

JAN 21 2011

A BILL FOR AN ACT

RELATING TO COUNTY MUTUAL AID.

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

1 **PART I**

2 SECTION 1. In times of emergency, any county in the State
3 may be vulnerable to shortages of potable and non-potable water.
4 As an island state, every county in Hawaii is isolated
5 geographically from each of the other counties. As the most
6 important resource to sustain life is water, the legislature
7 finds that each county should be able to depend on another
8 county as a source of water supply during times of emergency
9 when the lack of water in sufficient quantity threatens the
10 public health and welfare.

11 The purpose of this part is to establish procedures for an
12 inter-county mutual aid sharing of water in times of emergency.

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

16 "CHAPTER

17 COUNTY MUTUAL AID SHARING OF FRESH WATER



1 § -1 **Purpose.** The purpose of this chapter is to
2 establish a system of expedited access to a county's water
3 supply by another county in times of emergency.

4 § -2 **Definitions.** As used in this chapter:

5 "County" refers to the city and county of Honolulu, the
6 county of Maui, the county of Kauai, and the county of Hawaii.

7 "Emergency" means the absence in a county of a sufficient
8 quantity and quality of potable water or non-potable water,
9 which results in a threat to the public health and welfare,
10 including drought conditions.

11 "Non-potable water" means water that is unsafe or
12 unpalatable to drink because it contains pollutants,
13 contaminants, minerals, or infective agents, but that may
14 otherwise be suitable for irrigation, cooling towers, toilet
15 flushing, and related uses.

16 "Potable water" means water that is suitable for drinking;
17 provided that the water is of sufficiently high quality, as
18 determined by the board of water supply of the county providing
19 the water, that it may be consumed or used without risk of
20 immediate or long term harm to humans, including for use in
21 bathing and cooking.



1 § -3 **Mutual aid agreement of assistance.** (a) There is
2 established a mutual aid network of assistance among the
3 counties under which a county shall provide potable water and
4 non-potable water to another county during times of emergency;
5 provided that the mayor of an affected county petitions the
6 governor to declare that there exists an emergency within the
7 affected county.

8 (b) For purposes of subsection (a), each board of water
9 supply of a county or other county agency having regulatory
10 jurisdiction over water shall develop a master agreement to
11 provide for the sharing of potable water and non-potable water
12 between the counties in times of emergency. The master
13 agreement shall address:

14 (1) The shipping or transmission of potable water and
15 non-potable water from one county to another county;
16 and

17 (2) Issues covering liability, indemnification, workers'
18 compensation, reimbursement of expenses, and sharing
19 of equipment, personnel, and other resources to
20 effectively respond to the emergency.

21 (c) The model mutual aid and assistance agreement for
22 intrastate water and wastewater agency response network (WARN)



1 may be used as a master agreement for purposes of this chapter;
2 provided that the model agreement may be modified to
3 appropriately apply to state or county conditions.

4 § -4 **Military assistance.** The governor may request the
5 assistance of the United States military branches to assist in
6 implementing the master agreement."

7 **PART II**

8 SECTION 3. The Hawaii Revised Statutes is amended by
9 adding a new chapter to be appropriately designated and to read
10 as follows:

11 **"CHAPTER**

12 **HAWAII STATEWIDE MUTUAL AID SYSTEM**

13 § -1 **Definitions.** As used in this chapter:

14 "Disaster" means the occurrence or imminent threat of
15 widespread or severe damage, injury, or loss of life or property
16 resulting from any natural or man-made cause, including fire,
17 flood, earthquake, wind, storm, tsunami, wave action, oil spill
18 or other water contamination, volcanic activity, epidemic, air
19 contamination, blight, drought, infestation, explosion, riot,
20 hostile military or paramilitary action, or other public
21 calamity, including an energy emergency.



1 "Homeland security" means any activity related to the
2 prevention or discovery of, response to, or recovery from a
3 terrorist attack, natural or man-made disaster, hostile military
4 or paramilitary action, or extraordinary law enforcement
5 emergency.

6 "Mutual aid" means a homeland security activity or
7 activities in response to a disaster.

8 "Organized volunteer group" means the American National Red
9 Cross, Salvation Army, Civil Air Patrol, or other similar
10 organization recognized by federal or state law.

11 "Requesting county" means a county requesting mutual aid
12 assistance under the system.

13 "Responding county" means a county providing mutual aid
14 assistance in response to a request under the system.

15 "System" means the Hawaii statewide mutual aid system,
16 to be activated in times of disaster or homeland security
17 activity. The system includes counties that are signatory
18 to a written mutual aid agreement as well as those counties
19 that are not signatories.

20 § -2 **Emergency management directors.** (a) The mayor
21 of each county is designated as the emergency management
22 director for the county for purposes of this chapter.



1 (b) An emergency management director shall serve as
2 the governor's designated agent in the administration and
3 supervision of duties under this chapter.

4 (c) An emergency management director shall appoint a
5 county employee to serve as an emergency management
6 coordinator. The emergency management coordinator shall
7 serve as an assistant to the emergency management director
8 for the conduct of emergency management activities for
9 purposes of this chapter.

10 § -3 **County mutual aid.** (a) A county shall render
11 mutual aid to another county under a written mutual aid
12 agreement executed among each of the counties at the
13 discretion of a particular county; provided that there
14 shall be a single mutual aid agreement among all the
15 counties.

16 (b) An organized volunteer group may independently
17 render mutual aid to another county, without regard to
18 subsection (a), while acting in accordance with the
19 policies, ordinances, and procedures established by the
20 governing body of the organized volunteer group.

21 § -4 **Special statewide mutual aid program for fire**
22 **emergencies.** The office of the governor, in consultation with



1 fire protection agencies of each county, may develop a special
2 statewide mutual aid program for fire emergencies, without the
3 necessity of a written mutual aid agreement.

4 § -5 **Creation of the Hawaii statewide mutual aid system.**

5 (a) The Hawaii statewide mutual aid system is established to
6 provide integrated statewide mutual aid response capability
7 between counties that are signatories to a written mutual aid
8 agreement, as well as those counties that are not
9 signatories.

10 (b) A request for mutual aid assistance between signatory
11 counties shall be made in accordance with the provisions of a
12 written mutual aid agreement in effect when the request is made.
13 The terms of the mutual aid agreement shall govern the rights
14 and obligations between the signatory counties.

15 (c) The governor shall determine the nature and extent
16 of the aid to provide to a requesting county that is not a
17 signatory county.

18 § -6 **Administration by the department of defense.** (a)

19 The state department of defense shall administer the system. In
20 administering the system, the department shall encourage and
21 assist political subdivisions in planning and implementing
22 comprehensive all-hazards emergency management programs,



1 including assisting political subdivisions to ensure that
2 the local emergency management plan of each subdivision
3 adequately provides for the rendering and receipt of mutual
4 aid.

5 (b) The adjutant general shall serve as the state
6 director of homeland security for purposes of this chapter.

7 § -7 **Disaster districts.** (a) Each island shall
8 constitute a disaster district. A disaster district shall
9 engage in homeland security preparedness and response
10 activities in accordance with this section.

11 (b) A disaster district committee shall be established
12 for each disaster district. The mayor of a county shall
13 select the members of a disaster district committee;
14 provided that membership be composed of county
15 representatives of state agencies, boards, commissions, and
16 organized volunteer groups within the disaster district.

17 (c) Each disaster district committee shall coordinate
18 emergency activities within the disaster district to ensure
19 that state and federal emergency assets are made available
20 as needed to provide the most efficient and effective
21 response possible.



1 (d) The adjutant general shall appoint a commanding
2 officer from each county's police department to serve as chair
3 of each disaster district committee. The chair shall:

4 (1) Inform and advise as appropriate, the governor, mayor,
5 and state director of homeland security on all matters
6 relating to disasters and emergencies as requested by
7 the governor, mayor, or state director of homeland
8 security; and

9 (2) Assist the disaster district committee and provide
10 guidance, counsel, and administrative support to the
11 committee.

12 § -8 **Procedures for mutual aid.** A written mutual aid
13 agreement shall specify the procedures regarding the manner in
14 which mutual aid is to be provided to signatory counties.

15 § -9 **Requesting and providing mutual aid assistance.**

16 (a) A request for mutual aid assistance may be submitted in
17 writing to the governor by the mayor of a signatory or
18 non-signatory county.

19 (b) The governor, upon consultation with the state
20 department of defense, may issue an executive order to require
21 any county to provide the requested assistance, without regard



1 to whether the requesting or responding county is a signatory to
2 a written mutual aid agreement.

3 § -10 **Assessment of ability to render assistance.** (a)

4 A responding county shall assess local resources to determine
5 availability of personnel, equipment, and other assistance to
6 respond to the request. A responding county shall provide
7 assistance to the extent that personnel, equipment, and
8 resources are determined to be available.

9 (b) A responding county shall not be required to provide
10 mutual aid assistance unless the county determines that it has
11 sufficient resources to provide mutual aid assistance, based on
12 current or anticipated events in its jurisdiction.

13 § -11 **Supervision and control.** When providing mutual
14 aid assistance under the system:

15 (1) The response effort shall be in accordance with the
16 National Incident Management System guidelines of the
17 Federal Emergency Management Agency, United States
18 Department of Homeland Security;

19 (2) The personnel, equipment, and resources of a
20 responding county being used in the response effort
21 shall be under the operational control of the
22 requesting county unless otherwise agreed;



- 1 (3) Direct supervision and control of personnel,
2 equipment, and resources and personnel accountability
3 shall remain the responsibility of the designated
4 supervisory personnel of the responding county;
- 5 (4) Unless otherwise agreed to in advance, an emergency
6 medical service organization providing assistance
7 under the system shall use the medical protocols
8 authorized by the organization's medical director;
- 9 (5) The designated supervisory personnel of the responding
10 county shall:
- 11 (A) Maintain daily personnel time records, material
12 records, and a log of equipment hours;
- 13 (B) Be responsible for the operation and maintenance
14 of the equipment and other resources furnished by
15 the responding county; and
- 16 (C) Report work progress to the requesting county;
17 and
- 18 (6) The responding county's personnel and other resources
19 shall be subject to recall at any time upon reasonable
20 notice to the requesting county.

21 § -12 **Duration of aid.** The provision of mutual aid
22 assistance under the system may continue until the earlier of:



1 (1) The services of the responding county are no longer
2 required; or

3 (2) The requesting or responding county determines that
4 further assistance should not otherwise continue to be
5 provided.

6 § -13 **Rights and privileges.** A county employee of a
7 responding county shall receive, and the responding county shall
8 pay, the same wages, salary, pension, and other compensation and
9 benefits, including injury or death benefits, disability
10 payments, and workers' compensation benefits, for the performance
11 of the duties under the system.

12 § -14 **Reimbursement of costs; state request or federal**
13 **disaster declaration.** (a) For an incident resulting in the
14 issuance of a disaster declaration by the President of the
15 United States, the state department of defense shall administer
16 all requests by a responding county for reimbursement for costs
17 associated with providing mutual aid assistance, upon
18 reimbursement procedures developed by the state department of
19 defense.

20 (b) The state department of defense may directly request
21 the provision of mutual aid assistance from any county that is
22 signatory to a written mutual aid agreement in times of a



1 disaster declaration by the President of the United States. If
2 the state department of defense requests the provision of
3 assistance from a responding county, the State shall reimburse
4 the actual costs of providing assistance, including costs for
5 personnel, operation and maintenance of equipment, damaged
6 equipment, food, lodging, and transportation, incurred by the
7 responding county. The State shall pay reimbursements from
8 available state funds.

9 (c) If federal funds are available to pay costs associated
10 with the provision of mutual aid assistance under subsection
11 (b), the state department of defense shall:

- 12 (1) Make the claim for the eligible costs of the
13 responding county on a grant application to the
14 federal government; and
- 15 (2) Disburse the federal share of the funds to the
16 responding county, with supplemental state funds
17 sufficient to cover the actual costs incurred by the
18 responding county in providing the assistance.

19 § -15 Reimbursement of costs by requesting county in the
20 absence of a federal disaster declaration . (a) If a
21 requesting county requests mutual aid assistance from another
22 county under the system in times other than during a federal



1 disaster declaration, the requesting county shall reimburse the
 2 responding county for the actual costs of providing mutual aid
 3 assistance, including but not limited to the costs for
 4 personnel, operation and maintenance of equipment, damaged
 5 equipment, food, lodging, and transportation incurred by the
 6 responding county in response to a request for reimbursement.

7 (b) The requesting county shall pay the reimbursement from
 8 available county funds. If federal funds are available to pay
 9 costs associated with the provision of mutual aid assistance,
 10 the requesting county shall:

11 (1) Make the claim for the eligible costs of the
 12 responding county by requesting a federal grant or
 13 sub-grant; and

14 (2) Disburse the federal share of the funds to the
 15 responding county, with sufficient local funds to
 16 cover the actual costs of the responding county in
 17 providing assistance."

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

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INTRODUCED BY: *[Signature]*

Randy H. Paul
J. Kelvin Blah

Report Title:

Counties; Emergencies

Description:

Establishes a mutual aid agreement of assistance among the counties to provide potable water and non-potable water to another county during times of emergency. Establishes the Hawaii statewide mutual aid system to provide integrated statewide mutual aid response capability between counties in times of disaster.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

