



STATE OF HAWAII
DEPARTMENT OF DEFENSE
HAWAII EMERGENCY MANAGEMENT AGENCY

TESTIMONY ON HOUSE BILL 1587, HD1
RELATING TO AN INTRASTATE MUTUAL AID SYSTEM

BEFORE THE SENATE COMMITTEE ON
WAYS AND MEANS

BY

Luke P. Meyers
Administrator, Hawaii Emergency Management Agency (HI-EMA)

APRIL 8, 2022

Aloha Chair Dela Cruz, Vice-Chair Keith-Agaran, and Members of the
Committee:

Thank you for the opportunity to submit testimony in **SUPPORT** of HB 1587,
HD1.

House Bill 1587, HD1 Establishes the intrastate mutual aid system to allow
counties to share resources in times of emergency or in preparation for
emergencies.

Since 2018 there have been 12 federally declared disasters in Hawaii, many
of which have threatened to overwhelm the available resources within the
political jurisdictions of the individual counties.

Having a system in place that would allow for intergovernmental cooperation,
personnel and resource sharing would greatly increase the state's ability to
prepare for, mitigate against, respond to, and recover from disasters.

This system would complement the existing interstate mutual aid agreement in
which the State of Hawaii participates through the Emergency Management
Assistance Compact (EMAC). This bill mirrors the EMAC structure and
process and is based on several model practices already established by our
partners. Implementation of an intrastate system is expected to be fiscally
neutral to the State.

Thank you for the opportunity to provide testimony on House Bill 1587, HD1.

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TESTIMONY OF EVAN OUE ON BEHALF OF THE HAWAII ASSOCIATION FOR JUSTICE (HAJ) WITH COMMENTS TO HB 1587

Hearing Date: Friday, April 8, 2022

Time: 10:40 p.m.

My name is Evan Oue and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) providing COMMENTS to HB 1587, Relating to an Intrastate Mutual Aid System (IMAS).

HAJ appreciates the intent of the measure, however, we **oppose HB 1587** as it would provide emergency responders providing aid under the IMAS immunity from tort liability or civil liability resulting in death, injury to persons, or property damage except in cases of wilful misconduct, gross negligence, or recklessness.

Specifically, section -9 of the bill provides that "[f]or purposes of tort liability or immunity, an emergency responder of a responding member county shall be considered an agent of the requesting member county. **Except in cases of wilful misconduct, gross negligence, or recklessness, no emergency responder shall be civilly liable for the death or injury to persons, or property damage, as a result of any act or omission in the course of providing or attempting to provide assistance under this chapter.**"

Primarily, our concern is that the bill grants overbroad immunity to emergency responders for **negligent acts**. The exceptions to immunity only apply for willful misconduct, gross negligence, or recklessness while omitting negligent acts that could harm our residents. For example, if an emergency responder commits negligent acts while rendering aid, they will be immune under this act – leaving no legal recourse for the individual who was harmed. This

immunity would even apply if an emergency responder, while driving, hits a pedestrian through a failure to exercise due care or negligent maintenance of a vehicle.

The standard of care that should be applied in any given situation is based on the specific circumstance, particularly in emergencies. Negligent acts cannot and should not be overlooked, without recourse for those harmed, especially for our residents impacted by emergency situations. HAJ opposes this type of immunity for negligent acts or omissions to preserve the rights of our residents and individuals.

While we support intergovernmental cooperation to improve emergency services especially in times of a disaster, it is not necessary to exempt our emergency responders from negligent conduct. It still remains important to provide safeguards to the public that our emergency responders should act reasonably for the safety of our community even when in times of a major disaster.

For these reasons HAJ respectfully recommends the bill be amended to delete Section - 9. Thank you for allowing us to testify regarding this measure. Please feel free to contact us should you have any questions or desire additional information.