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## A BILL FOR AN ACT

RELATING TO EMERGENCY POWERS.

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

1           SECTION 1. Section 127A-1, Hawaii Revised Statutes, is  
2 amended by amending subsection (c) to read as follows:  
3           "(c) It is the intent of the legislature to provide for and  
4 confer comprehensive powers for the purposes stated  
5 herein. This chapter shall be liberally construed to effectuate  
6 its purposes; provided that this chapter shall not be construed  
7 as conferring any power or permitting any action [~~which~~] that is  
8 inconsistent with the Constitution [~~and~~], laws of the United  
9 States, or the Constitution of the State of Hawaii, but, in so  
10 construing this chapter, due consideration shall be given to the  
11 circumstances as they exist from time to time. This chapter  
12 shall not be deemed to have been amended by any act hereafter  
13 enacted at the same or any other session of the legislature,  
14 unless this chapter is amended by express reference."

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



1           **"§127A-13 Additional powers in an emergency period. (a)**

2 In the event of a state of emergency declared by the governor  
3 pursuant to section 127A-14, the governor may exercise the  
4 following additional powers pertaining to emergency management  
5 during the emergency period:

6           (1) Provide for and require the quarantine or segregation  
7           of persons who are affected with or believed to have  
8           been exposed to any infectious, communicable, or other  
9           disease that is, in the governor's opinion, dangerous  
10          to the public health and safety, or persons who are the  
11          source of other contamination, in any case where, in  
12          the governor's opinion, the existing laws are not  
13          adequate to assure the public health and safety;  
14          provide for the care and treatment of the persons;  
15          supplement the provisions of sections 325-32 to 325-38  
16          concerning compulsory immunization programs; provide  
17          for the isolation or closing of property which is a  
18          source of contamination or is in a dangerous condition  
19          in any case where, in the governor's opinion, the  
20          existing laws are not adequate to assure the public  
21          health and safety, and designate as public nuisances



1 acts, practices, conduct, or conditions that are  
2 dangerous to the public health or safety or to  
3 property; authorize that public nuisances be summarily  
4 abated and, if need be, that the property be destroyed,  
5 by any police officer or authorized person, or provide  
6 for the cleansing or repair of property, and if the  
7 cleansing or repair is to be at the expense of the  
8 owner, the procedure therefor shall follow as nearly as  
9 may be the provisions of section 322-2, which shall be  
10 applicable; and further, authorize without the  
11 permission of the owners or occupants, entry on private  
12 premises for any such purposes;

13 (2) Relieve hardships and inequities, or obstructions to  
14 the public health, safety, or welfare, found by the  
15 governor to exist in the laws and to result from the  
16 operation of federal programs or measures taken under  
17 this chapter, by suspending the laws, in whole or in  
18 part, or by alleviating the provisions of laws on  
19 [such] terms and conditions as the governor may impose,  
20 including licensing laws, quarantine laws, and laws  
21 relating to labels, grades, and standards;



- 1           (3) Suspend any law that impedes or tends to impede or be  
2           detrimental to the expeditious and efficient execution  
3           of, or to conflict with, emergency functions, including  
4           laws which by this chapter specifically are made  
5           applicable to emergency personnel; provided that any  
6           suspension of law shall be no broader and for no longer  
7           than required for the execution of emergency functions,  
8           and any suspension of laws shall identify the sections  
9           of laws suspended and, for each section, shall specify  
10          the emergency functions facilitated with justification  
11          based on protecting the public health, safety, and  
12          welfare;
- 13          (4) Suspend the provisions of any regulatory law  
14          prescribing the procedures for out-of-state utilities  
15          to conduct business in the State including any  
16          licensing laws applicable to out-of-state utilities or  
17          their respective employees, as well as any order, rule,  
18          or regulation of any state agency, if strict compliance  
19          with the provisions of any such law, order, rule, or  
20          regulation would in any way prevent, hinder, or delay  
21          necessary action of a state utility in coping with the



- 1 emergency or disaster with assistance that may be  
2 provided under a mutual assistance agreement;
- 3 (5) In the event of disaster or emergency beyond local  
4 control, or an event which, in the opinion of the  
5 governor, is such as to make state operational control  
6 necessary, or upon request of the local entity, assume  
7 direct operational control over all or any part of the  
8 emergency management functions within the affected  
9 area;
- 10 (6) Shut off water mains, gas mains, electric power  
11 connections, or suspend other services, and, to the  
12 extent permitted by or under federal law, suspend  
13 electronic media transmission;
- 14 (7) Direct and control the mandatory evacuation of the  
15 civilian population;
- 16 (8) Exercise additional emergency functions to the extent  
17 necessary to prevent hoarding, waste, or destruction of  
18 materials, supplies, commodities, accommodations,  
19 facilities, and services, to effectuate equitable  
20 distribution thereof, or to establish priorities  
21 therein as the public welfare may require; to



1 investigate; and notwithstanding any other law to the  
2 contrary, to regulate or prohibit, by means of  
3 licensing, rationing, or otherwise, the storage,  
4 transportation, use, possession, maintenance,  
5 furnishing, sale, or distribution thereof, and any  
6 business or any transaction related thereto;

7 (9) Suspend section 8-1, relating to state holidays, except  
8 the last paragraph relating to holidays declared by the  
9 president, which shall remain unaffected, and in the  
10 event of the suspension, the governor may establish  
11 state holidays by proclamation;

12 (10) Adjust the hours for voting to take into consideration  
13 the working hours of the voters during the emergency  
14 period, and suspend those provisions of section 11-131  
15 that fix the hours for voting, and fix other hours by  
16 stating the same in the election proclamation or  
17 notice, as the case may be;

18 (11) Assure the continuity of service by critical  
19 infrastructure facilities, both publicly and privately  
20 owned, by regulating or, if necessary to the



1 continuation of the service thereof, by taking over and  
2 operating the same; and

3 (12) Except as provided in section 134-7.2, whenever in the  
4 governor's opinion, the laws of the State do not  
5 adequately provide for the common defense, public  
6 health, safety, and welfare, investigate, regulate, or  
7 prohibit the storage, transportation, use, possession,  
8 maintenance, furnishing, sale, or distribution of, as  
9 well as any transaction related to, explosives,  
10 firearms, and ammunition, inflammable materials and  
11 other objects, implements, substances, businesses, or  
12 services of a hazardous or dangerous character, or  
13 particularly capable of misuse, or obstructive of or  
14 tending to obstruct law enforcement, emergency  
15 management, or military operations, including  
16 intoxicating liquor and the liquor business; and  
17 authorize the seizure and forfeiture of any such  
18 objects, implements, or substances unlawfully  
19 possessed, as provided in this chapter.

20 (b) In the event of a local state of emergency declared by  
21 the mayor pursuant to [†]section[†] 127A-14, the mayor may



1 exercise the following additional powers pertaining to emergency  
2 management during the emergency period:

3 (1) Relieve hardships and inequities, or obstructions to  
4 the public health, safety, or welfare, found by the  
5 mayor to exist in the laws of the county and to result  
6 from the operation of federal programs or measures  
7 taken under this chapter, by suspending the county  
8 laws, in whole or in part, or by alleviating the  
9 provisions of county laws on [~~such~~] terms and  
10 conditions as the mayor may impose, including county  
11 licensing laws[~~7~~] and county laws relating to labels,  
12 grades, and standards;

13 (2) Suspend any county law that impedes or tends to impede  
14 or be detrimental to the expeditious and efficient  
15 execution of, or to conflict with, emergency functions,  
16 including laws which by this chapter specifically are  
17 made applicable to emergency personnel; provided that  
18 any suspension of law shall be no broader and for no  
19 longer than required for the execution of emergency  
20 functions, and any suspension of laws shall identify  
21 the sections of laws suspended and, for each section,





1           shall specify the emergency functions facilitated with  
2           justification based on protecting the public health,  
3           safety, and welfare;

4           (3) Shut off water mains, gas mains, electric power  
5           connections, or suspend other services; and, to the  
6           extent permitted by or under federal law, suspend  
7           electronic media transmission;

8           (4) Direct and control the mandatory evacuation of the  
9           civilian population; and

10          (5) Exercise additional emergency functions, to the extent  
11          necessary to prevent hoarding, waste, or destruction of  
12          materials, supplies, commodities, accommodations,  
13          facilities, and services, to effectuate equitable  
14          distribution thereof, or to establish priorities  
15          therein as the public welfare may require; to  
16          investigate; and any other county law to the contrary  
17          notwithstanding, to regulate or prohibit, by means of  
18          licensing, rationing, or otherwise, the storage,  
19          transportation, use, possession, maintenance,  
20          furnishing, sale, or distribution thereof, and any  
21          business or any transaction related thereto."



1 SECTION 3. Section 127A-14, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§127A-14 State of emergency.** (a) The governor may declare  
4 the existence of a state of emergency in the State by  
5 proclamation if the governor finds that an emergency or disaster  
6 has occurred or that there is imminent danger or threat of an  
7 emergency or disaster in any portion of the State.

8 (b) A mayor may declare the existence of a local state of  
9 emergency in the county by proclamation if the mayor finds that  
10 an emergency or disaster has occurred or that there is imminent  
11 danger or threat of an emergency or disaster in any portion of  
12 the county.

13 (c) ~~[The]~~ Except as provided in subsections (e) and (f),  
14 the governor or mayor shall be the sole judge of the existence  
15 of the danger, threat, or circumstances giving rise to a  
16 declaration of a state of emergency in the State or a local  
17 state of emergency in the county, as applicable. This section  
18 shall not limit the power and authority of the governor under  
19 section 127A-13(a)(5).

20 (d) A ~~[state of emergency and a]~~ local state of emergency  
21 shall terminate automatically sixty days after the issuance of a



1 proclamation of a [~~state of emergency or~~] local state of  
2 emergency[~~, respectively,~~] or by a separate proclamation of the  
3 [~~governor or~~] mayor, whichever occurs first.

4 (e) A state of emergency shall terminate:

5 (1) Automatically sixty days after the issuance of the  
6 proclamation of a state of emergency;

7 (2) By the date specified in a separate proclamation of  
8 the governor; or

9 (3) By the date specified in a concurrent resolution  
10 adopted by the legislature, whichever occurs first.

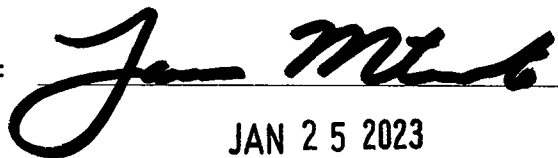
11 (f) A proclamation by the governor declaring the existence  
12 of a state of emergency arising from the same emergency or  
13 disaster for which a previous emergency proclamation was  
14 terminated by the legislature may be authorized for a period of  
15 up to sixty days only upon request of the governor and adoption  
16 of a concurrent resolution by the legislature."

17 SECTION 4. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 5. This Act shall take effect upon its approval.

20

INTRODUCED BY:

  
JAN 25 2023



# H.B. NO. 1400

**Report Title:**

Governor's Emergency Powers; Proclamation; State of Emergency; Automatic Termination; Extension; Reauthorization; Concurrent Resolution

**Description:**

Clarifies that the powers granted for emergency purposes shall not be inconsistent with the state constitution. Provides parameters for the duration of suspension of laws and requires justification for the suspension. Specifies parameters for when a state of emergency is terminated. Allows the authorization of the issuance of a proclamation arising from the same emergency or disaster as a previous proclamation that was terminated by the legislature, upon request of the governor and adoption of a concurrent resolution by the legislature.

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

