from suspending agency response deadlines for requests for public records under chapter 92F, HRS, the Uniform Information Practices Act (UIPA), or for vital statistics, during a declared state of emergency. The Office of Information Practices (OIP) **takes no position** on this bill because it is a policy decision for the Legislature to determine what limit, if any, is appropriate and what potential emergencies would warrant the Governor's use of emergency powers. However, OIP can confirm that the two-and-a-half-month full suspension of the UIPA in 2020, and subsequent year-plus partial suspension of only the UIPA's agency response deadlines, had a significant effect on requesters, agencies, and OIP's own operations. During that time, many requesters experienced long delays in receipt of agency responses to their record requests, and the UIPA did not fulfill its stated purpose of giving the public timely access to government records.

Thank you for considering OIP's testimony.



Senate Committee on Public Safety and Military Affairs

Friday, January 31, 2025 9:15 AM Hearing in Conference Room 016 on
SB 846, Relating to Emergency Powers

TESTIMONY

Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Rhoads, Vice Chair Gabbard, and Committee Members:

The League of Women Voters of Hawaii supports SB 846. State law should not authorize either the Governor or any county mayor to completely suspend or unreasonably delay public access to public records during an emergency. We also support a statutory amendment, as proposed in SB 353, to authorize the appropriate state or county legislative body to stop abusive executive use of emergency powers under Chapter 127A, Hawaii Revised Statutes.

Thank you for the opportunity to submit testimony.



Senate Committee on Judiciary
Honorable Karl Rhoads, Chair
Honorable Mike Gabbard, Vice Chair

RE: Testimony in Support of S.B. 846, Relating to Emergency Powers
Hearing: January 31, 2025 at 9:15 a.m.

Dear Chair and Members of the Committee:

My name is Ben Creps. I am a staff attorney at the Public First Law Center, a nonprofit organization that promotes government transparency.

Thank you for the opportunity to submit testimony **in support** of S.B. 846. We also **recommend an amendment** to better effectuate the intent of this measure.

Government transparency is especially crucial during emergencies. Transparency holds government accountable for its actions and decisions. And it helps government address the misinformation that can proliferate in times of crisis and erode the public's trust in government. Transparency builds trust by providing clarity about a given situation and the steps being taken to address it.

Public records laws are a critical mechanism to ensure government transparency. This bill seeks to safeguard that mechanism for the public during emergencies. As written, however, it only safeguards one part of the public records law. We thus recommend the following amendment (in bold) to Section 2:

(a) The governor or mayor shall not, through any proclamation or declaration of emergency or any rule or order adopted pursuant to this chapter, suspend **[agency response deadlines for requests]** access to: **[Public records]** Records pursuant to **[part II of]** chapter 92F . . .

This amendment would ensure that members of the public are still able to access their personal records under part III of chapter 92F. It would also ensure that the Office of Information Practices (OIP) remains empowered, under part IV of chapter 92F, to administer the public records law – this would address the operational challenges faced by OIP when former Governor David Ige suspended the entirety of chapter 92F during the COVID-19 pandemic.

Thank you again for the opportunity to testify in support of S.B. 846.



Jan. 31, 2025, 9:15 a.m.
Hawaii State Capitol
Conference Room 016 and Videoconference

To: Senate Committee on Judiciary

Sen. Karl Rhoads, Chair

Sen. Mike Gabbard, Vice-Chair

From: Grassroot Institute of Hawaii

Ted Kefalas, Director of Strategic Campaigns

RE: TESTIMONY IN SUPPORT OF SB846 — RELATING TO EMERGENCY POWERS

Aloha Chair, Vice-Chair and other Committee members,

The Grassroot Institute of Hawaii would like to offer its **support** for [SB846](#), which would amend the state's emergency management statute to prohibit the suspension of requests for public records or vital statistics during a state of emergency.

At the outset of the COVID-19 crisis, Gov. David Ige suspended Hawaii's open-records and sunshine laws — an extreme response not taken by any other state governor.

Not only did his action raise questions about the health rationale for the suspension, it also undermined public trust in the workings of government at a time when trust was needed most. During an emergency, when government actions can seem opaque, it is essential that the public has more access to information about government decision-making, not less.

This bill would ensure that government transparency is maintained even during a state of emergency.

Fortunately, there is no reason for any concern that open records requests could hinder government operations during an emergency. Hawaii's [open-records statute](#) already provides flexibility to agencies that require additional time to respond, and this bill would reinforce that provision by expressly giving agencies permission to delay a response under extenuating circumstances.

Hawaii's emergency management law is in need of reforms that would reflect the lessons we have learned over the past few years. It is possible to protect open government without handicapping the ability of the governor and mayors to respond quickly and effectively to emergency situations.

We urge you to pass SB846.

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii

LATE



Jan. 31, 2025

Karl Rhoads
Senate Judiciary Committee
Room 016 State Capitol
Honolulu, HI 96813

Re: Senate Bill 846

Chairman Rhoads and Committee Members:

This bill blocks the governor or a mayor from suspending agency response deadlines for requests for public records or vital statistics during an official state of emergency.

We consider this bill to be a good one because such openness is important particularly during emergencies, and the measure already allows for reasonable delays in responding to such requests because of extenuating circumstances.

Please pass this bill.

Thank you for your attention,

Stirling Morita
President
Hawaii Chapter SPJ

SB-846

Submitted on: 1/29/2025 6:01:43 PM

Testimony for JDC on 1/31/2025 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Support	Written Testimony Only

Comments:

This is an excellent bill. I believe that restrictions on accessibility of governmental records was way overdone and there needs to be a check and balance on states of emergency.

SB-846

Submitted on: 1/29/2025 9:52:51 PM

Testimony for JDC on 1/31/2025 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Jacob Wiencek	Individual	Support	Written Testimony Only

Comments:

Aloha Committee Members,

During the COVID-19 pandemic, extraordinary and emergency powers were used by the state and county governments to address the situation. Unfortunately, lack of transparency and denial of records requests hurt public trust and increased suspicions.

While, emergency measures during an emergency make sense, the government should NOT be able to deny records requests because of one. I strongly urge this Committee to SUPPORT this bill and rein in emergency powers.