

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII

NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
TELEPHONE: 808-586-1400 FAX: 808-586-1412
EMAIL: oip@hawaii.gov

To: Senate Committee on Public Safety and Military Affairs

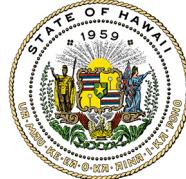
From: Carlotta Amerino, Director

Date: January 28, 2026, 3:00 p.m.
State Capitol, Conference Room 016

Re: Testimony on S.B. No. 2151
Relating to Emergency Management

Thank you for the opportunity to submit testimony on this bill, which among other things 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.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



STEPHEN F. LOGAN
MAJOR GENERAL
ADJUTANT GENERAL
KA 'AKUKANA KENELALA

JAMES DS. BARROS
ADMINISTRATOR OF
EMERGENCY MANAGEMENT
KAHU HO'OMALU PÔULIA

STATE OF HAWAII
KA MOKU'ĀINA O HAWAII
DEPARTMENT OF DEFENSE
KA 'OIHANA PILI KAUA
HAWAII EMERGENCY MANAGEMENT AGENCY
4204 DIAMOND HEAD ROAD
HONOLULU, HAWAII 96816-4420

STATE OF HAWAII
DEPARTMENT OF DEFENSE
HAWAII EMERGENCY MANAGEMENT AGENCY

TESTIMONY ON SENATE BILL,
RELATING TO EMERGENCY MANAGEMENT

BEFORE THE SENATE COMMITTEE ON
PUBLIC SAFETY AND MILITARY AFFAIRS

BY

JAMES DS. BARROS
ADMINISTRATOR
HAWAII EMERGENCY MANAGEMENT AGENCY

January 28, 2026

Aloha Chair Fukunaga, Vice Chair Lee, and Members of the Committee:

Thank you for the opportunity to submit a testimony in **OPPOSITION** of Senate Bill 2151.

During times of crisis, whether due to natural disasters, public health emergencies, or other unforeseen events, the Chief Executive is best positioned to make swift, decisive actions for the safety and well-being of our communities. The complexities of these situations necessitate leadership that is equipped to act quickly in the face of ever-changing circumstances.

In urgent situations, time is of the essence and certain events may demand a level of flexibility and responsiveness during critical moments. The Governor has access to vital resources, expert advice, and real-time data, enabling rapid coordination and resource allocation that is paramount in preserving public safety.

Similarly, flexibility in leadership is not just about decision-making power; it is about fostering an environment where our leaders can pivot, innovate, and adapt as challenges arise. The nature of emergencies demands that we prioritize efficiency and rapid decision-making.

I urge the committee to reconsider this proposed bill and maintain the Chief Executive's ability to continue to make pivotal decisions during times of crisis, ensuring that the safety of our residents remains paramount.

Thank you for the opportunity to provide testimony in opposition of Senate Bill 2151.

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



Senate Committee on Public Safety and Military Affairs

Wednesday, January 28, 2026, 3 PM Hearing in Conference Room 016 on
SB 2151, Relating to Emergency Management

TESTIMONY

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

Chair Fukunaga, Vice Chair Lee, and Committee Members:

The League of Women Voters of Hawaii supports SB 2151. 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. And state law should authorize the appropriate state or county legislative body to stop arbitrary or abusive use of executive emergency powers under Chapter 127A, Hawaii Revised Statutes.

Thank you for the opportunity to submit testimony.



SENATE COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

January 28, 2026

3:00 PM

Conference Room 016

In SUPPORT of SB2151: RELATING TO EMERGENCY MANAGEMENT

Aloha Chair Fukunaga, Vice Chair Lee, and Members of the Committee,

On behalf of our over 20,000 members and supporters, the Sierra Club of Hawai'i **SUPPORTS** SB2151, which will protect the public interest and our very system of constitutional democracy from the potential misuse of state and county executive branch leaders' emergency powers.

As we have seen in recent years, the lack of clear statutory guardrails for the Governor's sweeping emergency powers has resulted in emergency proclamations that have significantly undermined the public interest, the public trust in government, and the separation of powers that is a foundation of our democracy. This includes an emergency proclamation on housing that attempted to use a century-long problem, rooted in nuanced economic policies and myriad social and historical factors, to broadly suspend and/or rewrite a suite of laws protecting our environmental and cultural integrity, food security, climate resilience, the public's right-to-know, fiscal transparency and accountability, and even collective bargaining rights - without any actual mechanisms to ensure that housing developed under the proclamation would be affordable, or reserved for current Hawai'i residents.

While this latter emergency proclamation was substantially scaled back in its subsequent iterations, significant concerns remain about the potential for any administration to declare long-standing and admittedly serious social challenges - such as housing, criminal activity, or poverty - as "emergencies," and thereby exercise their power to repeal or rewrite legislation for an indefinite length of time. Without the transparency and public accountability of the normal, democratic lawmaking process, this could easily lead to significant and long-lasting changes to public policy that unduly benefit politically connected special interests, at the expense of the public interest - and our very democracy itself.

This measure would help to mitigate the risk of executive overreach by simply requiring the Governor and mayors to explicitly and narrowly tailor the use of their emergency authority to suspend laws, to directly addressing the emergency at hand; to require emergency declarations to be terminated as soon as conditions warrant; and to provide the state legislature and county councils the ability to end emergency declarations that may be arbitrarily and inappropriately used by the leaders of their respective executive branches.

Accordingly, the Sierra Club respectfully urges the Committee to **PASS** SB2151.

Mahalo nui for the opportunity to testify on this critical measure.

Jan. 28, 2026, 3:00 p.m.

Hawaii State Capitol
Conference Room 016 and Videoconference

To: Senate Committee on Public Safety and Military Affairs

Sen. Carol Fukunaga, Chair
Sen. Chris Lee, Vice-Chair

From: Grassroot Institute of Hawaii

Ted Kefalas, Director of Strategic Campaigns

RE: TESTIMONY IN SUPPORT OF SB2151 — RELATING TO EMERGENCY MANAGEMENT

Aloha Chair, Vice-Chair and other Committee members,

The Grassroot Institute of Hawaii would like to offer its **strong support** for [SB2151](#), 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.

The bill would also clarify the definition of a "severe weather warning," require justification for the suspension of laws; limit the length of such suspensions to the times necessary to fulfill the emergency functions; and allow the Legislature and county councils to terminate declared states of emergency, in whole or in part, by an affirmative two-thirds vote.

These are all excellent ways to preserve the intent of the emergency statute while simultaneously protecting the public interest and ensuring that emergency powers do not become a tool for unchecked executive power.

Regarding the suspension of public records or vital statistics during an emergency, Gov. David Ige at the outset of the COVID-19 crisis 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 undermined public trust in the workings of government at a time when trust was needed most. This bill would ensure that government transparency is maintained even during a state of emergency.

There is no reason to worry that open records requests submitted during an emergency could hinder government operations. 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.

The addition of reasonable limitations on the ability to suspend laws would also help protect the constitutional balance of powers. The governor and mayors need leeway to handle an emergency as needed, but they should not have carte blanche to suspend laws indefinitely or arbitrarily. Government actions during an emergency should be narrowly tailored and must demonstrate a clear connection between the actions taken and the protection of public health or safety.

As for the duration of emergencies, Hawaii's emergency statute currently features a 60-day time limit, but it allows an emergency to be extended by proclamation. Thus, there is no protection against the governor or a mayor extending a state of emergency indefinitely, with little input or oversight from the legislative branch.

In the past few years, we have seen emergency orders used increasingly more often to address situations that do not pose an immediate threat to life, health or property — such as the housing crisis. Because the statute lacks a mechanism that would force an end to the governor's ability to rule via emergency proclamation, the governor could use his or her emergency powers to bypass the legislative process for years on end.

A legislative check on the executive's ability to extend an emergency would correct this problem and preserve the constitutional balance of powers. SB2151 would fulfill that purpose by enabling the Legislature and county councils to end emergencies by a two-thirds vote.

It is important that Hawaii's emergency management law reflect the lessons we have learned over the past few years. The main lesson is that there is room to protect open government and the constitutional balance of powers without handicapping the ability of the governor and mayors to respond quickly and effectively to emergency situations.

Sincerely,

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii



SENATOR CAROL FUKUNAGA, CHAIR
SENATOR CHRIS LEE, VICE-CHAIR
SENATE COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

TESTIMONY IN SUPPORT OF SENATE BILL NO. 2151, WITH AMENDMENTS
RELATING TO EMERGENCY MANAGEMENT

January 28, 2024, 3:00 p.m.
Conference Room 016 & Videoconference
State Capitol
415 South Beretania Street

Good afternoon, Chair Fukunaga, Vice-Chair Lee, and members of the committee:

My name is David Lane Henkin, and I am an attorney with Earthjustice. We appreciate the opportunity to testify regarding Senate Bill 2151, which seeks to place guardrails on the governor's and mayors' use of emergency powers under HRS Chapter 127A. Earthjustice supports SB 2151. We are concerned, however, that the bill does not contain adequate language to ensure that emergency powers are used to address only true emergencies. We therefore urge the committee to amend SB 2151, as discussed below.

HRS Chapter 127A must be amended to reestablish the proper constitutional balance of powers between the legislature and the governor with respect to the enactment of laws to address important issues of public policy. The Hawai'i Constitution vests the "legislative power of the State" in the legislature. Haw. Const. art. III, § 1. Our Constitution gives the governor the responsibility "for the faithful execution of the laws" that the legislature adopts. Haw. Const. art. V, § 5 (emphasis added).

A recent decision of the Hawai'i Supreme Court, *Nakoa v. Governor of State*, 156 Haw. 416, 575 P.3d 506 (2025), threatens to upset this vital constitutional balance. The Court interpreted HRS Chapter 127A to grant the governor emergency powers — including the extraordinary power to suspend laws enacted by the legislature — to address "not only discrete events" that suddenly "threaten substantial harm to Hawai'i's people, property, or environment," but also "long-term" public policy issues. *Id.* at 434-35, 575 P.3d at 524-25. This interpretation undermines the balance of power enshrined in our Constitution by authorizing the executive branch to make wholly new decisions about long-standing problems without the consent of lawmakers.

In the wake of the Supreme Court's ruling, it is vital for the Legislature to clarify that the emergency powers that HRS Chapter 127A grants to the governor and the mayors are strictly limited 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). To preserve the constitutional balance of powers and to avoid executive overreach, it must remain the exclusive province of the legislature to address longstanding public policy challenges.

SB 2151 seeks to rein in the use of emergency powers by amending HRS § 127A-14 to empower the Legislature to terminate a state of emergency declared by the governor, in whole or in part, "by an affirmative vote of two-thirds of the members to which each house is entitled." As the committee knows full well, however, securing a supermajority vote for any legislative act, no matter how important, is extraordinarily challenging. And, if the Legislature is not in session when the governor attempts to use emergency powers to address non-emergency issues that are properly the province of the Legislature, it would be harder still to convene a special session and set things right. It is vital, therefore, to amend the definitions of "emergency" and "disaster" in HRS § 127A-2 to limit the use of emergency powers in the first place.

Accordingly, we urge the committee to add the following section to SB 2151:

SECTION []. Section 127A-2, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "disaster" to read:

"Disaster" means ~~[any emergency,]~~ the occurrence or
~~imminent threat [thereof, which results or may likely result in]~~
of widespread or severe damage, injury, or loss of life,
property, or environment resulting from any sudden natural or
artificial cause, including hurricanes, windstorms, floods,
extreme rain events, earthquakes, landslides, mudslides,
volcanic activity, tsunamis, fires, explosions, air or water
contamination, blight, droughts, infestations, riots, sabotage,
hostile military or paramilitary action, hazardous material
accidents, disease or contagion outbreaks, bioterrorism,
terrorism, or incidents involving weapons of mass destruction,

January 28, 2026

Page 2

that ~~and~~ requires, or may require, assistance from other counties, states, the federal government, or from private agencies."

2. By amending the definition of "emergency" to read:

""Emergency" means ~~[any]~~ the occurrence~~[,]~~ or imminent threat ~~[thereof, which results or may likely result in substantial injury or]~~ of a disaster that causes or may be likely to cause catastrophic harm and immediate danger to the population ~~[or]~~, substantial damage to or loss of property, or substantial damage to or loss of the environment[.] and that timely action can avert or minimize."

Mahalo for the opportunity to offer this testimony.



Senate Committee on Public Safety and Military Affairs
Honorable Carol Fukunaga, Chair
Honorable Chris Lee, Vice Chair

RE: Testimony with Comments on S.B. 2151, Relating to Emergency Management
Hearing: January 28, 2026 at 3:00 p.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 with comments **supporting the intent** of S.B. 2151 and **recommending an amendment** to better effectuate that intent.

Public records laws are a critical mechanism to ensure government transparency. This bill seeks to safeguard that promise of openness for the public during government-declared emergencies, when transparency is especially crucial.

But S.B. 2151 only safeguards one part of the public records law. We thus recommend the following amendment (in bold) at page 2, lines 7 – 11, clarifying that *all* of chapter 92F is shielded from suspension:

(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 law, which addresses 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 with comments on S.B. 2151.



SB-2151

Submitted on: 1/27/2026 2:40:03 PM
Testimony for PSM on 1/28/2026 3:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---------------|--|--------------------|-------------------|
| Austin Martin | Testifying for Libertarian Party of Hawaii | Oppose | Remotely Via Zoom |

Comments:

Aloha Chair Wakai, Vice Chair Elefante, and committee members. I am Austin Martin, Chair of the Libertarian Party of Hawaii, testifying in strong opposition to SB 2151.

I was personally arrested under emergency powers during COVID for saying the word "Nazi" in public to describe Ige & Green's COVID policies, which is how I got here today. I hope that you will make a hundred more like me by passing this bill.

While adding legislative (2/3 vote) or county council (2/3 vote) authority to terminate emergency declarations and prohibiting suspension of public/vital records request deadlines is good (and common sense), this bill massively expands executive powers under HRS §127A-13 and §127A-14: new authorizations for quarantine/segregation, broader law suspensions (including utility regulations), direct control over county functions, mandatory evacuations, hoarding/distribution controls, hazardous item prohibitions, and post-emergency suspension extensions for repairs—all while retaining the governor/mayor as "sole judge" of emergency conditions.

This net expansion codifies and broadens the arbitrary restrictions seen during COVID, inviting future overreach despite the partial checks. Automatic 60-day limits are meaningless if routinely extended by proclamation. Reject SB 2151 entirely; existing Chapter 127A already provides unlawful amounts of authority without this dangerous empowerment.

I ask the legislators here who still possess a soul and a conscience to demand roll call on all votes and committee proceedings on this bill, so its supporters cannot hide from the proper political consequences of supporting this coup against the People of Hawaii. Everyone in Hawaii deserves to know who is supporting this kind of treason against the constitution.

Mahalo for your kokua to this important matter.

Austin Martin

Libertarian Party



LATE

SENATOR CAROL FUKUNAGA, CHAIR

SENATOR CHRIS LEE, VICE-CHAIR

SENATE COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

TESTIMONY IN SUPPORT OF SENATE BILL NO. 2151, WITH AMENDMENTS
RELATING TO EMERGENCY MANAGEMENT

January 28, 2024, 3:00 p.m.

Conference Room 016 & Videoconference
State Capitol
415 South Beretania Street

Good afternoon, Chair Fukunaga, Vice-Chair Lee, and members of the committee:

My name is David Lane Henkin, and I am an attorney with Earthjustice. We appreciate the opportunity to testify regarding Senate Bill 2151, which seeks to place guardrails on the governor's and mayors' use of emergency powers under HRS Chapter 127A. Earthjustice supports SB 2151. We are concerned, however, that the bill does not contain adequate language to ensure that emergency powers are used to address only true emergencies. We therefore urge the committee to amend SB 2151, as discussed below.

HRS Chapter 127A must be amended to reestablish the proper constitutional balance of powers between the legislature and the governor with respect to the enactment of laws to address important issues of public policy. The Hawai'i Constitution vests the "legislative power of the State" in the legislature. Haw. Const. art. III, § 1. Our Constitution gives the governor the responsibility "for the faithful execution of the laws" that the legislature adopts. Haw. Const. art. V, § 5 (emphasis added).

A recent decision of the Hawai'i Supreme Court, *Nakoa v. Governor of State*, 156 Haw. 416, 575 P.3d 506 (2025), threatens to upset this vital constitutional balance. The Court interpreted HRS Chapter 127A to grant the governor emergency powers — including the extraordinary power to suspend laws enacted by the legislature — to address "not only discrete events" that suddenly "threaten substantial harm to Hawai'i's people, property, or environment," but also "long-term" public policy issues. *Id.* at 434-35, 575 P.3d at 524-25. This interpretation undermines the balance of power enshrined in our Constitution by authorizing the executive branch to make wholly new decisions about long-standing problems without the consent of lawmakers.

In the wake of the Supreme Court's ruling, it is vital for the Legislature to clarify that the emergency powers that HRS Chapter 127A grants to the governor and the mayors are strictly limited 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). To preserve the constitutional balance of powers and to avoid executive overreach, it must remain the exclusive province of the legislature to address longstanding public policy challenges.

SB 2151 seeks to rein in the use of emergency powers by amending HRS § 127A-14 to empower the Legislature to terminate a state of emergency declared by the governor, in whole or in part, "by an affirmative vote of two-thirds of the members to which each house is entitled." As the committee knows full well, however, securing a supermajority vote for any legislative act, no matter how important, is extraordinarily challenging. And, if the Legislature is not in session when the governor attempts to use emergency powers to address non-emergency issues that are properly the province of the Legislature, it would be harder still to convene a special session and set things right. It is vital, therefore, to amend the definitions of "emergency" and "disaster" in HRS § 127A-2 to limit the use of emergency powers in the first place.

Accordingly, we urge the committee to add the following section to SB 2151:

SECTION []. Section 127A-2, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "disaster" to read:

"Disaster" means ~~[any emergency,]~~ the occurrence or imminent threat [thereof, which results or may likely result in] of widespread or severe damage, injury, or loss of life, property, or environment resulting from any sudden natural or artificial cause, including hurricanes, windstorms, floods, extreme rain events, earthquakes, landslides, mudslides, volcanic activity, tsunamis, fires, explosions, air or water contamination, blight, droughts, infestations, riots, sabotage, hostile military or paramilitary action, hazardous material accidents, disease or contagion outbreaks, bioterrorism, terrorism, or incidents involving weapons of mass destruction,

January 28, 2026

Page 2

that ~~[and]~~ requires, or may require, assistance from other counties, states, the federal government, or from private agencies."

2. By amending the definition of "emergency" to read:

""Emergency" means ~~[any]~~ the occurrence~~[,]~~ or imminent threat ~~[thereof, which results or may likely result in substantial injury or]~~ of a disaster that causes or may be likely to cause catastrophic harm and immediate danger to the population ~~[or]~~, substantial damage to or loss of property, or substantial damage to or loss of the environment[.] and that timely action can avert or minimize."

Mahalo for the opportunity to offer this testimony.

SB-2151

Submitted on: 1/24/2026 12:31:35 PM
Testimony for PSM on 1/28/2026 3:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|-----------------|--------------|--------------------|------------------------|
| Victor K. Ramos | Individual | Support | Written Testimony Only |

Comments:

I support this proposal. More checks and balances to the said decisions of the Executive Branch is appreciated.

LATE

SB-2151

Submitted on: 1/27/2026 8:10:09 PM
Testimony for PSM on 1/28/2026 3:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|--------------|--------------------|------------------------|
| Laila Moire-Selvage | Individual | Support | Written Testimony Only |

Comments:

Aloha Chair and Members of the Committee,

My name is Laila Moire-Selvage, and I am a resident of Mountain View on Hawaii Island. I am writing in strong support of SB2151.

I approach this issue from two vital perspectives: as a Board Member of the Big Island Press Club and as a volunteer with the Community Emergency Response Team (CERT).

Through my work with the Press Club, I know that transparency is the bedrock of a functioning democracy. When the government's power expands during a declared emergency, the public's right to know must be protected, not suspended. Suspending the UIPA during a crisis prevents the media and the public from verifying how resources are being used and how decisions are being made.

Furthermore, as a CERT member, I understand the pressure that emergency situations place on government infrastructure. I appreciate that SB2151 is a balanced measure; it prohibits a blanket suspension of records requests but allows for reasonable delays when extenuating circumstances arise. This ensures that while life-saving work comes first, the government cannot use an emergency as a permanent shield against public inquiry.

Public trust is hardest to build and easiest to lose during a crisis. SB2151 ensures that our state remains accountable to its people when it matters most.

I respectfully urge the committee to pass this measure.

Mahalo,
Laila Moire-Selvage, Mountain View, HI