
A BILL FOR AN ACT

RELATING TO DISASTER RELIEF.

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

1 SECTION 1. Section 127-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§127-2 Disaster relief agency.** (a) There shall be
4 within the executive branch of the state government a division
5 of disaster relief, hereinafter called the "disaster relief
6 agency". The director of disaster relief, hereinafter called
7 the "director", who shall be appointed and removed in the manner
8 provided by section 26-34, and who shall receive such
9 compensation as the governor may determine, shall be in charge
10 of the disaster relief agency.

11 (b) There shall be a vice-director of disaster relief who
12 shall be appointed by the director. The vice-director shall be
13 the chief administrative assistant to the director and shall, in
14 the absence of the director, have all the duties and
15 responsibilities of the director.

16 (c) ~~[The director shall, with the approval of the county~~
17 ~~council, appoint a deputy director for each political~~



1 ~~subdivision. Deputy directors shall serve without pay. They~~
2 ~~may hold other office or employment in the state government, or~~
3 ~~any political subdivision.~~

4 (d) The director may employ such technical, clerical,
5 stenographic, and other personnel and may make such expenditures
6 as may be necessary to carry out the purposes of this chapter.

7 (e) (d) The director shall be responsible for
8 formulating and carrying out programs for disaster relief. The
9 director shall coordinate the activities of all organizations
10 for disaster relief, public or private, and shall cooperate with
11 state and federal disaster relief agencies. The director shall
12 be responsible for carrying out this chapter and in the event of
13 disaster beyond local control the director may assume direct
14 operational control over all or any part of the disaster relief
15 functions within the State.

16 (e) For the purposes of this chapter, the "disaster relief
17 agency" and the "director of disaster relief" shall be the civil
18 defense agency and the director of civil defense described in
19 section 128-3, respectively."

20 SECTION 2. Section 127-10, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§127-10 Disaster relief [during suspension of preceding
2 sections.] for disasters not caused by enemy attacks. [During
3 any period in which sections] (a) Sections 127-1 to 127-9 [are
4 not] shall be in effect[7] and available to provide relief for
5 disasters not covered under chapter 128, and the governor and
6 political subdivisions may exercise any and all of their powers
7 [that relate to disasters resulting from enemy attacks,]
8 authorized under this chapter in order to provide other disaster
9 relief. All provisions of law that relate to disasters
10 resulting from enemy attacks during such period are made
11 applicable to other disaster relief, including without
12 limitation, provisions making or authorizing appropriations or
13 expenditures[-]; provided that, in order to exercise the powers
14 authorized under this chapter and chapter 128 for disasters that
15 are not caused by:

16 (1) A fire, flood, tidal wave, volcanic eruption,
17 earthquake, pandemic illness, or other natural causes
18 and major disasters caused by acts of man, including
19 but not limited to massive oil spills, nuclear
20 accidents, airplane crashes, and civil disturbances;

21 or

22 (2) An enemy attack or act of terrorism,



1 the governor shall first find and declare through an emergency
2 proclamation that tangible and measurable harm or damage has
3 resulted or is about to result as a consequence of the disaster
4 and that the disaster relief could not otherwise be achieved
5 through legislation enacted in the next occurring regular
6 session of the legislature or a special session of the
7 legislature called by the governor for the purpose of providing
8 for the relief. If disaster relief can be achieved through
9 legislation enacted in the next occurring regular session of the
10 legislature or a special session of the legislature called by
11 the governor for the purpose of providing for the relief, then
12 the governor shall not execute any action to further provide for
13 disaster relief under this chapter.

14 (b) Any disaster relief provided under this chapter other
15 than those enumerated in subsection (a)(1) and (2) shall not
16 extend beyond the adjournment sine die of the next occurring
17 regular session of the legislature after the governor declares
18 that the disaster relief is necessary, unless expressly
19 authorized by the legislature through the adoption of a
20 concurrent resolution or by the enactment of law. The governor
21 shall submit a report on the governor's findings and
22 recommendations on whether to extend the provision of any



1 disaster relief provided under this chapter and any enabling
2 proposed legislation or appropriations to authorize the
3 continuance of any disaster relief provided. If the legislature
4 does not adopt a concurrent resolution or enact legislation to
5 execute or extend disaster relief, the governor shall not
6 execute disaster relief actions under this chapter or extend the
7 provision of disaster relief for a particular disaster beyond
8 the adjournment sine die of the legislature during the session
9 in which the legislation was considered.

10 As used in this section [~~other~~]:

11 "Other disaster relief" means the preparation for and the
12 carrying out of all functions, other than functions for which
13 military forces are primarily responsible, to minimize and
14 repair injury and damage resulting from disasters caused by
15 fire, flood, tidal wave, volcanic eruption, earthquake, or other
16 natural causes and major disasters caused by acts of man,
17 including but not limited to, massive oil spills, nuclear
18 accidents, airplane crashes, and civil disturbances[-]; provided
19 that the term does not include the remedying of periodic or
20 longstanding societal inequities or circumstances that may arise
21 over the course of time that could otherwise be contemplated and



1 remedied through the enactment of law under the legislative
2 process.

3 "Tangible and measurable harm or damage" means harm or
4 damage that may occur in the immediate future or that has
5 already occurred and that, unless immediately acted upon, would
6 otherwise be irreparable, result in the imminent loss of life,
7 or pose an immediate health or safety hazard to humans or the
8 environment."

9 SECTION 3. Section 128-7, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§128-7 Civil defense emergency period.** The term "civil
12 defense emergency period" includes (1) a period of civil defense
13 emergency proclaimed pursuant to the Federal Civil Defense Act
14 of 1950, or (2) the period of the existence of a state of civil
15 defense emergency in the State hereby authorized to be
16 proclaimed by the governor if the governor finds that an attack
17 upon the State has occurred or that there is danger or threat
18 thereof, or that there has arisen any state of affairs or
19 circumstances of such a grave nature as to affect the common
20 defense or the readiness of the community to meet an attack, and
21 which requires the invocation of provisions of this chapter that
22 are effective only during a period of civil defense emergency.



1 The governor shall be the sole judge of the existence of the
2 danger, threat, state of affairs, or circumstances~~[→]~~ during a
3 civil defense emergency period. A [~~period of~~] civil defense
4 emergency period proclaimed pursuant to the Federal Civil
5 Defense Act of 1950 shall terminate as therein provided, and a
6 period of civil defense emergency proclaimed by the governor
7 shall terminate upon proclamation by the governor~~[→]~~ unless
8 otherwise provided by law."

9 SECTION 4. The emergency powers authorized and exercised
10 under any emergency proclamation issued prior to the effective
11 date of this Act that:

- 12 (1) Is still in full force and effect on the effective
13 date of this Act;
- 14 (2) Purports to provide disaster relief in this State
15 through the powers authorized under chapter 127 or
16 128, Hawaii Revised Statutes;
- 17 (3) Was not issued to:
- 18 (A) Establish drainage improvements to mitigate past,
19 present, or future flood damage;
- 20 (B) Mitigate earthquake damage;
- 21 (C) Mitigate slope erosion;
- 22 (D) Effectuate emergency culvert repairs;



- 1 (E) Conduct emergency boat ramp dredging;
- 2 (F) Conduct emergency dam spillway repairs; or
- 3 (G) Conduct stream or river restoration and debris
- 4 removal; and

5 (4) Is not in compliance with the provisions of this Act,
6 shall expire upon the effective date of this Act unless the
7 legislature, by adoption of a concurrent resolution or enactment
8 of law during the 2008 regular session, expressly reauthorizes
9 those powers for the specific disaster relief action.

10 SECTION 5. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 6. This Act shall take effect upon its approval.



Report Title:

Disaster Relief; Emergency Powers; Clarification

Description:

Activates provisions of the State's disaster relief law to apply to emergencies, except for enemy attack. Clarifies the use of the governor's emergency powers in response to a natural or manmade disaster. Limits the governor's powers to provide disaster relief or the length of time that the governor may provide disaster relief in specific circumstances without legislative authorization. States that, in certain cases, emergency powers in force prior to the effective date of this measure expire at the end of the 2008 regular session unless reauthorized by the legislature. (SB2828 SD2)

