

S.B. NO. 2885

JAN 23 2020

A BILL FOR AN ACT

RELATING TO THE HAWAII EMERGENCY MANAGEMENT AGENCY.

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

1 SECTION 1. Section 127A-18, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§~~127A-18~~§~~ **Mitigation of hazardous situations.** (a)
4 Even in the absence of an emergency or disaster, the governor
5 may authorize designated state employees, agents, contractors,
6 or representatives to enter private property at reasonable times
7 to mitigate situations deemed by the governor to be hazardous to
8 the health and safety of the public; provided that this section
9 shall be applicable only to the following actions:

- 10 (1) Cutting, trimming, or removing dangerous trees or
11 branches that pose a hazard to other properties;
12 (2) Stabilizing or removing unstable rock and soil
13 hazards; or
14 (3) Cleaning streams and waterways to mitigate or prevent
15 flooding or other hazards;

16 provided further that at least ten days' written notice shall be
17 provided to the landowner and to the occupier of the private
18 property of the governor's intention to authorize designated

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1 state employees, agents, contractors, or representatives to
2 enter the property to mitigate the hazardous situation; provided
3 further that the landowner or occupier shall be given a
4 reasonable opportunity to mitigate the hazardous situation
5 without assistance of the State before designated state
6 employees, agents, contractors, or representatives may enter the
7 property.

8 (b) Written notice sent to the landowner's last known
9 address by certified mail, postage prepaid, return receipt
10 requested, shall be deemed sufficient notice. If land ownership
11 cannot be determined, notice shall be given once in a daily or
12 weekly publication of general circulation in the county in which
13 any action or proposed action will be taken.

14 (c) If entry is refused, the governor may apply to the
15 district court in the circuit in which the property is located
16 for a warrant to enter the premises. The district court may
17 issue a warrant directing the chief of the appropriate county
18 police to assist the governor in gaining entry onto the premises
19 during regular working hours or at other reasonable times.

20 (d) The governor may seek recovery and reimbursement, by
21 appropriate proceedings, of all costs and expenses incurred in
22 the mitigation of a hazardous situation under this section, and

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1 any costs and expenses imposed against any landowner shall be a
2 lien upon the landowner's property.

3 (e) This section shall take effect only upon authorization
4 and funding for personnel to administer the program.

5 (f) There is established in the state treasury the hazard
6 mitigation special fund, into which shall be deposited:

7 (1) All revenues from any recovery or reimbursement
8 pursuant to this section; and

9 (2) Appropriations made by the legislature for deposit
10 into the fund.

11 (g) Moneys in the hazard mitigation special fund shall be
12 used for personnel costs and operating and administrative costs
13 deemed necessary by the agency to administer this section."

14 SECTION 2. There is appropriated out of the general
15 revenues of the state of Hawaii the sum of \$5,000,000 or so much
16 thereof as may be necessary for fiscal year 2020-2021 to be
17 deposited into the hazard mitigation special fund established by
18 section 127A-18, Hawaii Revised Statutes.

19 SECTION 3. There is appropriated out of the hazard
20 mitigation special fund the sum of \$5,000,000 or so much thereof
21 as may be necessary for fiscal year 2020-2021 for the purposes
22 of this Act.

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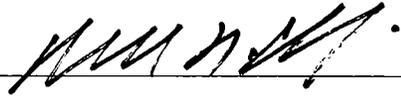
1 SECTION 4. The sums appropriated shall be expended by the
2 Hawaii emergency management agency.

3 SECTION 5. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 6. This Act shall take effect upon its approval.

6

7

INTRODUCED BY: 

8

BY REQUEST

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Report Title:

Hawaii Emergency Management Agency

Description:

Establishes the hazard mitigation special fund for the Hawaii Emergency Management Agency.

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

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JUSTIFICATION SHEET

DEPARTMENT: Defense

TITLE: A BILL FOR AN ACT RELATING TO THE HAWAII EMERGENCY MANAGEMENT AGENCY.

PURPOSE: The purpose of this bill is to establish the Hazard Mitigation Special Fund to allow the Hawaii Emergency Management Agency the ability to monitor its own hazard mitigation projects.

MEANS: Amend section 127A-18, Hawaii Revised Statutes (HRS).

JUSTIFICATION: There currently are no funds to support the management and implementation of hazardous mitigation projects covered under section 127A-18, HRS. Section 127A-18 authorizes the Governor (in the absence of an emergency or disaster) to designate state employees, agents, contractors, or representatives to enter private property at reasonable times to mitigate situations deemed by the Governor to be hazardous to the health and safety of the public for situations related to (1) cutting, trimming, or removing dangerous trees or branches that pose a hazard to other properties; (2) stabilizing or removing unstable rock and soil hazards; or (3) cleaning streams and waterways to mitigate or prevent flooding or other hazards.

Annual funding will allow the Hawaii Emergency Management Agency to manage hazardous mitigation and meet the intent of section 127A-18.

Additionally, other states support

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hazard mitigation funding and have garnered successful results.

The general fund appropriation included in this measure has been proposed with consideration of the statutorily defined appropriation ceiling for the Executive Branch pursuant to section 37-92, Hawaii Revised Statutes. The total proposed appropriations from the General Fund (which include the Executive Supplemental Budget for FB 2019-2021 and Administration Proposal BUF-08(20), appropriation for bargaining unit 13 collective bargaining increases to be submitted) exceed the appropriation ceiling by \$24,761,740 (or 0.3%) in fiscal year 2021. Funding requested in this measure to allow HIEMA to establish a hazard mitigation special fund to address hazard mitigation projects covered under section 127A-18 will result in the appropriation ceiling for the Executive Branch to now be exceeded in fiscal year 2020-2021 by an additional \$5,000,000 or 0.0006%. This current declaration takes into account additional general fund appropriations authorized for fiscal year 2020-2021 in the Executive Supplemental Budget, administration proposal BUF-08(20), and this measure only, and does not include other general fund appropriations for fiscal year 2020-2021 that may be authorized for the Executive Branch in other legislation submitted to the Legislature during the regular session of 2020.

Impact on the public: The establishment of the Hazardous Mitigation Special Fund will increase public health and safety by providing funds to address the three (3) hazardous mitigation conditions defined in section 127A-18.

Impact on the department and other agencies: Positive impact to the Department of Defense & HIEMA and

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other agencies, such as the Department of Transportation and public utilities by providing specific funding to address hazardous mitigation and improve response time to roads and utilities that may otherwise be affected. No known negative impact to other departments.

GENERAL FUND: \$5,000,000.

OTHER FUND: None.

PPBS PROGRAM
DESIGNATION: DEF 110.

OTHER AFFECTED
AGENCIES: Department of Transportation.

EFFECTIVE DATE: Upon approval.