

ACT 95

H.B. NO. 1587

A Bill for an Act Relating to an Intrastate Mutual Aid System.

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

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

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

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

**“CHAPTER
INTRASTATE MUTUAL AID ACT**

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

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

“Agency” means the Hawaii emergency management agency.

“Assistance” means emergency responders and resources provided by a responding member county in response to a request from a requesting member county.

“County” means the city and county of Honolulu or the county of Hawaii, Kauai, or Maui; provided that the county of Maui shall include the county of Kalawao for the purposes of this chapter.

“Emergency” means an event or set of circumstances that:

- (1) Demands immediate action to preserve public health, protect life and public property, or provide relief to any stricken community overtaken by the event or circumstance; or
- (2) Reaches a dimension or degree of destructiveness as to warrant the declaration of a state of emergency or local state of emergency, pursuant to section 127A-14.

“Emergency responder” means:

- (1) An employee of a responding member county who is designated in writing by that responding member county as possessing skills, qualifications, training, knowledge, or experience that may be necessary, pursuant to a request for assistance under this chapter, for:
 - (A) Response, mitigation, or recovery activities related to an emergency; or
 - (B) Participation in drills or exercises in preparation for an emergency; or
- (2) Any person with specialized equipment operations skills or training or any other skills necessary to provide aid in an emergency, regardless of whether the person possesses a license, certificate, permit, or other official recognition for expertise in a particular field or area of knowledge.

“Emergency responder” includes but is not limited to law enforcement officers, fire fighters, emergency medical services personnel, physicians, nurses, other public health personnel, emergency management personnel, and public works personnel.

“Operational control” means the limited authority to direct tasks, assignments, and use of assistance provided pursuant to a 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.

“Responding member county” means a member county providing or intending to provide assistance to a requesting member county under this chapter.

§ -3 Intrastate mutual aid system; established. (a) The intrastate mutual aid system is established to provide for mutual assistance, during an emergency, among counties that choose to participate as member counties. Each county shall be considered a member county unless the county is released in accordance with subsection (b).

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

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

(d) Mutual assistance may be requested by, and provided to, member counties 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.
- (e) The agency shall develop comprehensive guidelines and procedures that address at least the following:
- (1) Projected or anticipated costs;
 - (2) Checklists for requesting and providing assistance;
 - (3) Recordkeeping for all member counties;
 - (4) Reimbursement procedures; and
 - (5) Other necessary implementation elements, including necessary forms for requests and other records documenting deployment and return of assets.

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

- (1) Use an identification system common to all member counties to identify potential hazards that may affect the member county;
- (2) Conduct joint planning, intelligence sharing, and threat assessment development with other member 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 request shall be confirmed in writing within thirty days after the date of the request;
- (3) A responding member county may withhold or withdraw requested assistance at any time and for any reason, in the responding member county's sole discretion;
- (4) A responding member county shall designate in writing all assistance that the responding member county is providing to a requesting member county at the time provided, consistent with the guidelines and procedures developed by the agency, and deliver copies of this documentation to the requesting member county within thirty days after the assistance is provided; and
- (5) The requesting member county shall only have operational control of assistance provided under this chapter, which shall not interfere with a responding member county's right to withdraw assistance.

§ -6 Qualifications of emergency responders for the purposes of the requesting member county. An emergency responder holding a license, certificate, or other permit evidencing qualification in a professional, mechanical, or other skill, issued by the State or a county, shall be deemed to be licensed, certified, or

permitted in the requesting member county for the duration of the emergency, drill, or exercise, subject to any limitations and conditions that the mayor of the requesting member county may prescribe in writing.

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

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

(c) All persons, including volunteers whose services have been accepted by authorized persons, while engaged in the performance of duty pursuant to this chapter, including any duty performed during exercises and training, shall be deemed to be employees of the responding county and shall have the powers, duties, rights, and privileges of an employee of the responding county in the performance of their duties, except as may be prescribed by or under the authority of the mayor of the responding county pursuant to this chapter.

(d) In case of injury or death arising out of and in the performance of duty pursuant to this chapter, including any duty performed during periods of training, all persons having the status of official, officer, or employee of the responding county, pursuant to this section, and the official, officer, or employee's dependents, shall be entitled to all of the benefits provided in chapter 386, including medical services and supplies, and in case of injury or death, no public official shall be excluded from the coverage of chapter 386 by reason of being an elected official. For the purposes of the benefits, average weekly wages shall be computed upon the basis set forth in section 386-51, upon the basis of earnings from the usual employment of the person, or upon the basis of earnings at the rate of \$20 per week, whichever is most favorable to the claimant or claimants. The costs thereof shall be a charge upon the county insurance fund of the responding county; provided that the mayor of the responding county may effect the insurance in respect of the obligations assumed pursuant to this section and as may be available under any mutual aid agreement or act of the United States Congress. Nothing in this section shall adversely affect the right of any person to receive any benefits or compensation under any act of the United States Congress. Any benefits provided by a responding county to an emergency responder shall be included in the true and full value of assistance provided for purposes of reimbursement under section -8.

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

(b) If a dispute regarding reimbursement arises between member counties, the member county asserting the dispute shall provide written notice to the other member county identifying the reimbursement issues in dispute. If the dispute is not resolved within ninety days after receipt of the dispute notice by the other party, either party to the dispute may invoke binding arbitration to resolve the reimbursement dispute by giving written notice to the other party. Within thirty days after receipt of the notice invoking binding arbitration, each party

shall furnish to the other party a list of acceptable arbitrators. The parties shall select an arbitrator. If the parties do not agree on an arbitrator, each party shall select one arbitrator and the two arbitrators shall select a third arbitrator for an arbitration panel. Costs of the arbitration, including compensation for the arbitrator's services, shall be borne equally by the parties participating in the arbitration, and each party shall bear its own costs and expenses, including legal fees and witness expenses, in connection with the arbitration proceeding.

§ -9 Immunity of emergency responders. For 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 of, 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.

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

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

(Approved June 17, 2022.)