

JAN 24 2019

A BILL FOR AN ACT

RELATING TO A MUTUAL ASSISTANCE AGREEMENT.

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

1 SECTION 1. In 2006, the legislature approved the emergency
2 management assistance compact, allowing the State to become a
3 member with forty-nine other states, the District of Colombia,
4 Puerto Rico, and the Virgin Island. As a member of the compact,
5 the State would be able to receive interstate aid in the event
6 of a disaster. In doing so, the legislature recognized that
7 while Hawaii may be capable of managing most emergencies, there
8 are times when disasters exceed state and local resources,
9 therefore requiring outside assistance. The legislature
10 recognized that such outside assistance is especially crucial
11 for a geographically isolated state such as Hawaii.

12 For many critical infrastructure providers, particularly
13 public utility providers, in a time of a major natural disaster
14 or emergency, one priority is the restoration of utilities to
15 ensure the public has available resources it needs to recover
16 from any disaster. For electrical utilities, one major concern
17 is being able to safely and timely respond to all customers'



1 needs, including residents, businesses, and government agencies,
2 following any disaster. While Hawaii's utility providers are
3 reliable, if a disaster like hurricane Maria in Puerto Rico hit
4 Hawaii, the State's utility providers may need to seek
5 assistance from outside of the State.

6 The legislature further finds that all Hawaii based public
7 utility providers are members of the Western Region Mutual
8 Assistance Agreement (WRMAA), an agreement between public
9 electric and gas utilities throughout the continental United
10 States and certain Canadian utilities, to make their resources
11 available in the event of emergencies or disasters. The
12 Hawaiian Electric companies have been signatories of the WRMAA
13 since 2006, with the Kauai Island Utility Cooperative becoming a
14 signatory on August 6, 2013. Under the terms of the WRMAA, the
15 Hawaiian Electric Companies provided support to Pacific Gas and
16 Electric in November of 2018, by sending a team of thirty-five
17 linemen and support staff to assist its recovery after the camp
18 fire that devastated the town of Paradise, California. In the
19 event that the State suffers devastating effects from a
20 disaster, out of state public utilities are willing and able to
21 provide the State with similar support. This Act will ensure



1 that in times of an emergency, qualified utility workers from
2 out of state would be able to provide their services in the
3 State to help restore utilities to operating condition.

4 The purpose of this Act is to ensure that in times of
5 emergencies or natural disasters that the State and electrical
6 utilities in the State are allowed to enter into a mutual
7 assistance agreement with an out of state utility to assist in
8 the restoration of electrical power.

9 SECTION 2. Section 127A-1, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) Because of the existing and increasing possibility of
12 the occurrence of disasters or emergencies of unprecedented size
13 and destructiveness resulting from natural or man-made hazards,
14 and in order to ensure that the preparations of this State will
15 be adequate to deal with such disasters or emergencies; to
16 ensure the administration of state and federal programs
17 providing disaster relief to individuals; and generally to
18 protect the public health, safety, and welfare and to preserve
19 the lives and property of the people of the State, it is hereby
20 found and declared to be necessary:



1 (1) To provide for emergency management by the State, and
2 to authorize the creation of local organizations for
3 emergency management in the counties of the State;

4 (2) To confer upon the governor and upon the mayors of the
5 counties of the State the emergency powers necessary
6 to prepare for and respond to emergencies or
7 disasters;

8 (3) To provide for the rendering of mutual aid among the
9 counties of the State and with other states and in
10 cooperation with the federal government with respect
11 to the carrying out of emergency management functions;
12 [and]

13 (4) To permit out of state utilities to provide services
14 in the State pursuant to a mutual assistance agreement
15 with a state utility to repair, renovate, or install
16 electrical facilities that have been damaged,
17 impaired, or destroyed due to or in connection with
18 natural disasters or emergencies; and

19 ~~[(4)]~~ (5) To provide programs, in cooperation with other
20 governmental agencies, the private sector, and



1 nonprofit organizations, to educate and train the
2 public to be prepared for emergencies and disasters."

3 SECTION 3. Section 127A-2, Hawaii Revised Statutes, is
4 amended by adding four new definitions to be appropriately
5 inserted and to read as follows:

6 "Electrical facilities" means any equipment and
7 infrastructure owned and operated by a state utility for the
8 purpose of generating, transmitting, distributing, or furnishing
9 electrical energy service.

10 "Mutual assistance agreement" means an agreement by which
11 two or more business entities are parties and under which a
12 public utility, municipally owned utility, or electric
13 cooperative owning or operating infrastructure used for electric
14 generation, electric transmission, or electric distribution in
15 this State may request that an out of state business perform
16 work in this State in anticipation of a natural disaster or
17 emergency.

18 "Out of state utility" means a public utility, municipally
19 owned utility, or electric cooperative that owns or operates
20 infrastructure used for electric generation, electric
21 transmission, or electric distribution outside of the State, and



1 are regulated by the public utilities commission of the state
2 where they operate.

3 "State utility" has the same meaning as "public utility" as
4 defined in section 269-1."

5 SECTION 4. Section 127A-13, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) In the event of a state of emergency declared by the
8 governor pursuant to [{}section[{}]] 127A-14, the governor may
9 exercise the following additional powers pertaining to emergency
10 management during the emergency period:

- 11 (1) Provide for and require the quarantine or segregation
12 of persons who are affected with or believed to have
13 been exposed to any infectious, communicable, or other
14 disease that is, in the governor's opinion, dangerous
15 to the public health and safety, or persons who are
16 the source of other contamination, in any case where,
17 in the governor's opinion, the existing laws are not
18 adequate to assure the public health and safety;
19 provide for the care and treatment of the persons;
20 supplement the provisions of sections 325-32 to 325-38
21 concerning compulsory immunization programs; provide



1 for the isolation or closing of property which is a
2 source of contamination or is in a dangerous condition
3 in any case where, in the governor's opinion, the
4 existing laws are not adequate to assure the public
5 health and safety, and designate as public nuisances
6 acts, practices, conduct, or conditions that are
7 dangerous to the public health or safety or to
8 property; authorize that public nuisances be summarily
9 abated and, if need be, that the property be
10 destroyed, by any police officer or authorized person,
11 or provide for the cleansing or repair of property,
12 and if the cleansing or repair is to be at the expense
13 of the owner, the procedure therefor shall follow as
14 nearly as may be the provisions of section 322-2,
15 which shall be applicable; and further, authorize
16 without the permission of the owners or occupants,
17 entry on private premises for any such purposes;
18 (2) Relieve hardships and inequities, or obstructions to
19 the public health, safety, or welfare, found by the
20 governor to exist in the laws and to result from the
21 operation of federal programs or measures taken under



1 this chapter, by suspending the laws, in whole or in
2 part, or by alleviating the provisions of laws on such
3 terms and conditions as the governor may impose,
4 including licensing laws, quarantine laws, and laws
5 relating to labels, grades, and standards;

6 (3) Suspend any law that impedes or tends to impede or be
7 detrimental to the expeditious and efficient execution
8 of, or to conflict with, emergency functions,
9 including laws which by this chapter specifically are
10 made applicable to emergency personnel;

11 (4) Suspend the provisions of any regulatory statute
12 prescribing the procedures for out of state utilities
13 to conduct business in the State, including any
14 licensing laws applicable to out of state utilities or
15 their respective employees, as well as any orders,
16 rules, or regulations of any state agency, if strict
17 compliance with the provisions of any statute, order,
18 rule, or regulations would in any way prevent, hinder,
19 or delay necessary action of state utilities in coping
20 with the emergency or natural disasters with



1 assistance that may be provided under a mutual
2 assistance agreement;

3 ~~[(+4)]~~ (5) In the event of disaster or emergency beyond
4 local control, or an event which, in the opinion of
5 the governor, is such as to make state operational
6 control necessary, or upon request of the local
7 entity, assume direct operational control over all or
8 any part of the emergency management functions within
9 the affected area;

10 ~~[(+5)]~~ (6) Shut off water mains, gas mains, electric power
11 connections, or suspend other services, and, to the
12 extent permitted by or under federal law, suspend
13 electronic media transmission;

14 ~~[(+6)]~~ (7) Direct and control the mandatory evacuation of
15 the civilian population;

16 ~~[(+7)]~~ (8) Exercise additional emergency functions to the
17 extent necessary to prevent hoarding, waste, or
18 destruction of materials, supplies, commodities,
19 accommodations, facilities, and services, to
20 effectuate equitable distribution thereof, or to
21 establish priorities therein as the public welfare may



1 require; to investigate; and notwithstanding any other
2 law to the contrary, to regulate or prohibit, by means
3 of licensing, rationing, or otherwise, the storage,
4 transportation, use, possession, maintenance,
5 furnishing, sale, or distribution thereof, and any
6 business or any transaction related thereto;

7 ~~[(+8)]~~ (9) Suspend section 8-1, relating to state holidays,
8 except the last paragraph relating to holidays
9 declared by the president, which shall remain
10 unaffected, and in the event of the suspension, the
11 governor may establish state holidays by proclamation;

12 ~~[(+9)]~~ (10) Adjust the hours for voting to take into
13 consideration the working hours of the voters during
14 the emergency period, and suspend those provisions of
15 section 11-131 that fix the hours for voting, and fix
16 other hours by stating the same in the election
17 proclamation or notice, as the case may be;

18 ~~[(+10)]~~ (11) Assure the continuity of service by critical
19 infrastructure facilities, both publicly and privately
20 owned, by regulating or, if necessary to the



1 continuation of the service thereof, by taking over
2 and operating the same; and

3 ~~[(11)]~~ (12) Except as provided in section 134-7.2, whenever
4 in the governor's opinion, the laws of the State do
5 not adequately provide for the common defense, public
6 health, safety, and welfare, investigate, regulate, or
7 prohibit the storage, transportation, use, possession,
8 maintenance, furnishing, sale, or distribution of, as
9 well as any transaction related to, explosives,
10 firearms, and ammunition, inflammable materials and
11 other objects, implements, substances, businesses, or
12 services of a hazardous or dangerous character, or
13 particularly capable of misuse, or obstructive of or
14 tending to obstruct law enforcement, emergency
15 management, or military operations, including
16 intoxicating liquor and the liquor business; and
17 authorize the seizure and forfeiture of any such
18 objects, implements, or substances unlawfully
19 possessed, as provided in this chapter."

20 SECTION 5. Section 127A-14, Hawaii Revised Statutes, is
21 amended by amending subsection (c) to read as follows:



1 "(c) The governor or mayor shall be the sole judge of the
2 existence of the danger, threat, or circumstances giving rise to
3 a declaration of a state of emergency in the State or a local
4 state of emergency in the county, as applicable. This section
5 shall not limit the power and authority of the governor under
6 section [~~127A-13(a)(4).~~] 127A-13(a)(5)."

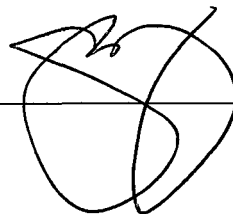
7 SECTION 6. If any provision of this Act, or the
8 application thereof to any person or circumstance, is held
9 invalid, the invalidity does not affect other provisions or
10 applications of the Act that can be given effect without the
11 invalid provision or application, and to this end the provisions
12 of this Act are severable.




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

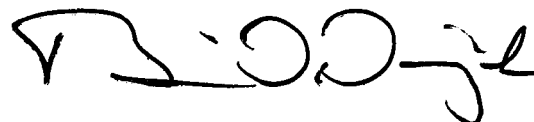
15 SECTION 8. This Act shall take effect upon its approval.

16 INTRODUCED BY: _____



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S.B. NO. 1293

Report Title:

Emergencies; Natural Disasters; Mutual Assistance Agreement;
Electrical Utilities; Out of State Utilities

Description:

Authorizes the State to enter into a mutual assistance agreement with an out of state utility in order to restore electrical power of the State, without regard to any regulatory law, in times of an emergency or natural disaster.

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