

JAN 25 2006

S.B. NO. **2569**

A BILL FOR AN ACT

RELATING TO THE EMERGENCY MANAGEMENT ASSISTANCE COMPACT.

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

1 SECTION 1. The legislature finds that the Emergency
2 Management Assistance Compact was ratified during the 2nd
3 session of the 104th Congress and became Public Law 104-321 in
4 October 1996. Since that time, forty-nine states, the District
5 of Columbia, Puerto Rico, and the Virgin Islands have enacted
6 legislation to become members.

7 While states are capable of managing most emergencies,
8 there are times when disasters exceed state and local resources
9 and therefore require outside assistance. This is crucial
10 especially for a geographically isolated state such as Hawaii.
11 Normally, assistance comes from federal sources. However, not
12 all disasters are eligible for federal disaster assistance. The
13 Emergency Management Assistance Compact provides another way for
14 states to receive interstate aid in a disaster. Even when
15 federal assistance is merited, assistance from the Emergency
16 Management Assistance Compact may be more readily available or
17 cheaper. This assistance may supplement federal assistance when
18 the latter is available or replace federal assistance when it is



1 unavailable. Most importantly, the Emergency Management
2 Assistance Compact allows for a quick response to disasters
3 using the unique resources and expertise possessed by member
4 states.

5 Member states are guaranteed reimbursement for all eligible
6 assistance provided through the Emergency Management Assistance
7 Compact. Under the compact, it is the responsibility of states
8 requesting assistance to pay back the states that provide it.
9 This legal standard also helps to speed the process and reduce
10 the paperwork required. In addition, under the compact,
11 requesting states are responsible for the actions of workers
12 from assisting states. Without the Emergency Management
13 Assistance Compact, emergency workers from assisting states
14 might be sued in the courts of requesting states, incurring
15 substantial state costs. Under the compact, however, requesting
16 states assume tort responsibility for out-of-state emergency
17 workers.

18 The legislature also finds that the Emergency Management
19 Assistance Compact also offers the following benefits:

- 20 (1) Assistance may be more readily available than other
21 resources;



- 1 (2) The compact allows for a quick response to disasters
2 using the unique human resources and expertise
3 possessed by member states;
- 4 (3) The compact offers state-to-state assistance during
5 governor-declared state of emergencies. The compact
6 offers a responsive and straightforward system for
7 states to send personnel and equipment to help
8 disaster relief efforts in other states. When
9 resources are overwhelmed, the compact helps to fill
10 the shortfalls;
- 11 (4) The compact establishes a firm legal foundation. Once
12 the conditions for providing assistance to a
13 requesting state have been set, the terms constitute a
14 legally binding contractual agreement that make
15 affected states responsible for reimbursement.
16 Responding states can rest assured that sending aid
17 will not be a financial or legal burden and personnel
18 sent are protected under workers compensation and
19 liability provisions. The compact solves the problems
20 of liability and responsibilities of cost and allows
21 for credentials to be honored across state lines;



1 (5) The compact provides fast and flexible assistance. It
 2 allows states to ask for whatever assistance they need
 3 for any type of emergency, from earthquakes to acts of
 4 terrorism. The compact's simple procedures help
 5 states dispense with bureaucratic wrangling; and
 6 (6) The compact can move resources such as medical
 7 resources, that other compacts cannot.

8 Membership in the Emergency Management Assistance Compact
 9 is free and the only requirement to become a member is for a
 10 state's legislature to enact legislation to approve the compact
 11 as written.

12 The purpose of this Act is to approve the Emergency
 13 Management Assistance Compact as written and to become a member
 14 of the Emergency Management Assistance Compact.

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

18 **"CHAPTER**

19 **EMERGENCY MANAGEMENT ASSISTANCE COMPACT**

20 § -1 **Name.** This Act may be cited as the Emergency
 21 Management Assistance Compact.

1 § -2 **Terms and provisions of compact.** The legislature
 2 of the State of Hawaii hereby authorizes the governor of the
 3 State of Hawaii to enter into a compact on behalf of the State
 4 of Hawaii with any other state legally joining therein, in the
 5 form substantially as follows:

6 **Emergency Management Assistance Compact**

7 **Article I - Purposes and Authorities**

8 This compact is made and entered into by and between the
 9 participating member states which enact this compact,
 10 hereinafter called party states. For the purposes of this
 11 agreement, the term "states" is taken to mean the several
 12 states, the Commonwealth of Puerto Rico, the District of
 13 Columbia, and all U.S. territorial possessions.

14 The purpose of this compact is to provide for mutual
 15 assistance between the states entering into this compact in
 16 managing any emergency or disaster that is duly declared by the
 17 governor of the affected state(s), whether arising from natural
 18 disaster, technological hazard, man-made disaster, civil
 19 emergency aspects of resources shortages, community disorders,
 20 insurgency, or enemy attack.

21 This compact shall also provide for mutual cooperation in
 22 emergency-related exercises, testing, or other training



1 activities using equipment and personnel simulating performance
2 of any aspect of the giving and receiving of aid by party states
3 or subdivisions of party states during emergencies, such actions
4 occurring outside actual declared emergency periods. Mutual
5 assistance in this compact may include the use of the states'
6 National Guard forces, either in accordance with the National
7 Guard Mutual Assistance Compact or by mutual agreement between
8 states.

9 **Article II - General Implementation**

10 Each party state entering into this compact recognizes many
11 emergencies transcend political jurisdictional boundaries and
12 that intergovernmental coordination is essential in managing
13 these and other emergencies under this compact. Each state
14 further recognizes that there will be emergencies which require
15 immediate access and present procedures to apply outside
16 resources to make a prompt and effective response to such an
17 emergency. This is because few, if any, individual states have
18 all the resources they may need in all types of emergencies or
19 the capability of delivering resources to areas where
20 emergencies exist. The prompt, full, and effective utilization
21 of resources of the participating states, including any
22 resources on hand or available from the Federal Government or



1 any other source, that are essential to the safety, care, and
2 welfare of the people in the event of any emergency or disaster
3 declared by a party state, shall be the underlying principle on
4 which all articles of this compact shall be understood.

5 On behalf of the governor of each state participating in
6 the compact, the legally designated state official who is
7 assigned responsibility for emergency management will be
8 responsible for formulation of the appropriate interstate mutual
9 aid plans and procedures necessary to implement this compact.

10 **Article III - Party State Responsibilities**

11 A. It shall be the responsibility of each party state to
12 formulate procedural plans and programs for interstate
13 cooperation in the performance of the responsibilities listed in
14 this article. In formulating such plans, and in carrying them
15 out, the party states, insofar as practical, shall:

16 (1) Review individual state hazards analyses and, to the
17 extent reasonably possible, determine all those
18 potential emergencies the party states might jointly
19 suffer, whether due to natural disaster, technological
20 hazard, man-made disaster, emergency aspects of
21 resource shortages, civil disorders, insurgency, or
22 enemy attack.



- 1 (2) Review party states' individual emergency plans and
2 develop a plan which will determine the mechanism for
3 the interstate management and provision of assistance
4 concerning any potential emergency.
- 5 (3) Develop interstate procedures to fill any identified
6 gaps and to resolve any identified inconsistencies or
7 overlaps in existing or developed plans.
- 8 (4) Assist in warning communities adjacent to or crossing
9 the state boundaries.
- 10 (5) Protect and assure uninterrupted delivery of services,
11 medicines, water, food, energy and fuel, search and
12 rescue, and critical lifeline equipment, services, and
13 resources, both human and material.
- 14 (6) Inventory and set procedures for the interstate loan
15 and delivery of human and material resources, together
16 with procedures for reimbursement or forgiveness.
- 17 (7) Provide, to the extent authorized by law, for
18 temporary suspension of any statutes.

19 B. The authorized representative of a party state may
20 request assistance of another party state by contacting the
21 authorized representative of that state. The provisions of this
22 agreement shall only apply to requests for assistance made by

1 and to authorized representatives. Requests may be verbal or in
2 writing. If verbal, the request shall be confirmed in writing
3 within thirty days of the verbal request. Requests shall
4 provide the following information:

5 (1) A description of the emergency service function for
6 which assistance is needed, such as but not limited to
7 fire services, law enforcement, emergency medical,
8 transportation, communications, public works and
9 engineering, building inspection, planning and
10 information assistance, mass care, resource support,
11 health and medical services, and search and rescue.

12 (2) The amount and type of personnel, equipment, materials
13 and supplies needed, and a reasonable estimate of the
14 length of time they will be needed.

15 (3) The specific place and time for staging of the
16 assisting party's response and a point of contact at
17 that location.

18 C. There shall be frequent consultation between state
19 officials who have assigned emergency management
20 responsibilities and other appropriate representatives of the
21 party states with affected jurisdictions and the United States



1 Government, with free exchange of information, plans, and
2 resource records relating to emergency capabilities.

3 **Article IV - Limitations**

4 Any party state requested to render mutual aid or conduct
5 exercises and training for mutual aid shall take such action as
6 is necessary to provide and make available the resources covered
7 by this compact in accordance with the terms hereof; provided
8 that it is understood that the state rendering aid may withhold
9 resources to the extent necessary to provide reasonable
10 protection for such state. Each party state shall afford to the
11 emergency forces of any party state, while operating within its
12 state limits under the terms and conditions of this compact, the
13 same powers (except that of arrest unless specifically
14 authorized by the receiving state), duties, rights, and
15 privileges as are afforded forces of the state in which they are
16 performing emergency services. Emergency forces will continue
17 under the command and control of their regular leaders, but the
18 organizational units will come under the operational control of
19 the emergency services authorities of the state receiving
20 assistance. These conditions may be activated, as needed, only
21 subsequent to a declaration of a state of emergency or disaster
22 by the governor of the party state that is to receive assistance



1 or commencement of exercises or training for mutual aid and
2 shall continue so long as the exercises or training for mutual
3 aid are in progress, the state of emergency or disaster remains
4 in effect or loaned resources remain in the receiving state(s),
5 whichever is longer.

6 **Article V - Licenses and Permits**

7 Whenever any person holds a license, certificate, or other
8 permit issued by any state party to the compact evidencing the
9 meeting of qualifications for professional, mechanical, or other
10 skills, and when such assistance is requested by the receiving
11 party state, such person shall be deemed licensed, certified, or
12 permitted by the state requesting assistance to render aid
13 involving such skill to meet a declared emergency or disaster,
14 subject to such limitations and conditions as the governor of
15 the requesting state may prescribe by executive order or
16 otherwise.

17 **Article VI - Liability**

18 Officers or employees of a party state rendering aid in
19 another state pursuant to this compact shall be considered
20 agents of the requesting state for tort liability and immunity
21 purposes; and no party state or its officers or employees
22 rendering aid in another state pursuant to this compact shall be



1 liable on account of any act or omission in good faith on the
2 part of such forces while so engaged or on account of the
3 maintenance or use of any equipment or supplies in connection
4 therewith. Good faith in this article shall not include willful
5 misconduct, gross negligence, or recklessness.

6 **Article VII - Supplementary Agreements**

7 Inasmuch as it is probable that the pattern and detail of
8 the machinery for mutual aid among two or more states may differ
9 from that among the states that are party hereto, this
10 instrument contains elements of a broad base common to all
11 states, and nothing contained in this compact shall preclude any
12 state from entering into supplementary agreements with another
13 state or affect any other agreements already in force between
14 states. Supplementary agreements may comprehend, but shall not
15 be limited to, provisions for evacuation and reception of
16 injured and other persons and the exchange of medical, fire,
17 police, public utility, reconnaissance, welfare, transportation
18 and communications personnel, and equipment and supplies.

19 **Article VIII - Compensation**

20 Each party state shall provide for the payment of
21 compensation and death benefits to injured members of the
22 emergency forces of that state and representatives of deceased



1 members of such forces in case such members sustain injuries or
2 are killed while rendering aid pursuant to this compact, in the
3 same manner and on the same terms as if the injury or death were
4 sustained within their own state.

5 **Article IX - Reimbursement**

6 Any party state rendering aid in another state pursuant to
7 this compact shall be reimbursed by the party state receiving
8 such aid for any loss or damage to or expense incurred in the
9 operation of any equipment and the provision of any service in
10 answering a request for aid and for the costs incurred in
11 connection with such requests; provided, that any aiding party
12 state may assume in whole or in part such loss, damage, expense,
13 or other cost, or may loan such equipment or donate such
14 services to the receiving party state without charge or cost;
15 and provided further, that any two or more party states may
16 enter into supplementary agreements establishing a different
17 allocation of costs among those states. Article VIII expenses
18 shall not be reimbursable under this provision.

19 **Article X - Evacuation**

20 Plans for the orderly evacuation and interstate reception
21 of portions of the civilian population as the result of any
22 emergency or disaster of sufficient proportions to so warrant,



1 shall be worked out and maintained between the party states and
2 the emergency management/services directors of the various
3 jurisdictions where any type of incident requiring evacuations
4 might occur. Such plans shall be put into effect by request of
5 the state from which evacuees come and shall include the manner
6 of transporting such evacuees, the number of evacuees to be
7 received in different areas, the manner in which food, clothing,
8 housing, and medical care will be provided, the registration of
9 the evacuees, the providing of facilities for the notification
10 of relatives or friends, and the forwarding of such evacuees to
11 other areas or the bringing in of additional materials,
12 supplies, and all other relevant factors. Such plans shall
13 provide that the party state receiving evacuees and the party
14 state from which the evacuees come shall mutually agree as to
15 reimbursement of out-of-pocket expenses incurred in receiving
16 and caring for such evacuees, for expenditures for
17 transportation, food, clothing, medicines and medical care, and
18 like items. Such expenditures shall be reimbursed as agreed by
19 the party state from which the evacuees come. After the
20 termination of the emergency or disaster, the party state from
21 which the evacuees come shall assume the responsibility for the
22 ultimate support of repatriation of such evacuees.



Article XI - Implementation

1
2 A. This compact shall become operative immediately upon
3 its enactment into law by any two states; thereafter, this
4 compact shall become effective as to any other state upon its
5 enactment by such state.

6 B. Any party state may withdraw from this compact by
7 enacting a statute repealing the same, but no such withdrawal
8 shall take effect until 30 days after the governor of the
9 withdrawing state has given notice in writing of such withdrawal
10 to the governors of all other party states. Such action shall
11 not relieve the withdrawing state from obligations assumed
12 hereunder prior to the effective date of withdrawal.

13 C. Duly authenticated copies of this compact and of such
14 supplementary agreements as may be entered into shall, at the
15 time of their approval, be deposited with each of the party
16 states and with the Federal Emergency Management Agency and
17 other appropriate agencies of the United States Government.

Article XII - Validity

18
19 This Act shall be construed to effectuate the purposes
20 stated in Article I hereof. If any provision of this compact is
21 declared unconstitutional, or the applicability thereof to any
22 person or circumstances is held invalid, the constitutionality



1 of the remainder of this Act and the applicability thereof to
2 other persons and circumstances shall not be affected thereby.

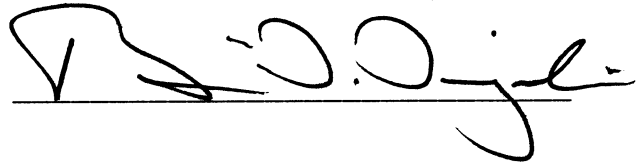
3 **Article XIII - Additional Provisions**

4 Nothing in this compact shall authorize or permit the use
5 of military force by the National Guard of a state at any place
6 outside that state in any emergency for which the President is
7 authorized by law to call into federal service the militia, or
8 for any purpose for which the use of the Army or the Air Force
9 would in the absence of express statutory authorization be
10 prohibited under Section 1385 of title 18, United States Code."

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

12

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "V. D. Ojeda", is written over a horizontal line. The signature is cursive and somewhat stylized.

SB. NO. 2569

Report Title:

Emergency Management Assistance Compact; Hawaii Membership

Description:

Ratifies the Emergency Management Assistance Compact and allows Hawaii to become a member.

