

ACT 168

S.B. NO. 655

A Bill for an Act Relating to Media Access.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 127A-12, Hawaii Revised Statutes, is amended to read as follows:

“~~§127A-12~~ Emergency management powers, in general. (a) The governor or mayor, as applicable, may exercise the following powers pertaining to emergency management:

- (1) Prepare comprehensive plans and programs for the protection of the State or county against all hazards, which shall be integrated into and coordinated with the emergency management plans of the State, counties, the federal government, other states, and private-sector and nonprofit organizations;
- (2) Identify emergency workers required to report for duty as directed by the department head regardless of the availability of any type of leave;
- (3) Institute training, preparedness, and public-information programs in coordination with the State, counties, the federal government, other states, and private-sector and nonprofit organizations;
- (4) Provide or authorize suitable insignia of authority for all authorized emergency management personnel; and
- (5) Direct or control as may be necessary for emergency management:
 - (A) Alerts, warnings, notifications, activations, exercises, drills, and tests;
 - (B) Warnings and signals for alerts or exercises, and any type of warning device, system, or method to be used in connection therewith;
 - (C) Partial or full mobilization of personnel for exercises or training, in advance of, or in response to, an actual emergency or disaster; and

- (D) The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, before, and after alerts, exercises, training, emergencies, or disasters.
- (b) The governor may exercise the following powers pertaining to emergency management:
 - (1) Support requests from a mayor for assistance in preparing for, responding to, and recovering from any emergency or disaster or threat thereof;
 - (2) Lease, lend, or otherwise furnish, on such terms and conditions as the governor may consider necessary to promote the public welfare and protect the interest of the State, any real or personal property of the state government, to the President of the United States, the armed forces, or to the emergency management agency of the United States;
 - (3) Enter into, participate in, or carry out mutual aid agreements or compacts for emergency management or emergency management functions with the federal government and with other states;
 - (4) Sponsor and develop mutual aid plans and agreements for emergency management between the State, one or more counties, and other governmental, private-sector, and nonprofit organizations, for the furnishing or exchange of food, clothing, medicine, and other materials; engineering services; emergency housing; police services; health, medical, and related services; firefighting, rescue, transportation, and construction services and facilities; personnel necessary to provide or conduct these services; and such other materials, facilities, personnel, and services as may be needed. The mutual aid plans and agreements may be made with or without provisions for reimbursement of costs and expenses, and on such terms and conditions as are deemed necessary;
 - (5) Take possession of, use, manage, control, and reallocate any public property of the State, real or personal, required by the governor for the purposes of this chapter, including airports, parks, playgrounds, and schools, and other public buildings. Whenever the property is so taken, the governor may make such provision for the temporary accommodation of the government service affected thereby as the governor may deem advisable;
 - (6) Utilize all services, materials, and facilities of nongovernmental agencies, relief organizations, community associations, and other private-sector and nonprofit organizations that may be made available;
 - (7) Receive, expend, or use contributions or grants, which shall be deemed to be trust funds, in money, property, or services, or loans of property, or special contributions or grants in money, property, or services, or loans of property, for special purposes provided for by this chapter; establish funds in the state treasury for the deposit and expenditure of the moneys; procure federal aid as the same may be available; and apply the provisions of chapter 29 in cases of federal aid, even though not in the form of money. The contributions or grants are appropriated for the purposes of this chapter, or for the special purposes;
 - (8) Purchase, make, produce, construct, rent, lease, or procure by condemnation or otherwise, transport, store, install, maintain, and insure, repair, renovate, restore, replace or reconstruct, and distribute, furnish or otherwise dispose of, with or without charges, materials

- and facilities for emergency management; and to procure federal aid therefor whenever feasible. Chapter 103D and sections 103-50, 103-53, 103-55, 105-1 to 105-10, and 464-4 shall not apply to any emergency management functions of the governor to the extent that the governor finds that the provisions, in whole or in part, impede or tend to impede the expeditious discharge of those functions, or that compliance therewith is impracticable due to existing conditions;
- (9) Provide for the appointment, employment, training, equipping, and maintaining with compensation, or on a volunteer basis without compensation and without regard to chapters 76, 78, and 88, of such agencies, officers, and other persons as the governor deems necessary to carry out the purposes of this chapter; to determine to what extent any law prohibiting the holding of more than one office or employment applies to the agencies, officers, and other persons; and subject to provisions of this chapter, to provide for the interchange of personnel, by detail, transfer, or otherwise, between agencies or departments of the State;
 - (10) Make charges in such cases and in [such] amounts as the governor deems advisable, for any property sold, work performed, services rendered, or accommodations or facilities furnished by the State under this chapter;
 - (11) Make or authorize [such] contracts as may be necessary to carry out this chapter;
 - (12) Establish special accounting forms and practices whenever necessary;
 - (13) Require each public utility, or any person owning, controlling, or operating a critical infrastructure facility as identified by the governor, to protect and safeguard its or the person's property, or to provide for the protection and safeguarding thereof; and provide for the protection and safeguarding of all critical infrastructure and key resources; provided that without prejudice to the generality of the foregoing two clauses, the protecting and safeguarding may include the regulation or prohibition of public entry thereon, or the permission of the entry upon [such] terms and conditions as the governor may prescribe;
 - (14) Restrict the congregation of the public in stricken or dangerous areas or under dangerous conditions;
 - (15) Direct and control the non-compulsory evacuation of the civilian population;
 - (16) Order and direct government agencies, officials, officers, and employees of the State, to take [such] action and employ [such] measures for law enforcement, medical, health, firefighting, traffic control, warnings and signals, engineering, rescue, construction, emergency housing, other welfare, hospitalization, transportation, water supply, public information, training, and other emergency functions as may be necessary, and utilize the services, materials, and facilities of the agencies and officers. All [such] agencies and officers shall cooperate with and extend their services, materials, and facilities to the governor as the governor may request;
 - (17) Provide for the repair and maintenance of public property, whenever adequate provision therefor is not otherwise made; insure the property against any emergency or disaster; provide for the restoration, renovation, replacement, or reconstruction of insured property in the event of damage or loss; and make temporary restoration

of public utilities and other critical infrastructure facilities in the event of an emergency or disaster;

- (18) Fix or revise the hours of government business; and
- (19) Take any and all steps necessary or appropriate to carry out the purposes of this chapter notwithstanding that those powers in section 127A-13(a) may only be exercised during an emergency period.

(c) The mayor may exercise the following powers pertaining to emergency management:

- (1) Lease, lend, or otherwise furnish, on [such] terms and conditions as the mayor may consider necessary to promote the public welfare and protect the interest of the county, any real or personal property of the county government, to the governor of the State, to the mayors of the other counties of the State, or to the agency;
- (2) Sponsor and develop mutual aid plans and agreements for emergency management between one or more counties, and other governmental, private-sector, or nonprofit organizations, for the furnishing or exchange of food, clothing, medicine, and other materials; engineering services; emergency housing; police services; health, medical, and related services; firefighting, rescue, transportation, and construction services and facilities; personnel necessary to provide or conduct these services; and [such] other materials, facilities, personnel, and services as may be needed. The mutual aid plans and agreements may be made with or without provisions for reimbursement of costs and expenses, and on [such] terms and conditions as are deemed necessary;
- (3) Take possession of, use, manage, control, and reallocate any public property of the county, real or personal, required by the mayor for the purposes of this chapter, including parks, playgrounds, and other public buildings. Whenever the property is so taken, the mayor may make such provision for the temporary accommodation of the government service affected as the mayor may deem advisable;
- (4) Utilize all services, materials, and facilities of nongovernmental agencies, relief organizations, community associations, and other private-sector and nonprofit organizations that may be made available;
- (5) Receive, expend, or use contributions or grants, which shall be deemed to be trust funds, in money, property, or services, or loans of property, or special contributions or grants in money, property, or services, or loans of property, for special purposes provided for by this chapter; establish funds in the treasury for the deposit and expenditure of the moneys; and procure federal aid as [the same] may be available. The contributions or grants are appropriated for the purposes of this chapter, or for the special purposes;
- (6) Purchase, make, produce, construct, rent, lease, or procure by condemnation or otherwise, transport, store, install, maintain, and insure, repair, renovate, restore, replace or reconstruct, and distribute, furnish or otherwise dispose of, with or without charges, materials and facilities for emergency management; and to procure federal aid therefor whenever feasible. Chapter 103D and sections 103-50, 103-53, 103-55, 105-1 to 105-10, and 464-4 shall not apply to any emergency management functions of and to the extent that the mayor finds that the provisions, in whole or in part, impede or tend to impede the expeditious discharge of the functions, or that compliance therewith is impracticable due to existing conditions;

- (7) Provide for the appointment, employment, training, equipping, and maintaining, with compensation, or on a volunteer basis without compensation and without regard to chapters 76, 78, and 88, of such agencies, officers, and other persons as the mayor deems necessary to carry out this chapter; to determine to what extent any law prohibiting the holding of more than one office or position of employment applies to the agencies, officers, and other persons; and subject to provisions of this chapter, to provide for the interchange of personnel, by detail, transfer, or otherwise, between agencies or departments of the county;
- (8) Make charges in such cases and in [such] amounts as the mayor deems advisable, for any property sold, work performed, services rendered, or accommodations or facilities furnished by the county under this chapter;
- (9) Make or authorize such contracts as may be necessary to carry out this chapter;
- (10) Establish special accounting forms and practices whenever necessary;
- (11) Require each public utility, or any person owning, controlling, or operating a critical infrastructure facility as identified by the mayor, to protect and safeguard [its] the public utility's or the person's property, or to provide for such protection and safeguarding; and provide for the protection and safeguarding of all critical infrastructure and key resources; provided that ~~[without prejudice to the generality of the foregoing two clauses,]~~ the protection and safeguarding may include the regulation or prohibition of public entry thereon, or the permission of the entry upon [such] terms and conditions as the mayor may prescribe;
- (12) Restrict the congregation of the public in stricken or dangerous areas or under dangerous conditions;
- (13) Direct and control the non-compulsory evacuation of the civilian population of the county;
- (14) Order and direct government agencies, officials, officers, and employees of the county, to take [such] action and employ [such] measures for law enforcement, medical, health, firefighting, traffic control, warnings and signals, engineering, rescue, construction, emergency housing, and other welfare, hospitalization, transportation, water supply, public information, training, and other emergency functions as may be necessary, and utilize the services, materials, and facilities of the agencies and officers. All [such] agencies and officers shall cooperate with and extend their services, materials, and facilities to the mayor as the mayor may request;
- (15) Provide for the repair and maintenance of public property, whenever adequate provision therefor is not otherwise made; insure the property against any emergency or disaster; provide for the restoration, renovation, replacement, or reconstruction of insured property in the event of damage or loss; and make temporary restoration of public utilities and other critical infrastructure facilities in the event of an emergency or disaster;
- (16) Fix or revise the hours of county government business; and
- (17) Take any and all steps necessary or appropriate to carry out the purposes of this chapter notwithstanding that those powers in section 127A-13(b) may only be exercised during an emergency period.

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(d) Media access shall be permitted in emergency areas closed pursuant to this section; provided that the designated emergency management authority for the affected area has determined that media access is reasonable and safe and does not hinder ongoing response and recovery activities. Media access shall be limited to duly authorized representatives of any news service, newspaper, radio station, television station, or online news distribution network. The State and counties shall not be held liable for any injury or damage to persons or property arising from media representatives entering a closed emergency area. When full access cannot be reasonably granted to all media representatives, one pool writer, one pool photographer, and one pool videographer shall be designated by the media representatives from among themselves to gather and disseminate information. Any decision regarding media access shall be at the sole discretion of the designated emergency management authority for the affected emergency area. Media representatives who are granted access to the closed emergency area shall do so at their own risk and acknowledge that the State or county may seek reimbursement pursuant to chapter 137 for search and rescue expenses incurred on their behalf. The State, counties, and any designated emergency management authority shall not be responsible for providing copies, equipment, telephone or internet access, or any other logistical support, including sharing or distribution of content, associated with media access in closed emergency areas.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.
(Approved July 11, 2017.)