

JAN 19 2024

A BILL FOR AN ACT

RELATING TO EMERGENCY MANAGEMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the emergence of
2 coronavirus disease 2019 (COVID-19) and its variants created a
3 great challenge to global health, the economy, and our way of
4 life. The governor and county mayors had to exercise their
5 emergency powers under chapter 127A, Hawaii Revised Statutes, to
6 impose rules aimed to control the spread of COVID-19. The
7 enforcement of those rules was critical to efforts to limit the
8 spread of COVID-19, protect the health and safety of the
9 community, manage medical resources, and promote economic
10 recovery. The COVID-19 pandemic highlights the importance of
11 clear legal frameworks for state and county emergency management
12 to ensure that the State and counties are ready for any type of
13 emergency.

14 The legislature finds that chapter 127A, Hawaii Revised
15 Statutes, should clearly specify and articulate the bases for
16 emergency actions. To that end, this Act amends chapter 127A,
17 Hawaii Revised Statutes, to require specificity when suspending



1 provisions of law during an emergency; clarify when and how
2 Hawai'i's emergency management system involves coordination
3 between state and county emergency management functions; and
4 clarify the legal framework governing the extension and
5 termination of states of emergency.

6 The purpose of this Act is to clarify state and county
7 emergency management authority, ensure effective and adaptable
8 emergency responses, and further the goals of transparency and
9 democratic accountability within our constitutional system.

10 SECTION 2. Chapter 127A, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§127A- Suspension of certain record requests;
14 prohibited. (a) The governor or mayor shall not, through any
15 proclamation or declaration of emergency or any rule or order
16 adopted pursuant to this chapter, suspend agency response
17 deadlines for requests to:

- 18 (1) Public records pursuant to part II of chapter 92F; or
- 19 (2) Vital records or statistics pursuant to sections
20 338-18 or 338-18.5.



1 (b) Due to extenuating circumstances, there may be a
2 reasonable delay in an agency's response to a request; provided
3 that an agency shall not reject a request at any time,
4 regardless of whether an emergency has been declared."

5 SECTION 3. Section 127A-1, Hawaii Revised Statutes, is
6 amended by amending subsection (c) to read as follows:

7 "(c) It is the intent of the legislature to provide for
8 and confer comprehensive powers for the purposes stated herein.

9 This chapter shall be liberally construed to effectuate its
10 purposes; provided that this chapter shall not be construed as
11 conferring any power or permitting any action [~~which~~] that is
12 inconsistent with the Constitution and laws of the United
13 States[~~7~~] or the Hawaii State Constitution, but, in so

14 construing this chapter, due consideration shall be given to the
15 circumstances as they exist from time to time. This chapter
16 shall not be deemed to have been amended by any act hereafter
17 enacted at the same or any other session of the legislature,
18 unless this chapter is amended by express reference."

19 SECTION 4. Section 127A-2, Hawaii Revised Statutes, is
20 amended by adding a new definition to be appropriately inserted
21 and to read as follows:



1 "Severe warning" means the issuance by the National
2 Weather Service, Pacific Tsunami Warning Center, United States
3 Geological Survey, or other public authority of a public
4 notification that a dangerous condition exists that could impact
5 the State, or any portion of it, within a specified period of
6 time. This term includes but is not limited to warnings of
7 coastal inundation, high surf, flash flooding, volcano, tsunami,
8 or hurricane."

9 SECTION 5. Section 127A-13, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§127A-13 Additional powers in an emergency period. (a)**
12 In the event of a state of emergency declared by the governor
13 pursuant to section 127A-14, the governor may exercise the
14 following additional powers pertaining to emergency management
15 during the emergency period:

16 (1) Provide for and require the quarantine or segregation
17 of persons who are affected with or believed to have
18 been exposed to any infectious, communicable, or other
19 disease that is, in the governor's opinion, dangerous
20 to the public health and safety, or persons who are
21 the source of other contamination, in any case where,



1 in the governor's opinion, the existing laws are not
2 adequate to assure the public health and safety;
3 provide for the care and treatment of the persons;
4 supplement the provisions of sections 325-32 to 325-38
5 concerning compulsory immunization programs; provide
6 for the isolation or closing of property [~~which~~] that
7 is a source of contamination or is in a dangerous
8 condition in any case where, in the governor's
9 opinion, the existing laws are not adequate to assure
10 the public health and safety, and designate as public
11 nuisances acts, practices, conduct, or conditions that
12 are dangerous to the public health or safety or to
13 property; authorize that public nuisances be summarily
14 abated and, if need be, that the property be
15 destroyed, by any police officer or authorized person,
16 or provide for the cleansing or repair of property,
17 and if the cleansing or repair is to be at the expense
18 of the owner, the procedure therefor shall follow as
19 nearly as may be the provisions of section 322-2,
20 which shall be applicable; and further, authorize



1 without the permission of the owners or occupants,
2 entry on private premises for any such purposes;

3 (2) Relieve hardships and inequities, or obstructions to
4 the public health, safety, or welfare, found by the
5 governor to exist in the laws and to result from the
6 operation of federal programs or measures taken under
7 this chapter, by suspending the laws, in whole or in
8 part, or by alleviating, ~~[the provisions of laws on~~
9 ~~such]~~ subject to terms and conditions [as] that the
10 governor may ~~[impose]~~ specify, the provisions of laws,
11 including licensing laws, quarantine laws, and laws
12 relating to labels, grades, and standards;

13 (3) ~~[Suspend]~~ Except as provided in section 127A- ,
14 suspend any law that impedes or tends to impede or be
15 detrimental to the expeditious and efficient execution
16 of, or to conflict with, emergency functions,
17 including laws ~~[which]~~ that by this chapter
18 specifically are made applicable to emergency
19 personnel; provided that any suspension of law shall
20 be no broader and last no longer than the governor
21 deems necessary for the execution of emergency



1 management functions, and any suspension of law shall
2 identify the section of law suspended and, for each
3 section, shall both specify the emergency management
4 functions facilitated and justify the suspension based
5 on protecting the public health, safety, and welfare;
6 provided further that any suspension of any law that
7 requires permits, authorizations, or approvals from
8 any state or county agency may continue beyond the
9 emergency period to allow for the completion of any
10 repairs, reconstruction, rebuilding, or construction
11 of any state or county infrastructure, facilities, or
12 properties that would otherwise be delayed by any
13 permit, authorization, or approval;

- 14 (4) Suspend the provisions of any regulatory law
15 prescribing the procedures for out-of-state utilities
16 to conduct business in the State including any
17 licensing laws applicable to out-of-state utilities or
18 their respective employees, as well as any order,
19 rule, or regulation of any state agency, if strict
20 compliance with the provisions of any such law, order,
21 rule, or regulation would in any way prevent, hinder,



1 or delay necessary action of a state utility in coping
2 with the emergency or disaster with assistance that
3 may be provided under a mutual assistance agreement;

4 (5) In the event of disaster or emergency beyond local
5 control, [~~or~~] an event [~~which,~~] that, in the opinion
6 of the governor, [~~is such as to make~~] makes state
7 operational control or coordination necessary, or upon
8 request of the [~~local entity,~~] county, assume direct
9 operational control over all or any part of the
10 emergency management functions within the affected
11 area[~~]~~ and notwithstanding sections 127A-14 and
12 127A-25, requires the county to obtain the governor's
13 approval, or the approval of the director of the
14 Hawaii emergency management agency, prior to issuing
15 any emergency order, rule, or proclamation under this
16 chapter;

17 (6) Shut off water mains, gas mains, electric power
18 connections, or suspend other services, and, to the
19 extent permitted by or under federal law, suspend
20 electronic media transmission;



- 1 (7) Direct and control the mandatory evacuation of the
2 civilian population;
- 3 (8) Exercise additional emergency functions to the extent
4 necessary to prevent hoarding, waste, or destruction
5 of materials, supplies, commodities, accommodations,
6 facilities, and services, to effectuate equitable
7 distribution thereof, or to establish priorities
8 therein as the public welfare may require; to
9 investigate; and notwithstanding any other law to the
10 contrary, to regulate or prohibit, by means of
11 licensing, rationing, or otherwise, the storage,
12 transportation, use, possession, maintenance,
13 furnishing, sale, or distribution thereof, and any
14 business or any transaction related thereto;
- 15 (9) Suspend section 8-1, relating to state holidays,
16 except the last paragraph relating to holidays
17 declared by the president, which shall remain
18 unaffected, and in the event of the suspension, the
19 governor may establish state holidays by proclamation;
- 20 (10) Adjust the hours for voting to take into consideration
21 the working hours of the voters during the emergency



1 period, and suspend those provisions of section 11-131
2 that fix the hours for voting, and fix other hours by
3 stating the same in the election proclamation or
4 notice, as the case may be;

5 (11) Assure the continuity of service by critical
6 infrastructure facilities, both publicly and privately
7 owned, by regulating or, if necessary to the
8 continuation of the service thereof, by taking over
9 and operating the same; and

10 (12) Except as provided in section 134-7.2, whenever in the
11 governor's opinion, the laws of the State do not
12 adequately provide for the common defense, public
13 health, safety, and welfare, investigate, regulate, or
14 prohibit the storage, transportation, use, possession,
15 maintenance, furnishing, sale, or distribution of, as
16 well as any transaction related to, explosives,
17 firearms, and ammunition, inflammable materials and
18 other objects, implements, substances, businesses, or
19 services of a hazardous or dangerous character, or
20 particularly capable of misuse, or obstructive of or
21 tending to obstruct law enforcement, emergency



1 management, or military operations, including
2 intoxicating liquor and the liquor business; and
3 authorize the seizure and forfeiture of any such
4 objects, implements, or substances unlawfully
5 possessed, as provided in this chapter.

6 (b) In the event of a local state of emergency declared by
7 the mayor pursuant to [†]section[†] 127A-14, the mayor may
8 exercise the following additional powers pertaining to emergency
9 management during the emergency period:

10 (1) Relieve hardships and inequities, or obstructions to
11 the public health, safety, or welfare, found by the
12 mayor to exist in the laws of the county and to result
13 from the operation of federal programs or measures
14 taken under this chapter, by suspending the county
15 laws, in whole or in part, or by alleviating [~~the~~
16 ~~provisions of county laws on such~~], subject to terms
17 and conditions [~~as~~] that the mayor may [~~impose~~]
18 specify, the provisions of county laws, including
19 county licensing laws[~~7~~] and county laws relating to
20 labels, grades, and standards;



1 (2) ~~Suspend~~ Except as provided in section 127A- ,
2 suspend any county law that impedes or tends to impede
3 or be detrimental to the expeditious and efficient
4 execution of, or to conflict with, emergency
5 functions, including laws ~~which~~ that by this chapter
6 specifically are made applicable to emergency
7 personnel; provided that any suspension of law shall
8 be no broader and last no longer than the mayor deems
9 necessary for the execution of emergency management
10 functions, and any suspension of law shall identify
11 the section of law suspended and, for each section,
12 shall both specify the emergency management functions
13 facilitated and justify the suspension based on
14 protecting the public health, safety, and welfare;
15 provided further that any suspension of any law that
16 requires permits, authorizations, or approvals from
17 any state or county agency may continue beyond the
18 emergency period to allow for the completion of any
19 repairs, reconstruction, rebuilding, or construction
20 of any state or county infrastructure, facilities, or



1 properties that would otherwise be delayed by any such
2 permit, authorization, or approval;

3 (3) Shut off water mains, gas mains, electric power
4 connections, or suspend other services; and, to the
5 extent permitted by or under federal law, suspend
6 electronic media transmission;

7 (4) Direct and control the mandatory evacuation of the
8 civilian population; and

9 (5) Exercise additional emergency functions, to the extent
10 necessary to prevent hoarding, waste, or destruction
11 of materials, supplies, commodities, accommodations,
12 facilities, and services, to effectuate equitable
13 distribution thereof, or to establish priorities
14 therein as the public welfare may require; to
15 investigate; and any other county law to the contrary
16 notwithstanding, to regulate or prohibit, by means of
17 licensing, rationing, or otherwise, the storage,
18 transportation, use, possession, maintenance,
19 furnishing, sale, or distribution thereof, and any
20 business or any transaction related thereto."



1 SECTION 6. Section 127A-14, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§127A-14 State of emergency. (a) The governor may
4 declare the existence of a state of emergency in the State by
5 proclamation if the governor finds that an emergency or disaster
6 has occurred or that there is imminent danger or threat of an
7 emergency or disaster in any portion of the State.

8 (b) A mayor may declare the existence of a local state of
9 emergency in the county by proclamation if the mayor finds that
10 an emergency or disaster has occurred or that there is imminent
11 danger or threat of an emergency or disaster in any portion of
12 the county.

13 (c) ~~The~~ Except as provided in subsections (e) and (f),
14 the governor or mayor shall be the sole judge of the existence
15 of the danger, threat, or circumstances giving rise to a
16 declaration, extension, or termination of a state of emergency
17 in the State or a local state of emergency in the county, as
18 applicable. This section shall not limit the power and
19 authority of the governor under section 127A-13(a)(5).

20 (d) A state of emergency and a local state of emergency
21 shall terminate automatically sixty days after the issuance of a



1 proclamation of a state of emergency or local state of
2 emergency, respectively, [~~or~~] unless extended or terminated by a
3 separate or supplementary proclamation of the governor or
4 mayor[~~, whichever occurs first~~]. The governor or mayor shall
5 proclaim the termination of a state of emergency or local state
6 of emergency, respectively, at the earliest possible date that
7 conditions warrant.

8 (e) The legislature may, by an affirmative vote of two-
9 thirds of the members to which each house is entitled, terminate
10 a state of emergency, in part or in whole, declared by the
11 governor pursuant to this section.

12 (f) The county council may, by an affirmative vote of two-
13 thirds, terminate a state of emergency, in part or in whole,
14 declared by the mayor pursuant to this section."

15 SECTION 7. Section 127A-30, Hawaii Revised Statutes, is
16 amended by amending subsection (c) to read as follows:

17 "(c) The prohibitions under subsection (a) shall remain in
18 effect until twenty-four hours after the severe weather warning
19 is canceled by the National Weather Service; or in the event of
20 a declaration, [~~the later of a date specified by the governor or~~
21 ~~mayor in the declaration or ninety-six~~] seventy-two hours after



1 the effective date and time of the declaration, unless such
 2 prohibition is identified and continued [~~by a supplementary~~
 3 ~~declaration issued~~] by the governor or mayor[-] in the
 4 proclamation or any supplementary proclamation. Any
 5 proclamation issued under this chapter that fails to state the
 6 time at which it will take effect."

7 SECTION 8. Statutory material to be repealed is bracketed
 8 and stricken. New statutory material is underscored.

9 SECTION 9. This Act shall take effect upon its approval.

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INTRODUCED BY: 



S.B. NO. 2681

Report Title:

Emergency Management; State of Emergency

Description:

Amends chapter 127A, HRS, to clarify State and local authority. Prohibits the Governor or Mayor from suspending requests for public records or vital specifics during a state of emergency. Clarifies that powers granted for emergency purposes shall not be construed as permitting actions inconsistent with the state constitution. Adds definition of the term "severe warning" as used in 127A-30, HRS. Allows the Legislature and city councils to terminate a state of emergency, in whole or in part, issued by the Governor or Mayor, respectively.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

