
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~~] that the
11 governor may consider proper to carry into effect any
12 request of the President or the appropriate federal
13 officers and agencies, for any action looking to civil
14 defense;

15 (2) Lease, lend, or otherwise furnish, on such terms and
16 conditions as the governor may consider necessary to
17 promote the public welfare and protect the interest of
18 the State, any real or personal property of the state



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1 government or its political subdivisions, to the
2 President, the heads of the armed forces, or to the
3 civil defense agency of the United States;

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

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

21 (B) Whenever any person holds a license, certificate,
22 or other permit issued by any state evidencing



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

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

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

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



1 or are killed while rendering aid pursuant to the
2 compact, in the same manner and on the same terms
3 as if the injury or death were sustained within
4 the state;

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

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



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

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

11 (4) Sponsor and develop mutual aid plans and agreements
12 for civil defense between the political subdivisions
13 of the State and between one or more political
14 subdivisions and other public or private agencies, for
15 the furnishing or exchange of food, clothing,
16 medicine, and other materials; engineering services,
17 emergency housing; police services; health, medical,
18 and related services; fire fighting, rescue,
19 transportation, and construction services and
20 facilities; personnel necessary to provide or conduct
21 these services; and such other materials, facilities,
22 personnel, and services as may be needed. The mutual



1 aid plans and agreements may be made with or without
2 provisions for reimbursement of costs and expenses,
3 and on such terms and conditions as are deemed
4 necessary;

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

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



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

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

13 (8) Receive, expend, or use contributions or grants in
14 money, property, or services, or loans of property, or
15 special contributions or grants in money, property, or
16 services, or loans of property, for special purposes
17 provided for by this chapter; establish funds in the
18 treasury for the deposit and expenditure of the
19 moneys; procure federal aid as the same may be
20 available, and apply the provisions of chapter 29 in
21 cases of federal aid even though not in the form of
22 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, may
2 secure, stimulate, or increase similar activities by
3 private or public persons or organizations. Chapter
4 103D, sections 103-50, 103-50.5, 103-53, 103-55, 105-1
5 to 105-10, and 464-4 shall not apply to any civil
6 defense or other emergency functions if and to the
7 extent that the governor finds that the provisions, in
8 whole or in part, impede or tend to impede the
9 expeditious discharge of the functions, or that
10 compliance therewith is impracticable due to existing
11 conditions. In cases of extreme urgency during a
12 civil defense emergency period the governor may
13 suspend the penal provisions of sections 46-45 and
14 103-9, except those provisions that concern
15 falsification;

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



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

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

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

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

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

20 The powers and authority conferred upon the governor by this
21 chapter are in addition to any other powers or authority
22 conferred upon the governor by the laws of the United States and



1 of the State for the same or a like purpose, and shall not be
2 construed as abrogating, limiting, or modifying any such powers,
3 or authority."

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

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

- 13 (1) Cutting, trimming, or removing dangerous trees or
14 branches that pose a hazard to other properties;
15 (2) Stabilizing or removing unstable rock and soil
16 hazards; or
17 (3) Cleaning streams and waterways to mitigate or prevent
18 flooding or other disasters;

19 provided further that at least ten days' notice shall be
20 provided to the landowner and to the occupier of the private
21 property of the governor's intention to authorize [~~designated~~
22 ~~state employees~~] agencies, officers, and employees, state or



1 local, to enter the property to investigate, determine, or
 2 mitigate the hazardous situation; provided further that the
 3 landowner or occupier shall be given a reasonable opportunity to
 4 mitigate the hazardous situation without assistance of the State
 5 before [~~designated state employees~~] agencies, officers, and
 6 employees, state or local, may enter the property."

7 SECTION 3. Statutory material to be repealed is bracketed
 8 and stricken. New statutory material is underscored.

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

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INTRODUCED BY:



JAN 20 2011



Report Title:

Civil Defense

Description:

Allows the governor to 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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