

JAN 21 2022

A BILL FOR AN ACT

RELATING TO AN INTRASTATE MUTUAL AID SYSTEM.

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

1 SECTION 1. The legislature finds that some emergencies are
2 so consequential or urgent that they can overwhelm political
3 jurisdictions and their available resources. In such cases,
4 intergovernmental coordination is essential for the protection
5 of lives and property. Systems of mutual assistance allow for
6 political jurisdictions to assist in the prevention of, response
7 to, and recovery from, these types of emergencies.

8 The purpose of this Act is to establish a system of
9 intrastate mutual aid that will allow counties to provide
10 assistance across jurisdictional lines during emergencies.

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

14 **"CHAPTER**

15 **INTRASTATE MUTUAL AID ACT**

16 § -1 **Short title.** This chapter shall be known and may
17 be cited as the Intrastate Mutual Aid Act.



1 § -2 **Definitions.** For the purposes of this chapter,
2 unless the context otherwise requires:

3 "Agency" means the Hawaii emergency management agency.

4 "Assistance" means emergency responders and resources
5 provided by a responding member county in response to a request
6 from a requesting member county.

7 "County" means the city and county of Honolulu and the
8 counties of Hawaii, Kauai, and Maui; provided that the county of
9 Maui shall include the county of Kalawao for the purposes of
10 this chapter.

11 "Emergency" means an event or set of circumstances that:

12 (1) Demands immediate action to preserve public health,
13 protect life, protect public property, or provide
14 relief to any stricken community overtaken by such
15 occurrence; or

16 (2) Reaches such a dimension or degree of destructiveness
17 as to warrant the declaration of a state of emergency
18 or local state of emergency.

19 "Emergency responder" means:

20 (1) An employee of a responding member county who is
21 designated in writing by that responding member county



1 as possessing skills, qualifications, training,
2 knowledge, or experience that may be needed, pursuant
3 to a request for assistance under this chapter, for:

4 (A) Response, mitigation, or recovery activities
5 related to an emergency; or

6 (B) Participation in drills or exercises in
7 preparation for an emergency; or

8 (2) Any person with specialized equipment operations
9 skills or training or any other skills needed to
10 provide aid in an emergency, regardless of whether the
11 person possesses a license, certificate, permit, or
12 other official recognition for expertise in a
13 particular field or area of knowledge.

14 "Emergency responder" includes but is not limited to law
15 enforcement officers, fire fighters, emergency medical services
16 personnel, physicians, nurses, other public health personnel,
17 emergency management personnel, and public works personnel.

18 "Operational control" means the limited authority to direct
19 tasks, assignments, and use of assistance provided pursuant to a
20 request for assistance under this chapter to address:



(1) Response, mitigation, or recovery activities related to an emergency; or

(2) Participation in drills or exercises in preparation for an emergency.

"Operational control" does not include any right, privilege, or benefit of ownership or employment such as disposition, compensation, wages, salary, pensions, health benefits, leave, seniority, discipline, promotion, hiring, or firing.

"Requesting member county" means a member county that requests assistance from another member county under this chapter.

"Resources" includes supplies, materials, equipment, facilities, energy, services, information, systems, and other assets except for emergency responders that may be needed, pursuant to a request for assistance under this chapter, for:

(1) Response, mitigation, or recovery activities related to an emergency; or

(2) Participation in drills or exercises in preparation for an emergency.



1 "Responding member county" means a member county providing
2 or intending to provide assistance to a requesting member county
3 under this chapter.

4 **§ -3 Intrastate mutual aid system; established. (a)**

5 The intrastate mutual aid system is established to provide for
6 mutual assistance in an emergency among counties that choose to
7 participate as member counties. All counties shall be
8 considered member counties unless the county is released in
9 accordance with subsection (b).

10 (b) A member county is released from membership in the
11 intrastate mutual aid system established under this chapter upon
12 receipt by the agency of a resolution or ordinance declaring
13 that the member county elects not to participate in the system.

14 (c) Nothing in this chapter may be construed to affect
15 other mutual aid plans or agreements otherwise authorized by
16 law, including under chapter 127A, or preclude a county from
17 entering or participating in those mutual aid plans or
18 agreements.

19 (d) Mutual assistance may be requested by, and provided
20 to, member counties under this chapter for:



(1) Response, mitigation, or recovery activities related to an emergency; or

(2) Participation in drills or exercises in preparation for an emergency.

(e) The agency shall develop comprehensive guidelines and procedures that address at least the following: projected or anticipated costs, checklists for requesting and providing assistance, recordkeeping for all member counties, reimbursement procedures, and other necessary implementation elements, along with the necessary forms for requests and other records documenting deployment and return of assets.

§ -4 Responsibilities of member counties. It shall be the responsibility of each member county to do the following:

(1) Identify potential hazards that could affect the member county using an identification system common to all member counties;

(2) Conduct joint planning, intelligence sharing, and threat assessment development with other member counties; and

(3) Identify and inventory the current services, equipment, supplies, personnel, and other resources



1 related to planning, prevention, mitigation, response,
2 and recovery activities of the member counties.

3 § -5 **Requesting assistance.** A member county may request
4 assistance from other member counties under the intrastate
5 mutual aid system for response, mitigation, or recovery
6 activities related to an emergency, or to participate in drills
7 or exercises in preparation for an emergency, subject to each of
8 the following provisions:

9 (1) Prior to requesting assistance, a requesting member
10 county shall:

11 (A) Have determined an emergency exists within its
12 territorial limits pursuant to chapter 127A; or

13 (B) Anticipate undertaking drills or exercises in
14 preparation for an emergency;

15 (2) The chief executive officer of a requesting member
16 county, or authorized designee, shall request
17 assistance directly from the chief executive officer,
18 or authorized designee, of another member county. If
19 this request is verbal, it shall be confirmed in
20 writing within thirty days after the date of the
21 request;



(3) A responding member county may withhold or withdraw requested assistance at any time and for any reason, in its sole discretion;

(4) A responding member county shall designate in writing all assistance it provides to a requesting member county at the time provided, consistent with the guidelines and procedures developed by the intrastate mutual aid committee, and deliver copies of this documentation to the requesting member county within thirty days after the assistance is provided; and

(5) The requesting member county shall only have operational control of assistance provided under this chapter, which may not interfere with a responding member county's right to withdraw assistance.

§ -6 Qualifications of emergency responders for the purposes of the requesting member county. An emergency responder holding a license, certificate, or other permit evidencing qualification in a professional, mechanical, or other skill, issued by the State or a county, is deemed to be licensed, certified, or permitted in the requesting member county for the duration of the emergency, drill, or exercise,



1 subject to any limitations and conditions the chief executive
2 officer of the requesting member county may prescribe in
3 writing.

4 **§ -7 Emergency responder status and rights.** (a) An
5 emergency responder shall not be considered an employee of the
6 requesting member county and shall not be entitled to any right,
7 privilege, or benefit of employment from the requesting member
8 county, including but not limited to compensation, wages,
9 salary, leave, pensions, health benefits, or other advantages.

10 (b) If any state or county official, officer, or employee
11 is engaged in carrying out this chapter in lieu of the official,
12 officer, or employee's regular office or employment, the amount
13 of the official, officer, or employee's compensation shall not
14 be adversely affected, and the official, officer, or employee's
15 rights in or under the laws relating to vacation and leave, the
16 retirement system, civil service, or the like shall not be
17 adversely affected.

18 (c) All persons, including volunteers whose services have
19 been accepted by authorized persons, while engaged in the
20 performance of duty pursuant to this chapter, including duty
21 performed during exercises and training, shall be deemed



1 employees of the responding county and shall have the powers,
2 duties, rights, and privileges of such in the performance of
3 their duties, except as may be prescribed by or under the
4 authority of the mayor pursuant to this chapter.

5 (d) In case of injury or death arising out of and in the
6 performance of duty pursuant to this chapter, including duty
7 performed during periods of training, all persons having the
8 status of official, officer, or employee of the responding
9 county, pursuant to this section, and their dependents, shall be
10 entitled to all of the benefits provided in chapter 386,
11 including medical services and supplies, and in case of injury
12 or death, no public official shall be excluded from the coverage
13 of chapter 386 by reason of being an elected official. For the
14 purposes of the benefits, average weekly wages shall be computed
15 upon the basis set forth in section 386-51, or upon the basis of
16 earnings from the usual employment of the person, or upon the
17 basis of earnings at the rate of \$20 per week, whichever is most
18 favorable to the claimant or claimants. The costs thereof shall
19 be a charge upon the county insurance fund of the responding
20 county; provided that the mayor may effect such insurance in
21 respect of the obligations assumed pursuant to this section and



1 as may be available under any mutual aid agreement or act of
2 Congress. Nothing in this section shall adversely affect the
3 right of any person to receive any benefits or compensation
4 under any act of Congress. Any benefits provided by a
5 responding county to an emergency responder shall be included in
6 the true and full value of assistance provided for purposes of
7 reimbursement under section -8.

8 **§ -8 Reimbursement for assistance provided.** (a) A
9 requesting member county shall reimburse a responding member
10 county for the true and full value of all assistance provided
11 under this chapter. A responding member county may donate
12 assistance provided under this chapter to a requesting member
13 county.

14 (b) If a dispute regarding reimbursement arises between
15 member counties, the member county asserting the dispute shall
16 provide written notice to the other identifying the
17 reimbursement issues in dispute. If the dispute is not resolved
18 within ninety days after receipt of the dispute notice by the
19 other party, either party to the dispute may invoke binding
20 arbitration to resolve the reimbursement dispute by giving
21 written notice to the other party. Within thirty days after



1 receipt of the notice invoking binding arbitration, each party
2 shall furnish the other a list of acceptable arbitrators. The
3 parties shall select an arbitrator; failing to agree on an
4 arbitrator, each party shall select one arbitrator and the two
5 arbitrators shall select a third arbitrator for an arbitration
6 panel. Costs of the arbitration, including compensation for the
7 arbitrator's services, shall be borne equally by the parties
8 participating in the arbitration, and each party shall bear its
9 own costs and expenses, including legal fees and witness
10 expenses, in connection with the arbitration proceeding.

11 § -9 **Immunity of emergency responders.** For purposes of
12 tort liability or immunity, an emergency responder of a
13 responding member county shall be considered an agent of the
14 requesting member county. Except in cases of wilful misconduct,
15 gross negligence, or recklessness, no emergency responder shall
16 be civilly liable for the death or injury to persons, or
17 property damage, as a result of any act or omission in the
18 course of providing or attempting to provide assistance under
19 this chapter.

20 § -10 **Severability.** If any provision of this chapter or
21 the application thereof to any person or circumstance is held



1 invalid, the invalidity does not affect other provisions or
2 applications of the chapter which can be given effect without
3 the invalid provision or application, and to this end the
4 provisions of this chapter are severable."

5 SECTION 3. This Act shall take effect on July 1, 2022.

6

INTRODUCED BY: Clarence K. Mishima



S.B. NO. 2779

Report Title:

Intrastate Mutual Aid System; Emergencies; Counties

Description:

Establishes the intrastate mutual aid system to allow counties to share resources in times of emergency or in preparation for emergencies.

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

