
A BILL FOR AN ACT

RELATING TO MITIGATION OF HAZARDOUS SITUATIONS.

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

1 SECTION 1. The legislature finds that there are often
2 significant events in the State that greatly affect the State's
3 residents. The recent lava flow on Hawaii island impacted many
4 residents, but the news media was restricted from accessing
5 areas that were closed pursuant to emergency management powers.
6 As a result, the news media was unable to disseminate complete
7 information to residents. The legislature finds that complete
8 accurate information can be crucial in the mitigation of
9 hazards.

10 The legislature further finds that section 127A-18, Hawaii
11 Revised Statutes, authorizes the governor to allow state
12 employees, agents, contractors, or representatives to enter
13 private property to mitigate situations deemed to be hazardous
14 to the health and safety of the public.

15 The legislature also finds that the Hawaii emergency
16 management agency must have authorization and funding for the
17 hiring of designated personnel to oversee the mitigation of
18 hazardous situations program and carry out the duties identified



1 in section 127A-18, Hawaii Revised Statutes. Currently, there
2 is no funding available to the Hawaii emergency management
3 agency for the hiring of designated personnel to oversee and
4 administer the program.

5 The purpose of this Act is to:

6 (1) Authorize journalists and newscasters to cover the
7 mitigation of hazardous situations and access areas
8 that are closed pursuant to emergency management
9 powers of the governor or mayor; and

10 (2) Provide personnel and funds to the Hawaii emergency
11 management agency in order to effectuate section 127A-
12 18, Hawaii Revised Statutes.

13 SECTION 2. Section 127A-12, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[+]§127A-12[+] **Emergency management powers, in general.**

16 (a) The governor or mayor, as applicable, may exercise the
17 following powers pertaining to emergency management:

18 (1) Prepare comprehensive plans and programs for the
19 protection of the State or county against all hazards,
20 which shall be integrated into and coordinated with
21 the emergency management plans of the State, counties,



- 1 the federal government, other states, and private-
- 2 sector and nonprofit organizations;
- 3 (2) Identify emergency workers required to report for duty
- 4 as directed by the department head regardless of the
- 5 availability of any type of leave;
- 6 (3) Institute training, preparedness, and public-
- 7 information programs in coordination with the State,
- 8 counties, the federal government, other states, and
- 9 private-sector and nonprofit organizations;
- 10 (4) Provide or authorize suitable insignia of authority
- 11 for all authorized emergency management personnel; and
- 12 (5) Direct or control as may be necessary for emergency
- 13 management:
- 14 (A) Alerts, warnings, notifications, activations,
- 15 exercises, drills, and tests;
- 16 (B) Warnings and signals for alerts or exercises, and
- 17 any type of warning device, system, or method to
- 18 be used in connection therewith;
- 19 (C) Partial or full mobilization of personnel for
- 20 exercises or training, in advance of, or in
- 21 response to, an actual emergency or disaster; and



1 (D) The conduct of civilians and the movement and
2 cessation of movement of pedestrians and
3 vehicular traffic during, before, and after
4 alerts, exercises, training, emergencies, or
5 disasters.

6 (b) The governor may exercise the following powers
7 pertaining to emergency management:

8 (1) Support requests from a mayor for assistance in
9 preparing for, responding to, and recovering from any
10 emergency or disaster or threat thereof;

11 (2) Lease, lend, or otherwise furnish, on such terms and
12 conditions as the governor may consider necessary to
13 promote the public welfare and protect the interest of
14 the State, any real or personal property of the state
15 government, to the President of the United States, the
16 armed forces, or to the emergency management agency of
17 the United States;

18 (3) Enter into, participate in, or carry out mutual aid
19 agreements or compacts for emergency management or
20 emergency management functions with the federal
21 government and with other states;



- 1 (4) Sponsor and develop mutual aid plans and agreements
2 for emergency management between the State, one or
3 more counties, and other governmental, private-sector,
4 and nonprofit organizations, for the furnishing or
5 exchange of food, clothing, medicine, and other
6 materials; engineering services; emergency housing;
7 police services; health, medical, and related
8 services; firefighting, rescue, transportation, and
9 construction services and facilities; personnel
10 necessary to provide or conduct these services; and
11 such other materials, facilities, personnel, and
12 services as may be needed. The mutual aid plans and
13 agreements may be made with or without provisions for
14 reimbursement of costs and expenses, and on such terms
15 and conditions as are deemed necessary;
- 16 (5) Take possession of, use, manage, control, and
17 reallocate any public property of the State, real or
18 personal, required by the governor for the purposes of
19 this chapter, including airports, parks, playgrounds,
20 and schools, and other public buildings. Whenever the
21 property is so taken, the governor may make such



1 provision for the temporary accommodation of the
2 government service affected thereby as the governor
3 may deem advisable;

4 (6) Utilize all services, materials, and facilities of
5 nongovernmental agencies, relief organizations,
6 community associations, and other private-sector and
7 nonprofit organizations that may be made available;

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



- 1 (8) Purchase, make, produce, construct, rent, lease, or
2 procure by condemnation or otherwise, transport,
3 store, install, maintain, and insure, repair,
4 renovate, restore, replace or reconstruct, and
5 distribute, furnish or otherwise dispose of, with or
6 without charges, materials and facilities for
7 emergency management; and to procure federal aid
8 therefor whenever feasible. Chapter 103D and sections
9 103-50, 103-53, 103-55, 105-1 to 105-10, and 464-4
10 shall not apply to any emergency management functions
11 of the governor to the extent that the governor finds
12 that the provisions, in whole or in part, impede or
13 tend to impede the expeditious discharge of those
14 functions, or that compliance therewith is
15 impracticable due to existing conditions;
- 16 (9) Provide for the appointment, employment, training,
17 equipping, and maintaining with compensation, or on a
18 volunteer basis without compensation and without
19 regard to chapters 76, 78, and 88, of such agencies,
20 officers, and other persons as the governor deems
21 necessary to carry out the purposes of this chapter;



- 1 to determine to what extent any law prohibiting the
2 holding of more than one office or employment applies
3 to the agencies, officers, and other persons; and
4 subject to provisions of this chapter, to provide for
5 the interchange of personnel, by detail, transfer, or
6 otherwise, between agencies or departments of the
7 State;
- 8 (10) Make charges in such cases and in such amounts as the
9 governor deems advisable, for any property sold, work
10 performed, services rendered, or accommodations or
11 facilities furnished by the State under this chapter;
- 12 (11) Make or authorize [such] contracts as may be necessary
13 to carry out this chapter;
- 14 (12) Establish special accounting forms and practices
15 whenever necessary;
- 16 (13) Require each public utility, or any person owning,
17 controlling, or operating a critical infrastructure
18 facility as identified by the governor, to protect and
19 safeguard its or the person's property, or to provide
20 for the protection and safeguarding thereof; and
21 provide for the protection and safeguarding of all



1 critical infrastructure and key resources; provided
2 that without prejudice to the generality of the
3 foregoing two clauses, the protecting and safeguarding
4 may include the regulation or prohibition of public
5 entry thereon, or the permission of the entry upon
6 [such] terms and conditions as the governor may
7 prescribe;

8 (14) Restrict the congregation of the public in stricken or
9 dangerous areas or under dangerous conditions;

10 (15) Direct and control the non-compulsory evacuation of
11 the civilian population;

12 (16) Order and direct government agencies, officials,
13 officers, and employees of the State, to take [such]
14 action and employ [such] measures for law enforcement,
15 medical, health, firefighting, traffic control,
16 warnings and signals, engineering, rescue,
17 construction, emergency housing, other welfare,
18 hospitalization, transportation, water supply, public
19 information, training, and other emergency functions
20 as may be necessary, and utilize the services,
21 materials, and facilities of the agencies and



1 officers. All [~~such~~] agencies and officers shall
2 cooperate with and extend their services, materials,
3 and facilities to the governor as the governor may
4 request;

5 (17) Provide for the repair and maintenance of public
6 property, whenever adequate provision therefor is not
7 otherwise made; insure the property against any
8 emergency or disaster; provide for the restoration,
9 renovation, replacement, or reconstruction of insured
10 property in the event of damage or loss; and make
11 temporary restoration of public utilities and other
12 critical infrastructure facilities in the event of an
13 emergency or disaster;

14 (18) Fix or revise the hours of government business; and

15 (19) Take any and all steps necessary or appropriate to
16 carry out the purposes of this chapter notwithstanding
17 that those powers in section 127A-13(a) may only be
18 exercised during an emergency period.

19 (c) The mayor may exercise the following powers pertaining
20 to emergency management:



- 1 (1) Lease, lend, or otherwise furnish, on [such] terms and
2 conditions as the mayor may consider necessary to
3 promote the public welfare and protect the interest of
4 the county, any real or personal property of the
5 county government, to the governor of the State, to
6 the mayors of the other counties of the State, or to
7 the agency;
- 8 (2) Sponsor and develop mutual aid plans and agreements
9 for emergency management between one or more counties,
10 and other governmental, private-sector, or nonprofit
11 organizations, for the furnishing or exchange of food,
12 clothing, medicine, and other materials; engineering
13 services; emergency housing; police services; health,
14 medical, and related services; firefighting, rescue,
15 transportation, and construction services and
16 facilities; personnel necessary to provide or conduct
17 these services; and [such] other materials,
18 facilities, personnel, and services as may be needed.
19 The mutual aid plans and agreements may be made with
20 or without provisions for reimbursement of costs and



- 1 expenses, and on [~~such~~] terms and conditions as are
2 deemed necessary;
- 3 (3) Take possession of, use, manage, control, and
4 reallocate any public property of the county, real or
5 personal, required by the mayor for the purposes of
6 this chapter, including parks, playgrounds, and other
7 public buildings. Whenever the property is so taken,
8 the mayor may make such provision for the temporary
9 accommodation of the government service affected as
10 the mayor may deem advisable;
- 11 (4) Utilize all services, materials, and facilities of
12 nongovernmental agencies, relief organizations,
13 community associations, and other private-sector and
14 nonprofit organizations that may be made available;
- 15 (5) Receive, expend, or use contributions or grants, which
16 shall be deemed to be trust funds, in money, property,
17 or services, or loans of property, or special
18 contributions or grants in money, property, or
19 services, or loans of property, for special purposes
20 provided for by this chapter; establish funds in the
21 treasury for the deposit and expenditure of the



1 moneys; and procure federal aid as [~~the same~~] may be
2 available. The contributions or grants are
3 appropriated for the purposes of this chapter, or for
4 the special purposes;

5 (6) Purchase, make, produce, construct, rent, lease, or
6 procure by condemnation or otherwise, transport,
7 store, install, maintain, and insure, repair,
8 renovate, restore, replace or reconstruct, and
9 distribute, furnish or otherwise dispose of, with or
10 without charges, materials and facilities for
11 emergency management; and to procure federal aid
12 therefor whenever feasible. Chapter 103D and sections
13 103-50, 103-53, 103-55, 105-1 to 105-10, and 464-4
14 shall not apply to any emergency management functions
15 of and to the extent that the mayor finds that the
16 provisions, in whole or in part, impede or tend to
17 impede the expeditious discharge of the functions, or
18 that compliance therewith is impracticable due to
19 existing conditions;

20 (7) Provide for the appointment, employment, training,
21 equipping, and maintaining, with compensation, or on a



1 volunteer basis without compensation and without
2 regard to chapters 76, 78, and 88, of such agencies,
3 officers, and other persons as the mayor deems
4 necessary to carry out this chapter; to determine to
5 what extent any law prohibiting the holding of more
6 than one office or position of employment applies to
7 the agencies, officers, and other persons; and subject
8 to provisions of this chapter, to provide for the
9 interchange of personnel, by detail, transfer, or
10 otherwise, between agencies or departments of the
11 county;

12 (8) Make charges in such cases and in such amounts as the
13 mayor deems advisable, for any property sold, work
14 performed, services rendered, or accommodations or
15 facilities furnished by the county under this chapter;

16 (9) Make or authorize such contracts as may be necessary
17 to carry out this chapter;

18 (10) Establish special accounting forms and practices
19 whenever necessary;

20 (11) Require each public utility, or any person owning,
21 controlling, or operating a critical infrastructure



1 facility as identified by the mayor, to protect and
 2 safeguard [~~its~~] the public utility's or the person's
 3 property, or to provide for such protection and
 4 safeguarding; and provide for the protection and
 5 safeguarding of all critical infrastructure and key
 6 resources; provided that without prejudice to the
 7 generality of the foregoing two clauses, the
 8 protection and safeguarding may include the regulation
 9 or prohibition of public entry thereon, or the
 10 permission of the entry upon such terms and conditions
 11 as the mayor may prescribe;

12 (12) Restrict the congregation of the public in stricken or
 13 dangerous areas or under dangerous conditions;

14 (13) Direct and control the non-compulsory evacuation of
 15 the civilian population of the county;

16 (14) Order and direct government agencies, officials,
 17 officers, and employees of the county, to take [~~such~~]
 18 action and employ [~~such~~] measures for law enforcement,
 19 medical, health, firefighting, traffic control,
 20 warnings and signals, engineering, rescue,
 21 construction, emergency housing, and other welfare,



1 hospitalization, transportation, water supply, public
2 information, training, and other emergency functions
3 as may be necessary, and utilize the services,
4 materials, and facilities of the agencies and
5 officers. All [~~such~~] agencies and officers shall
6 cooperate with and extend their services, materials,
7 and facilities to the mayor as the mayor may request;

8 (15) Provide for the repair and maintenance of public
9 property, whenever adequate provision therefor is not
10 otherwise made; insure the property against any
11 emergency or disaster; provide for the restoration,
12 renovation, replacement, or reconstruction of insured
13 property in the event of damage or loss; and make
14 temporary restoration of public utilities and other
15 critical infrastructure facilities in the event of an
16 emergency or disaster;

17 (16) Fix or revise the hours of county government business;
18 and

19 (17) Take any and all steps necessary or appropriate to
20 carry out the purposes of this chapter notwithstanding



1 that those powers in section 127A-13(b) may only be
2 exercised during an emergency period.

3 (d) Nothing in this section shall prevent a journalist or
4 newscaster, under the supervision of emergency management agency
5 personnel, from covering the mitigation of hazardous situations
6 or entering an area closed pursuant to this section; provided
7 that the State and counties and any employee of the State or
8 county shall not be held liable for any injury or damage to
9 person or property arising from covering the mitigation of
10 hazardous situations and entering of the area; provided further
11 that chapter 137 shall apply to any and all costs associated
12 with a search or rescue operation for the purpose of searching
13 for or rescuing the journalist or newscaster. Journalists and
14 newscasters shall be given all reasonable access and assistance
15 in covering the mitigation of hazardous situations and accessing
16 the area closed pursuant to this section. When full access
17 cannot be reasonably granted, a pool writer, pool photographer,
18 and pool videographer shall be designated to gather and
19 disseminate information; provided that the pool writer, pool
20 photographer, and pool videographer shall be deemed to be a



1 "journalist" or "newscaster" as the term is used in this
2 section.

3 For the purpose of this section, a "journalist" or
4 "newscaster" means an individual who has regularly and
5 materially participated in the reporting or publishing of news
6 or information of substantial public interest for the purpose of
7 dissemination to the general public by means of tangible or
8 electronic media."

9 SECTION 3. Section 127A-18, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "[~~§~~127A-18~~]~~ **Mitigation of hazardous situations.** (a)
12 Even in the absence of an emergency or disaster, the governor
13 may authorize designated state employees, agents, contractors,
14 or representatives to enter private property at reasonable times
15 to mitigate situations deemed by the governor to be hazardous to
16 the health and safety of the public; provided that this section
17 shall be applicable only to the following actions:

- 18 (1) Cutting, trimming, or removing dangerous trees or
19 branches that pose a hazard to other properties;
20 (2) Stabilizing or removing unstable rock and soil
21 hazards; or



1 (3) Cleaning streams and waterways to mitigate or prevent
2 flooding or other hazards;
3 provided further that at least ten days' written notice shall be
4 provided to the landowner and to the occupier of the private
5 property of the governor's intention to authorize designated
6 state employees, agents, contractors, or representatives to
7 enter the property to mitigate the hazardous situation; provided
8 further that the landowner or occupier shall be given a
9 reasonable opportunity to mitigate the hazardous situation
10 without assistance of the State before designated state
11 employees, agents, contractors, or representatives may enter the
12 property.

13 (b) Written notice sent to the landowner's last known
14 address by certified mail, postage prepaid, return receipt
15 requested, shall be deemed sufficient notice. If land ownership
16 cannot be determined, notice shall be given once in a daily or
17 weekly publication of general circulation in the county in which
18 any action or proposed action will be taken.

19 (c) If entry is refused, the governor may apply to the
20 district court in the circuit in which the property is located
21 for a warrant to enter the premises. The district court may



1 issue a warrant directing the chief of the appropriate county
2 police to assist the governor in gaining entry onto the premises
3 during regular working hours or at other reasonable times.

4 (d) The governor may seek recovery and reimbursement, by
5 appropriate proceedings, of all costs and expenses incurred in
6 the mitigation of a hazardous situation under this section, and
7 any costs and expenses imposed against any landowner shall be a
8 lien upon the landowner's property.

9 (e) The director shall hire a coordinator and a
10 contracting specialist to oversee all aspects of the program and
11 ensure proper fiscal oversight.

12 [~~e~~] (f) This section shall take effect [~~only~~] upon
13 authorization and funding for personnel to administer the
14 program[~~-~~] pursuant to Act , Session Laws of Hawaii 2015."

15 SECTION 4. There is appropriated out of the general
16 revenues of the State of Hawaii the sum of \$ or so much
17 thereof as may be necessary for fiscal year 2015-2016 and the
18 same sum or so much thereof as may be necessary for fiscal year
19 2016-2017 for the director of the Hawaii emergency management
20 agency to establish one coordinator position and one contracting
21 specialist position pursuant to this Act.



1 The sums appropriated shall be expended by the department
2 of defense for the purposes of this Act.

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

5 SECTION 6. This Act shall take effect on July 1, 2050.

6



Report Title:

Department of Defense; Mitigation of Hazardous Situations; News Media Access; Appropriation

Description:

Allows journalists and newscasters, under the supervision of emergency management agency personnel, to cover the mitigation of hazardous situations and access areas that are closed pursuant to emergency management powers of the governor and mayor. Authorizes and appropriates funds for two positions to oversee the mitigation of hazardous situations program in the department of defense. Eff. 7/1/2050. (SD2)

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