

JAN 24 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 State is in the
2 midst of ongoing response efforts to address the heartbreaking
3 aftermath of the August 8, 2023, wildfires in the counties of
4 Hawaii and Maui, which caused extensive loss of life and damage
5 to Lahaina. Initial estimates are that the State's share of the
6 costs of recovery efforts could total several hundreds of
7 millions of dollars over multiple fiscal years.

8 Under current law, federal reimbursement moneys, such as
9 funds to be provided by the Federal Emergency Management Agency
10 for the wildfire disaster, are generally deposited into a trust
11 account of the major disaster fund and reimbursed to the
12 originating fund of the expending agency incurring the cost. If
13 the originating funds have lapsed by the time reimbursement is
14 received, then they are reimbursed to the general fund. Only a
15 small amount is allowed to roll over to the next fiscal year and
16 remain available in the major disaster fund.

17 Due to the size and scope of the wildfire disaster,
18 disaster recovery efforts are expected to continue for several

S.B. NO. 3072

1 years. However, the State has been informed that the Federal
2 Emergency Management Agency reimbursements of amounts outlaid by
3 the State via the major disaster fund are not expected to be
4 paid on a predictable schedule during any given fiscal year
5 regardless of when the State incurs the expense. Therefore, if
6 current law is applied, critical recovery efforts and services
7 could be interrupted due to lack of available funds until
8 another legislative appropriation is made.

9 The legislature further finds that following the governor's
10 seventh emergency proclamation relating to wildfires dated
11 September 8, 2023, the governor issued executive memorandum no.
12 23-08 on October 10, 2023, amending executive memorandum no. 23-
13 05, the fiscal year 2023-2024 budget execution policies and
14 instructions, to transfer \$164,097,551, after adjustments, in
15 funds appropriated in Act 164, Session Laws of Hawaii 2023, to
16 the department of budget and finance for the State's response to
17 the 2023 wildfires. The department established the 2023
18 wildfires general fund sub-account no. G-24-383-0 (BUF101) to
19 hold the transferred funds.

20 The legislature further finds that the governor provided
21 \$100,000,000 to the major disaster fund established in section
22 127A-16, Hawaii Revised Statutes, as authorized by emergency

S.B. NO. 3072

1 proclamations for wildfire recovery efforts, from the following
2 sources:

3 (1) \$5,000,000 pursuant to the appropriations in Act 164,
4 Session Laws of Hawaii 2023, to satisfy section 127A-
5 16(a)(3), Hawaii Revised Statutes;

6 (2) \$30,000,000 of the \$200,000,000 appropriated to the
7 department of budget and finance (BUF101) by section 5
8 of Act 164, Session Laws of Hawaii 2023; and

9 (3) \$65,000,000 from the 2023 wildfires general fund sub-
10 account no. G-24-383-O.

11 These funds were placed in major disaster fund account no. G-24-
12 324-G.

13 The legislature further finds that the remaining balance in
14 the 2023 wildfires general fund sub-account no. G-24-383-O is
15 \$99,097,551. This balance has been set aside to cover the
16 State's portion of wildfire response costs for debris removal
17 and non-congregate housing, which is being paid for directly
18 from Federal Emergency Management Agency funding and which the
19 State will be billed for its cost-sharing requirements (ten per
20 cent).

21 The purpose of this Act is to facilitate the continued
22 uninterrupted provision of assistance to wildfire victims and

S.B. NO. 3072

1 ongoing wildfire recovery efforts by temporarily lifting various
2 restrictions on the use of funds for these purposes and
3 extending the lapse date of certain funds set aside for wildfire
4 response.

5 SECTION 2. Section 127A-16, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "§127A-16 Major disaster fund. (a) The administrator
8 shall submit requests to the legislature to appropriate from the
9 general revenues of the State sufficient moneys as may be
10 necessary for expenditure by or under the direction of the
11 governor for immediate relief in response to an emergency or
12 disaster in any part of the State; provided that:

13 (1) The governor has issued a proclamation of a state of
14 emergency;

15 (2) The governor shall not expend in excess of \$10,000,000
16 for immediate relief as a result of any single
17 emergency or disaster; and

18 (3) In addition to the funds in paragraph (2), an
19 additional \$5,000,000 may be made available solely for
20 the purpose of matching federal disaster relief funds
21 when these funds become available to the State
22 following a presidential disaster declaration.

S.B. NO. 3072

1 In expending the moneys, the governor may allot any portion
2 thereof to any agency, office, or employee of the State or a
3 county for the most efficient relief for the population.

4 Notwithstanding this subsection, the only exception to
5 paragraphs (1), (2), and (3) is that the administrator may use
6 up to \$250,000 per year to support the emergency management
7 reserve corps.

8 (b) No later than sixty days after any allotment by the
9 governor or the expenditure of any fund moneys, the
10 administrator shall report to the legislature on the purpose of
11 the allotment or expenditure.

12 (c) Except as provided in [~~subsection (d),~~] subsections
13 (d) and (e), federal reimbursement moneys for disaster relief
14 shall be deemed to be trust moneys and shall be deposited into a
15 trust account with and under the control of the Hawaii emergency
16 management agency. Upon receipt by the Hawaii emergency
17 management agency, these moneys shall be reimbursed to the
18 originating fund of the expending agency; provided that if the
19 original appropriation has lapsed, the funds shall be returned
20 to the general fund.

21 (d) Federal reimbursement moneys for disaster relief for
22 the Hawaii wildfires disaster that began on August 8, 2023,

S.B. NO. 3072

1 shall be deemed to be trust moneys and shall be deposited into a
2 trust account with and under the control of the Hawaii emergency
3 management agency. These moneys and any interest earned thereon
4 shall be used for the recovery efforts from the Hawaii wildfires
5 disaster that began on August 8, 2023, and shall not lapse to
6 the general fund.

7 [~~d~~] (e) In cases in which the department of education
8 expends the funds appropriated to the department for purposes
9 deemed to be reimbursable by federal reimbursement moneys for
10 disaster relief, the federal reimbursement moneys shall not
11 lapse to the general fund and shall be credited directly to the
12 department of education without regard to whether the original
13 appropriation has lapsed. Such funds shall carry over in
14 accordance with section 37-41.5(c).

15 [~~e~~] (f) Any unspent funding under \$2,500,000 shall be
16 rolled over to the next fiscal year to support current and
17 future emergencies and disasters.

18 [~~f~~] (g) Each state department and agency shall submit to
19 the administrator no later than August 1 of each year a report
20 of all funds expended, if any, for the prior fiscal year by the
21 state department and agency for disaster response. The report
22 shall include:

S.B. NO. 3072

- 1 (1) The source of funds, including the name and account
2 number of the funding source;
- 3 (2) The amount and purpose of each expenditure; and
- 4 (3) Whether any programs, activities, or contracts were
5 reduced as a result of disaster response spending by
6 the state department and agency.

7 ~~(g)~~ (h) The administrator shall submit an annual report
8 to the legislature no later than September 1 of each year on:

- 9 (1) The amount of federal reimbursement moneys for
10 disaster response that the State could have applied
11 for during the prior fiscal year. The report shall
12 indicate the amount of federal reimbursement moneys
13 for disaster response broken down by department and
14 agency;
- 15 (2) The amount of federal reimbursement moneys for
16 disaster response that the State applied for and the
17 amount received during the prior fiscal year. The
18 report shall indicate the amount of federal
19 reimbursement moneys for disaster response broken down
20 by department and agency;
- 21 (3) The justification for any difference in the amount of
22 federal reimbursement moneys for disaster response

S.B. NO. 3072

1 that the State was eligible for and the amount the
2 State applied for;

3 (4) The average amount of time between the submittal of an
4 application for a Federal Emergency Management Agency
5 reimbursement and receipt of the funds;

6 (5) The number of disaster accounts opened for the prior
7 fiscal year; and

8 (6) The information relating to the expenditure of funds
9 that is reported by each state department and agency
10 pursuant to subsection [~~(f)~~] (g)."

11 SECTION 3. Notwithstanding any other provision of law, any
12 general fund appropriation amounts from Act 164, Session Laws of
13 Hawaii 2023, transferred by the governor to the department of
14 budget and finance's 2023 wildfires general fund sub-account no.
15 G-24-383-0 for the State's response to the 2023 wildfires
16 pursuant to the governor's seventh emergency proclamation
17 relating to wildfires dated September 8, 2023, and executive
18 memorandum no. 23-08 dated October 10, 2023, and as amended by
19 departmental allocations, shall not lapse at the end of the
20 fiscal year for which the appropriations were made; provided
21 that any such transferred funds that are unencumbered as of June
22 30, 2026, shall lapse as of that date.

S.B. NO. 3072

1 SECTION 4. Notwithstanding any other provision of law, any
2 unexpended funds for fiscal year 2023-2024 in major disaster
3 fund account no. G-24-324-G, transferred into the account
4 pursuant to section 127A-16(a), Hawaii Revised Statutes, by the
5 department of budget and finance pursuant to section 5 of Act
6 164, Session Laws of Hawaii 2023, and from the department of
7 budget and finance's 2023 wildfires general fund sub-account no.
8 G-24-383-0 for the State's response to the 2023 wildfires
9 pursuant to the governor's seventh emergency proclamation
10 relating to wildfires dated September 8, 2023, and executive
11 memorandum no. 23-08 dated October 10, 2023, and as amended by
12 departmental allocations shall not lapse at the end of the
13 fiscal year for which the appropriations were made; provided
14 that any funds from account no. G-24-324-G that are unencumbered
15 as of June 30, 2026, shall lapse as of that date; provided
16 further that the funds from account no. G-24-324-G shall be used
17 for the recovery efforts for the Hawaii wildfires that began on
18 August 8, 2023; and provided further that the requirements of
19 section 127A-16(a) shall not apply to the funds in account no.
20 G-24-324-G.

21 SECTION 5. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.

S.B. NO. 3072

1 SECTION 6. This Act, upon its approval, shall take effect
2 on June 29, 2024; provided that on July 1, 2029, sections 2 and
3 4 of this Act shall be repealed and section 127A-16, Hawaii
4 Revised Statutes, shall be reenacted in the form in which it
5 read on the day prior to the effective day of this Act; and
6 provided further that on July 1, 2029, any unencumbered trust
7 account moneys retained in the account to be used for the
8 recovery efforts from the Hawaii wildfires disaster that began
9 on August 8, 2023, pursuant to this Act, shall lapse to the
10 general fund.

11

12

INTRODUCED BY: 

13

BY REQUEST

S.B. NO. 3072

Report Title:

Emergency Management; Hawaii Wildfires Response; Major Disaster Fund

Description:

Temporarily lifts various restrictions on the use of funds for Hawaii wildfire response and extends the lapse date of certain funds set aside for this purpose.

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

JUSTIFICATION SHEET

DEPARTMENT: Budget and Finance

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

PURPOSE: To facilitate the continued provision of assistance to wildfire victims and ongoing wildfire recovery efforts by temporarily lifting various restrictions on the use of funds for Hawaii wildfire response and extending the lapse date of certain funds set aside for this purpose.

MEANS: Temporarily amend section 127A-16, Hawaii Revised Statutes.

JUSTIFICATION: The State is in the midst of ongoing response efforts to address the heartbreaking aftermath of the August 8, 2023, wildfires in the counties of Hawaii and Maui, which caused extensive loss of life and damage to Lahaina. Initial estimates are that the State's recovery efforts will continue over multiple fiscal years.

Under section 127A-16, federal reimbursement moneys, such as funds to be provided by the Federal Emergency Management Agency (FEMA) for the wildfire disaster, are generally to be deposited into a trust account of the Major Disaster Fund and reimbursed to the originating fund of the expending agency, or if the originating funds have lapsed by the time the reimbursement is received, then they are reimbursed to the general fund. The Major Disaster Fund is limited to \$10,000,000 per single emergency or disaster, and only \$5,000,000 of fund balances may be rolled over to the next fiscal year.

Due to the size and scope of the wildfire disaster, disaster recovery efforts are expected to continue for several years, and

State recovery expenditures will significantly exceed limits on moneys allowed to be expended from or retained within the Major Disaster Fund. However, the State has been informed that FEMA reimbursements of amounts outlaid by the State via the Major Disaster Fund are not expected to be paid on a predictable schedule during any given fiscal year regardless of when the State incurs the expenses. Therefore, if section 127A-16 is applied to these amounts, critical recovery efforts and services could be interrupted for lack of available funds until a new appropriation is made.

This bill exempts funds used for the recovery efforts from the Hawaii wildfire that began on August 8, 2023, from certain requirements of section 127A-16 for a five-year period through June 30, 2029. This covers the period in which the most critical and extensive recovery efforts are expected to occur.

The bill also extends the lapse date of certain appropriated funds that are allotted by the Governor for wildfire response efforts through June 30, 2026, removing any uncertainty around their continued availability within the Major Disaster Fund to cover the costs of ongoing recovery efforts.

Impact on the public: This bill will facilitate continuity of state wildfire recovery efforts.

Impact on the department and other agencies:
Same as above.

GENERAL FUND: None.
OTHER FUNDS: None.
PPBS PROGRAM DESIGNATION: BUF101, DEF118.

OTHER AFFECTED

AGENCIES:

Department of Budget and Finance and
Department of Defense - Hawaii Emergency
Management Agency.

EFFECTIVE DATE:

June 29, 2024.