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KE KIA'ĀINA



STEPHEN F. LOGAN
MAJOR GENERAL
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KA 'AKUKANA KENELALA

JAMES DS. BARROS
ADMINISTRATOR OF
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KA MOKU'ĀINA O HAWAII
DEPARTMENT OF DEFENSE
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STATE OF HAWAII
DEPARTMENT OF DEFENSE
HAWAII EMERGENCY MANAGEMENT AGENCY

TESTIMONY ON HOUSE BILL 2581,
RELATING TO EMERGENCY MANAGEMENT

BEFORE THE HOUSE COMMITTEE ON
PUBLIC SAFETY

BY

JAMES DS. BARROS
ADMINISTRATOR
HAWAII EMERGENCY MANAGEMENT AGENCY

February 6, 2026

Aloha Chair Belatti, Vice-Chair Iwamoto, and Members of the Committee:

The Hawai'i Emergency Management Agency (HIEMA) respectfully submits this testimony in **OPPOSITION** to House Bill 2581.

HIEMA shares concerns that HB2581 may unduly narrow or constrain executive authorities under Chapter 127A, Hawai'i Revised Statutes. Disasters and emergencies require the Governor and county mayors—and by extension, HIEMA and county emergency management agencies—to operate with sufficient flexibility to make rapid, time-critical decisions under conditions of uncertainty. This flexibility is essential to effectively protect lives, property, and infrastructure during emergencies.

HIEMA is apprehensive about the bill's approach to definitions, as this measure is restrictive to the emergency management enterprise's ability to respond to events that are unknown yet still pose significant threats to life and property. It is essential to maintain adaptability in the face of unforeseen challenges.

Though we firmly believe in the importance of checks and balances to ensure effective governance while safeguarding public safety, imposing additional statutory constraints, as proposed by this bill, risks hindering timely and effective responses while offering limited additional accountability.

HIEMA recommends legislature to reconsider HB2581's limitations on emergency powers and its restrictive definitions of disasters and emergencies. Maintaining sufficient executive flexibility and a broad, adaptive understanding of disasters and emergencies is vital to safeguarding Hawai'i's communities in an evolving and complex threat environment.

We appreciate the opportunity to provide input and stand ready to collaborate on solutions that balance constitutional concerns with operational realities.

Thank you for the opportunity to provide testimony in opposition of House Bill 2581.

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

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

KAUA'I EMERGENCY MANAGEMENT AGENCY

ELTON USHIO, ADMINISTRATOR



DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

Testimony of
Elton S. Ushio
Emergency Management Administrator, County of Kauai

Before the
House Committee on Public Safety
February 6, 2026; 10:15 AM
Conference Room #411 and Videoconference

In consideration of
HB 2581
Relating to Emergency Management

Honorable Chair Belatti, Vice Chair Iwamoto, and Members of the Committee:

My name is Elton Ushio, and I serve as the Administrator of the Kaua'i Emergency Management Agency (KEMA). I appreciate the opportunity to provide comments on House Bill 2581.

KEMA has initial concerns that HB2581 may narrow or constrain executive authorities under Chapter 127A. Disasters and emergencies require the Governor and Mayors, and in turn State and County Emergency Management Agencies, to operate with sufficient flexibility to make rapid, time-critical decisions under conditions of uncertainty. In practice, Chapter 127A authorities also enable and expedite coordinated action across the broader whole-of-government and whole-community response network, including state and county agencies, critical infrastructure owners and operators, private industry, and non-governmental partners.

This potential constraint begins with the bill's definitional approach. Statutory definitions of "disaster" or "emergency" directly govern when Chapter 127A authorities may be exercised. Many emerging or evolving threats, such as cyber incidents, coordinated misinformation, supply-chain disruption, invasive species, and other gray-zone activities, may not initially present as traditional disasters, yet can rapidly cascade into life-safety, economic, environmental, and critical infrastructure impacts. Narrow or static definitions risk delaying executive action until impacts are undeniable, adversely affecting response effectiveness.

In particular, KEMA is concerned that the bill's definitional framework may not adequately account for cyber-related threats affecting government operations, private industry, the military, or critical infrastructure. Cyber incidents often unfold through disruption, degradation, or manipulation of systems rather than a single sudden event, and therefore may not clearly fit the bill's definition of an "emergency" or "disaster" at onset. While their effects may ultimately be severe, including impacts to public safety, continuity of government, economic stability, and essential services, delaying executive action until impacts are clearly undeniable may significantly limit response options and increase downstream consequences.

Related concerns arise from an Emergency Support Function 11, Agriculture and Natural Resources, perspective. Hawai'i faces unique risks related to agriculture, food security, and ecosystem integrity. Emerging threats to critical crops such as coffee, pineapple, and taro, invasive species threatening native ecosystems, or diseases affecting the animal industry or wildlife may not initially meet a narrow or sudden "disaster" threshold, yet can escalate quickly and cause irreversible harm if early, coordinated action is delayed.

Finally, KEMA notes that the nation, state, and counties are increasingly operating in a more complex homeland security and homeland defense environment. Some contemporary threats, particularly those involving cyber activity, information operations, economic coercion, or other hybrid or gray-zone actions, may deliberately remain below thresholds established through statutory definitions while still posing significant risk to public safety, continuity of government, and critical lifelines. A statutory framework that is overly restrictive or backward-looking may limit the ability of executive leadership to act decisively in these ambiguous but consequential scenarios.

For these reasons, KEMA respectfully asks the Committee to carefully consider whether HB2581, as currently drafted, may unintentionally constrain necessary emergency authorities and whether its definitions adequately account for evolving and future threats facing Hawai'i. KEMA remains available to work with the Legislature to ensure Chapter 127A continues to provide both appropriate oversight and the operational flexibility needed to protect our communities.

Mahalo for the opportunity to provide comments.

Sincerely,



Elton S. Ushio

Administrator



REPRESENTATIVE DELLA AU BELATTI, CHAIR
REPRESENTATIVE KIM COCO IWAMOTO, VICE CHAIR
HOUSE COMMITTEE ON PUBLIC SAFETY

TESTIMONY IN **SUPPORT** OF HOUSE BILL 2581
RELATING TO EMERGENCY MANAGEMENT

Friday, February 6, 2026, 10:15 a.m.
Conference Room 411, State Capitol
415 South Beretania Street

Dear Chair Belatti, Vice Chair Iwamoto, and Committee Members:

Earthjustice **supports** House Bill 2581, which seeks to place guardrails on the governor's and mayors' use of emergency powers under HRS Chapter 127A by amending the definitions of "disaster" and "emergency" under that statute. These amendments are necessary to reestablish the proper constitutional balance of powers between the legislature and the executive branch with respect to the enactment of laws to address important issues of public policy.

A recent decision of the Hawai'i Supreme Court, *Nakoa v. Governor of State*, 156 Hawai'i 416, 575 P.3d 506 (2025), threatens to upset this vital balance. There, the Court interpreted HRS Chapter 127A to grant the governor extraordinary emergency powers – including the power to suspend laws enacted by the legislature – to address any situation "rationally related to the health, safety, and welfare of the public." *Id.* at 424, 575 P.3d at 514. This interpretation allows for the governor to issue emergency proclamations that address "not only discrete events," but also "long-term issues" of public policy. *Id.* at 435, 575 P.3d at 525. This broad grant of authority to the executive branch undermines the balance of power enshrined in the Hawai'i Constitution, which vests the "legislative power of the State" in the legislature.

To preserve the constitutional balance of powers and to avoid executive overreach, it must remain the exclusive providence of the legislature to address longstanding public policy challenges. Thus, in the wake of the Supreme Court's ruling, it is vital for the legislature to amend the statutory definitions of "disaster" and "emergency" within HRS Chapter 127A such that the emergency powers granted to the governor are restricted solely to situations that involve responding to the sudden "occurrence of disasters or emergencies of unprecedented size and destructiveness resulting from natural or human-caused hazards." HRS § 127A-1(a).

Mahalo for the opportunity to testify on this matter.

Dru N. Hara, Esq.
Project Attorney
Earthjustice, Mid-Pacific Office

Feb 6, 2026, 10:15 a.m.

Hawaii State Capitol
Conference Room 411 and Videoconference

To: House Committee on Public Safety

Rep. Della Au Belatti, Chair
Rep. Kim Coco Iwamoto, Vice Chair

From: Grassroot Institute of Hawaii

Ted Kefalas, Director of Strategic Campaigns

TESTIMONY IN SUPPORT OF HB2581 — RELATING TO EMERGENCY MANAGEMENT

Aloha chair, vice chair and other committee members,

The Grassroot Institute of Hawaii would like to offer its **support** for [HB2581](#), which would clarify the definitions of “emergency” and “disaster” for the purposes of Hawaii’s emergency management statute.

Specifying what constitutes an “emergency” or “disaster” under chapter 127A would go a long way toward addressing the unchecked expansion of executive power via emergency proclamations.

As Grassroot discussed in its January 2021 policy brief “[Lockdowns Versus Liberty: How Hawaii’s Experience in 2020-2021 Demonstrates the Need to Revise the State’s Emergency Powers](#),” Hawaii’s governor has extremely broad powers to define what constitutes an emergency.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 seem to have been declared “emergencies” to take advantage of the broad powers granted to the executive branch under the emergency management statute. Moreover, the lack of clarity in the statute has resulted in a Hawaii Supreme Court opinion that largely upheld the use of executive power for this expansive definition of emergencies.²

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.

² [Nakoa v. Governor of the State of Hawaii](#), 575 P.3d 506 (2025).

This use of emergency power might be an effective way to streamline decision-making and cut through cumbersome regulations. 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 denies the public a voice on important issues, forcing the people to rely on the courts for redress — which is a slow and expensive process that acts as an additional barrier to public input.

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

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

Creating a clear definition of the events that constitute an "emergency" or "disaster" under the law would limit the potential for executive overreach via emergency orders.

The list of emergency events in HB2581, combined with the bill's 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, this bill would help reassert the Legislature's role in the use of emergency powers.

Sincerely,

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii