
A BILL FOR AN ACT

RELATING TO AN INTRASTATE MUTUAL AID SYSTEM.

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

1 SECTION 1. The legislature finds that some emergencies are
2 so consequential or urgent that they can overwhelm political
3 jurisdictions and their available resources. In such cases,
4 intergovernmental coordination is essential for the protection
5 of lives and property. Systems of mutual assistance allow for
6 political jurisdictions to assist in the prevention of, response
7 to, and recovery from, these types of emergencies.

8 The purpose of this Act is to establish a system of
9 intrastate mutual aid that will allow counties to provide
10 assistance across jurisdictional lines during emergencies.

11 SECTION 2. The Hawaii Revised Statutes is amended by
12 adding a new chapter to be appropriately designated and to read
13 as follows:

14 **"CHAPTER**

15 **INTRASTATE MUTUAL AID ACT**

16 § -1 **Short title.** This chapter shall be known and may
17 be cited as the Intrastate Mutual Aid Act.



1 § -2 **Definitions.** For the purposes of this chapter,
2 unless the context otherwise requires:

3 "Agency" means the Hawaii emergency management agency.

4 "Assistance" means emergency responders and resources
5 provided by a responding member county in response to a request
6 from a requesting member county.

7 "County" means the city and county of Honolulu or the
8 county of Hawaii, Kauai, or Maui; provided that the county of
9 Maui shall include the county of Kalawao for the purposes of
10 this chapter.

11 "Emergency" means an event or set of circumstances that:

12 (1) Demands immediate action to preserve public health,
13 protect life and public property, or provide relief to
14 any stricken community overtaken by the event or
15 circumstance; or

16 (2) Reaches a dimension or degree of destructiveness as to
17 warrant the declaration of a state of emergency or
18 local state of emergency, pursuant to section 127A-14.

19 "Emergency responder" means:

20 (1) An employee of a responding member county who is
21 designated in writing by that responding member county



1 as possessing skills, qualifications, training,
2 knowledge, or experience that may be necessary,
3 pursuant to a request for assistance under this
4 chapter, for:

5 (A) Response, mitigation, or recovery activities
6 related to an emergency; or

7 (B) Participation in drills or exercises in
8 preparation for an emergency; or

9 (2) Any person with specialized equipment operations
10 skills or training or any other skills necessary to
11 provide aid in an emergency, regardless of whether the
12 person possesses a license, certificate, permit, or
13 other official recognition for expertise in a
14 particular field or area of knowledge.

15 "Emergency responder" includes but is not limited to law
16 enforcement officers, fire fighters, emergency medical services
17 personnel, physicians, nurses, other public health personnel,
18 emergency management personnel, and public works personnel.

19 "Operational control" means the limited authority to direct
20 tasks, assignments, and use of assistance provided pursuant to a
21 request for assistance issued under this chapter to address:



(1) Response, mitigation, or recovery activities related to an emergency; or

(2) Participation in drills or exercises in preparation for an emergency.

"Operational control" does not include any right, privilege, or benefit of ownership or employment, including disposition, compensation, wages, salary, pensions, health benefits, leave, seniority, discipline, promotion, hiring, or firing.

"Requesting member county" means a member county that requests assistance from another member county under this chapter.

"Resources" includes supplies, materials, equipment, facilities, energy, services, information, systems, and other assets that may be necessary, pursuant to a request for assistance under this chapter, for:

(1) Response, mitigation, or recovery activities related to an emergency; or

(2) Participation in drills or exercises in preparation for an emergency.

"Resources" does not include emergency responders.



1 "Responding member county" means a member county providing
2 or intending to provide assistance to a requesting member county
3 under this chapter.

4 **§ -3 Intrastate mutual aid system; established. (a)**

5 The intrastate mutual aid system is established to provide for
6 mutual assistance, during an emergency, among counties that
7 choose to participate as member counties. Each county shall be
8 considered a member county unless the county is released in
9 accordance with subsection (b).

10 (b) A member county shall be released from membership in
11 the intrastate mutual aid system established under this chapter
12 upon receipt by the agency of a resolution or ordinance
13 declaring that the member county elects not to participate in
14 the system.

15 (c) Nothing in this chapter may be construed to affect
16 other mutual aid plans or agreements otherwise authorized by
17 law, including under chapter 127A, or preclude a county from
18 entering or participating in those mutual aid plans or
19 agreements.

20 (d) Mutual assistance may be requested by, and provided
21 to, member counties under this chapter for:



1 (1) Response, mitigation, or recovery activities related
2 to an emergency; or

3 (2) Participation in drills or exercises in preparation
4 for an emergency.

5 (e) The agency shall develop comprehensive guidelines and
6 procedures that address at least the following:

7 (1) Projected or anticipated costs;

8 (2) Checklists for requesting and providing assistance;

9 (3) Recordkeeping for all member counties;

10 (4) Reimbursement procedures; and

11 (5) Other necessary implementation elements, including
12 necessary forms for requests and other records
13 documenting deployment and return of assets.

14 **§ -4 Responsibilities of member counties.** It shall be
15 the responsibility of each member county to:

16 (1) Use an identification system common to all member
17 counties to identify potential hazards that may affect
18 the member county;

19 (2) Conduct joint planning, intelligence sharing, and
20 threat assessment development with other member
21 counties; and



(3) Identify and inventory the current services, equipment, supplies, personnel, and other resources related to planning, prevention, mitigation, response, and recovery activities of the member county.

§ -5 Requesting assistance. A member county may request assistance from other member counties under the intrastate mutual aid system for response, mitigation, or recovery activities related to an emergency, or to participate in drills or exercises in preparation for an emergency, subject to each of the following provisions:

(1) Prior to requesting assistance, a requesting member county shall:

(A) Have determined an emergency exists within the requesting member county's territorial limits pursuant to chapter 127A; or

(B) Anticipate undertaking drills or exercises in preparation for an emergency;

(2) The mayor of a requesting member county, or authorized designee, shall request assistance directly from the mayor, or authorized designee, of another member county; provided that if this request is oral, the



1 request shall be confirmed in writing within thirty
2 days after the date of the request;

3 (3) A responding member county may withhold or withdraw
4 requested assistance at any time and for any reason,
5 in the responding member county's sole discretion;

6 (4) A responding member county shall designate in writing
7 all assistance that the responding member county is
8 providing to a requesting member county at the time
9 provided, consistent with the guidelines and
10 procedures developed by the agency, and deliver copies
11 of this documentation to the requesting member county
12 within thirty days after the assistance is provided;
13 and

14 (5) The requesting member county shall only have
15 operational control of assistance provided under this
16 chapter, which shall not interfere with a responding
17 member county's right to withdraw assistance.

18 **§ -6 Qualifications of emergency responders for the**
19 **purposes of the requesting member county.** An emergency
20 responder holding a license, certificate, or other permit
21 evidencing qualification in a professional, mechanical, or other



1 skill, issued by the State or a county, shall be deemed to be
2 licensed, certified, or permitted in the requesting member
3 county for the duration of the emergency, drill, or exercise,
4 subject to any limitations and conditions that the mayor of the
5 requesting member county may prescribe in writing.

6 **§ -7 Emergency responder status and rights.** (a) An
7 emergency responder shall not be considered an employee of the
8 requesting member county and shall not be entitled to any right,
9 privilege, or benefit of employment from the requesting member
10 county, including but not limited to compensation, wages,
11 salary, leave, pensions, health benefits, or other advantages.

12 (b) If any state or county official, officer, or employee
13 is engaged in carrying out this chapter in lieu of the official,
14 officer, or employee's regular office or employment, the amount
15 of the official, officer, or employee's compensation shall not
16 be adversely affected, and the official, officer, or employee's
17 rights in or under the laws relating to vacation and leave, the
18 retirement system, civil service, or the like shall not be
19 adversely affected.

20 (c) All persons, including volunteers whose services have
21 been accepted by authorized persons, while engaged in the



1 performance of duty pursuant to this chapter, including any duty
2 performed during exercises and training, shall be deemed to be
3 employees of the responding county and shall have the powers,
4 duties, rights, and privileges of an employee of the responding
5 county in the performance of their duties, except as may be
6 prescribed by or under the authority of the mayor of the
7 responding county pursuant to this chapter.

8 (d) In case of injury or death arising out of and in the
9 performance of duty pursuant to this chapter, including any duty
10 performed during periods of training, all persons having the
11 status of official, officer, or employee of the responding
12 county, pursuant to this section, and the official, officer, or
13 employee's dependents, shall be entitled to all of the benefits
14 provided in chapter 386, including medical services and
15 supplies, and in case of injury or death, no public official
16 shall be excluded from the coverage of chapter 386 by reason of
17 being an elected official. For the purposes of the benefits,
18 average weekly wages shall be computed upon the basis set forth
19 in section 386-51, upon the basis of earnings from the usual
20 employment of the person, or upon the basis of earnings at the
21 rate of \$20 per week, whichever is most favorable to the



1 claimant or claimants. The costs thereof shall be a charge upon
2 the county insurance fund of the responding county; provided
3 that the mayor of the responding county may effect the insurance
4 in respect of the obligations assumed pursuant to this section
5 and as may be available under any mutual aid agreement or act of
6 the United States Congress. Nothing in this section shall
7 adversely affect the right of any person to receive any benefits
8 or compensation under any act of the United States Congress.

9 Any benefits provided by a responding county to an emergency
10 responder shall be included in the true and full value of
11 assistance provided for purposes of reimbursement under section
12 -8.

13 **§ -8 Reimbursement for assistance provided.** (a) A
14 requesting member county shall reimburse a responding member
15 county for the true and full value of all assistance provided
16 under this chapter; provided that a responding member county may
17 donate assistance provided under this chapter to a requesting
18 member county.

19 (b) If a dispute regarding reimbursement arises between
20 member counties, the member county asserting the dispute shall
21 provide written notice to the other member county identifying



1 the reimbursement issues in dispute. If the dispute is not
2 resolved within ninety days after receipt of the dispute notice
3 by the other party, either party to the dispute may invoke
4 binding arbitration to resolve the reimbursement dispute by
5 giving written notice to the other party. Within thirty days
6 after receipt of the notice invoking binding arbitration, each
7 party shall furnish to the other party a list of acceptable
8 arbitrators. The parties shall select an arbitrator. If the
9 parties do not agree on an arbitrator, each party shall select
10 one arbitrator and the two arbitrators shall select a third
11 arbitrator for an arbitration panel. Costs of the arbitration,
12 including compensation for the arbitrator's services, shall be
13 borne equally by the parties participating in the arbitration,
14 and each party shall bear its own costs and expenses, including
15 legal fees and witness expenses, in connection with the
16 arbitration proceeding.

17 **§ -9 Immunity of emergency responders.** For purposes of
18 tort liability or immunity, an emergency responder of a
19 responding member county shall be considered an agent of the
20 requesting member county. Except in cases of wilful misconduct,
21 gross negligence, or recklessness, no emergency responder shall



1 be civilly liable for the death of, or injury to, persons, or
2 property damage, as a result of any act or omission in the
3 course of providing or attempting to provide assistance under
4 this chapter.

5 **§ -10 Severability.** If any provision of this chapter or
6 the application thereof to any person or circumstance is held
7 invalid, the invalidity does not affect other provisions or
8 applications of the chapter which can be given effect without
9 the invalid provision or application, and to this end the
10 provisions of this chapter are severable."

11 SECTION 3. This Act shall take effect upon its approval.

12



H.B. NO. 1587
H.D. 1
S.D. 1
C.D. 1

Report Title:

Hawaii Emergency Management Agency; Intrastate Mutual Aid
System; Emergencies; Counties

Description:

Establishes the intrastate mutual aid system to allow counties
to share resources in times of emergency or in preparation for
emergencies. (CD1)

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not legislation or evidence of legislative intent.*

