
A BILL FOR AN ACT

RELATING TO CIVIL DEFENSE.

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

1 SECTION 1. Section 128-10, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§128-10 Other powers.** The governor further, irrespective
4 of the existence of a civil defense emergency period, may:

- 5 (1) Cooperate with the President and the heads of the
6 armed forces, and the civil defense agency of the
7 United States, and with the officers and agencies of
8 other states in matters pertaining to the civil
9 defense of the State and nation and the incidents
10 thereof, and take any measures which the governor may
11 consider proper to carry into effect any request of
12 the President or the appropriate federal officers and
13 agencies, for any action looking to civil defense;
- 14 (2) Lease, lend, or otherwise furnish, on such terms and
15 conditions as the governor may consider necessary to
16 promote the public welfare and protect the interest of
17 the State, any real or personal property of the state
18 government or its political subdivisions, to the



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1 President, the heads of the armed forces, or to the
2 civil defense agency of the United States;

3 (3) On behalf of the State enter into mutual aid
4 agreements or compacts with the federal government and
5 with other states. The agreements or compacts shall
6 be limited to civil defense. It may be provided in an
7 interstate compact, and the governor with the advice
8 and consent of the political subdivisions included
9 within the scope of the compact, may agree on behalf
10 of the State that:

11 (A) Each party state shall extend to the civil
12 defense forces of any other party state, while
13 operating within its state limits under the terms
14 and conditions of the compact, the same powers
15 (except that of arrest unless specifically
16 authorized by the receiving state), duties,
17 rights, privileges, and immunities as if they
18 were performing their duties in the state in
19 which normally employed or rendering services;

20 (B) Whenever any person holds a license, certificate,
21 or other permit issued by any state evidencing
22 the meeting of qualifications for professional,



1 mechanical, or other skills, the person may
2 render aid involving this skill in any party
3 state to meet an emergency or disaster and the
4 state shall give due recognition to such license,
5 certificate, or other permit as if issued in the
6 state in which aid is rendered;

7 (C) No party state or its officers or employees
8 rendering aid in another state pursuant to the
9 compact shall be liable on account of any act or
10 omission on the part of the forces while so
11 engaged, or on account of the maintenance or use
12 of any materials, equipment, goods, or facilities
13 in connection therewith;

14 (D) As an alternative to paragraph (C), such other or
15 modified form of immunity as the governor may
16 find acceptable;

17 (E) Each party state shall provide for the payment of
18 compensation and death benefits to injured
19 members of the civil defense forces of that state
20 and the representatives of deceased members of
21 the forces in case the members sustain injuries
22 or are killed while rendering aid pursuant to the



1 compact, in the same manner and on the same terms
2 as if the injury or death were sustained within
3 the state;

4 (F) Any party state rendering aid in another state
5 pursuant to the compact shall be reimbursed by
6 the party state receiving aid, or by the United
7 States government under plans approved by it, for
8 any loss or damage to, or expense incurred in the
9 operation of any equipment answering a request
10 for aid, and for all costs incurred in connection
11 with requests for aid; provided that this
12 paragraph shall not be deemed to preclude the
13 State, if it is the aiding state, from assuming
14 in whole or in part the loss, damage, expense, or
15 other cost, or from loaning the equipment or
16 donating the services to the receiving party
17 state without charge or cost;

18 (G) Any party state receiving evacuees shall be
19 reimbursed generally for the out-of-pocket
20 expenses incurred in receiving and caring for the
21 evacuees, for expenditures for transportation,
22 food, clothing, medicines, and medical care, and



1 like items; the expenditures shall be reimbursed
2 by the party state of which the evacuees are
3 residents, or by the United States government
4 under plans approved by it; and

5 (H) In the event of an evacuation, the party state of
6 which the evacuees are residents shall, after the
7 termination of the emergency or disaster, assume
8 the responsibility for the ultimate support or
9 repatriation of the evacuees;

10 (4) Sponsor and develop mutual aid plans and agreements
11 for civil defense between the political subdivisions
12 of the State and between one or more political
13 subdivisions and other public or private agencies, for
14 the furnishing or exchange of food, clothing,
15 medicine, and other materials; engineering services,
16 emergency housing; police services; health, medical,
17 and related services; fire fighting, rescue,
18 transportation, and construction services and
19 facilities; personnel necessary to provide or conduct
20 these services; and such other materials, facilities,
21 personnel, and services as may be needed. The mutual
22 aid plans and agreements may be made with or without



1 provisions for reimbursement of costs and expenses,
2 and on such terms and conditions as are deemed
3 necessary;

4 (5) Order and direct government agencies, officers, and
5 employees, state or local, to take such action and
6 employ such measures for law enforcement, medical,
7 health, fire fighting, traffic control, warnings, and
8 signals, engineering, rescue, construction, emergency
9 housing, and other welfare, hospitalization,
10 transportation, water supply, public information,
11 training, mitigation of hazardous situations, and
12 other civil defense and emergency functions as may be
13 necessary, and utilize the services, materials, and
14 facilities of the agencies and officers. All such
15 agencies and officers shall cooperate with and extend
16 their services, materials, and facilities to the
17 governor as the governor may request;

18 (6) Take possession of, use, manage, control, and
19 reallocate any public property, state or county, real
20 or personal, required by the governor for the purposes
21 of this chapter, including, without limitation,
22 airports, parks, playgrounds, and schools, and other



1 public buildings. Whenever the property is so taken
2 the governor shall have power to make such provision
3 for the temporary accommodation of the government
4 service affected thereby as the governor may deem
5 advisable. Like provisions may be made at any time
6 whenever it is necessary to relocate any government
7 service because of any emergency condition;

8 (7) Utilize all services, materials, and facilities of
9 nongovernmental agencies, relief organizations,
10 community associations, and other civil groups and
11 private agencies that may be made available;

12 (8) Receive, expend, or use contributions or grants in
13 money, property, or services, or loans of property, or
14 special contributions or grants in money, property, or
15 services, or loans of property, for special purposes
16 provided for by this chapter; establish funds in the
17 treasury for the deposit and expenditure of the
18 moneys; procure federal aid as the same may be
19 available, and apply the provisions of chapter 29 in
20 cases of federal aid even though not in the form of
21 money. The contributions or grants are appropriated



1 for the purposes of this chapter, or for the special
2 purposes;

3 (9) Provide for the repair and maintenance of public
4 property, whenever adequate provision therefor is not
5 otherwise made; insure the property against any war
6 risk, including without limitation damage or loss
7 resulting from or arising out of an attack or action
8 in resisting or combating an attack or apparent
9 attack; provide for the restoration, renovation,
10 replacement, or reconstruction of insured property in
11 the event of damage or loss, and make temporary
12 restoration of public utilities and other vital
13 facilities in the event of an attack or other
14 disaster;

15 (10) Purchase, make, produce, construct, rent, lease, or
16 procure by condemnation or otherwise, transport,
17 store, install, maintain, and insure, repair,
18 renovate, restore, replace, or reconstruct, and
19 distribute, furnish, or otherwise dispose of, with or
20 without charges therefor, materials and facilities for
21 civil defense and other emergency functions; procure
22 federal aid therefor whenever feasible; and take any



1 measures which may, in the governor's opinion, secure,
2 stimulate, or increase similar activities by private
3 or public persons or organizations. Chapter 103D,
4 sections 103-50, 103-50.5, 103-53, 103-55, 105-1 to
5 105-10, and 464-4 shall not apply to any civil defense
6 or other emergency functions if and to the extent that
7 the governor finds that the provisions, in whole or in
8 part, impede or tend to impede the expeditious
9 discharge of the functions, or that compliance
10 therewith is impracticable due to existing conditions.
11 In cases of extreme urgency during a civil defense
12 emergency period the governor may suspend the penal
13 provisions of sections 46-45 and 103-9, except those
14 provisions that concern falsification;

- 15 (11) Appoint, employ, train, equip, and maintain, with
16 compensation, or on a volunteer basis without
17 compensation and without regard to chapters 76, 78,
18 and 88, such agencies, officers, and other persons as
19 the governor deems necessary to carry out this
20 chapter; determine to what extent any law prohibiting
21 the holding of more than one office or employment
22 applies to the agencies, officers, and other persons;



1 and subject to section 128-15, provide for and effect
2 the interchange of personnel, by detail, transfer, or
3 otherwise, between the State and any political
4 subdivision, or among any agencies or departments of
5 the State;

6 (12) Make charges in such cases and in such amounts as the
7 governor deems advisable, for any property sold, work
8 performed, services rendered, or accommodations or
9 facilities furnished by the government under this
10 chapter; and make charges for licenses or permits to
11 cover administrative expense connected therewith;

12 (13) Make such contracts as may be necessary to carry out
13 this chapter;

14 (14) Establish special accounting forms and practices
15 whenever necessary; and

16 (15) Take any and all steps necessary or appropriate to
17 carry out the purposes of this chapter and to provide
18 for civil defense and other emergency functions.

19 The powers and authority conferred upon the governor by this
20 chapter are in addition to any other powers or authority
21 conferred upon the governor by the laws of the United States and
22 of the State for the same or a like purpose, and shall not be



1 construed as abrogating, limiting, or modifying any such powers,
2 or authority."

3 SECTION 2. Section 128-10.3, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Even in the absence of a civil defense activity or
6 other emergency, the governor may authorize [~~designated state~~
7 employees] agencies, officers, and employees, state or local, to
8 enter private property at reasonable times to investigate,
9 determine, or mitigate situations deemed by the governor to be
10 hazardous to the health and safety of the public; provided that
11 this section shall be applicable only to the following actions:

12 (1) Cutting, trimming, or removing dangerous trees or
13 branches that pose a hazard to other properties;

14 (2) Stabilizing or removing unstable rock and soil
15 hazards; or

16 (3) Cleaning streams and waterways to mitigate or prevent
17 flooding or other disasters;

18 provided further that at least ten days' notice shall be
19 provided to the landowner and to the occupier of the private
20 property of the governor's intention to authorize designated
21 state employees to enter the property to investigate, determine,
22 or mitigate the hazardous situation; provided further that the



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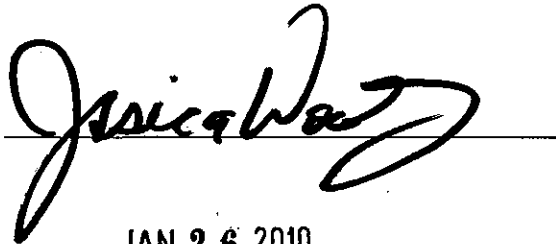
1 landowner or occupier shall be given a reasonable opportunity to
2 mitigate the hazardous situation without assistance of the State
3 before designated state employees may enter the property."

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.

7

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Jessica Wang", is written over a horizontal line.

JAN 26 2010



Report Title:

Civil Defense

Description:

Provides that the governor may order and direct government agencies, officers, and employees, state or local, to take actions and employ measures necessary to mitigate hazardous situations. Allows the governor to authorize state or local agencies, officers, and employees to enter private property at reasonable times to investigate, determine, or mitigate situations deemed by the governor to be hazardous to the health and safety of the public, even in the absence of a civil defense activity or other emergency.

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