
A BILL FOR AN ACT

RELATING TO EMERGENCY MANAGEMENT.

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

1 SECTION 1. The legislature finds that the emergence of
2 COVID-19 and its variants created a great challenge to global
3 health, the economy, and our way of life. The governor and
4 county mayors had to exercise their emergency powers under
5 chapter 127A, Hawaii Revised Statutes, to impose rules aimed to
6 control the spread of COVID-19. The enforcement of those rules
7 was critical to efforts to limit the spread of COVID-19, protect
8 the health and safety of the community, manage medical
9 resources, and promote economic recovery. The COVID-19 pandemic
10 highlights the importance of clear legal frameworks for state
11 and county emergency management to ensure that the State and
12 counties are ready for any type of emergency.

13 The legislature finds that chapter 127A, Hawaii Revised
14 Statutes, should clearly specify and articulate the bases for
15 emergency actions. To that end, this Act amends chapter 127A,
16 Hawaii Revised Statutes, to require specificity when suspending
17 provisions of law during an emergency; clarify when and how



1 Hawaii's emergency management system involves coordination
2 between state and county emergency management functions; and
3 clarify the legal framework governing the extension and
4 termination of states of emergency.

5 The purpose of this Act is to clarify state and county
6 emergency management authority, ensure effective and adaptable
7 emergency responses, and further the goals of transparency and
8 democratic accountability within the State's constitutional
9 system.

10 SECTION 2. Chapter 127A, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§127A- Suspension of certain record requests;
14 prohibited. (a) The governor or mayor shall not, through any
15 proclamation or declaration of emergency or any rule or order
16 adopted pursuant to this chapter, suspend agency response
17 deadlines for requests for:

18 (1) Public records pursuant to part II of chapter 92F; or
19 (2) Vital records or statistics pursuant to sections
20 338-18.



1 (b) Due to extenuating circumstances, there may be a
2 reasonable delay in an agency's response to a request; provided
3 that an agency shall not reject a request at any time,
4 regardless of whether an emergency has been declared."

5 SECTION 3. Section 127A-2, Hawaii Revised Statutes, is
6 amended by adding a new definition to be appropriately inserted
7 and to read as follows:

8 "Severe warning" means the issuance by the National
9 Weather Service, Pacific Tsunami Warning Center, United States
10 Geological Survey, or other public authority of a public
11 notification that a dangerous condition exists that could impact
12 the State, or any portion of it, within a specified period of
13 time. "Severe warning" includes but is not limited to warnings
14 of coastal inundation, high surf, flash flooding, volcanic
15 activity, tsunami, or hurricane."

16 SECTION 4. Section 127A-13, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§127A-13 Additional powers in an emergency period. (a)**
19 In the event of a state of emergency declared by the governor
20 pursuant to section 127A-14, the governor may exercise the



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

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



1 abated and, if need be, that the property be destroyed
 2 by any police officer or authorized person, or provide
 3 for the cleansing or repair of property, and if the
 4 cleansing or repair is to be at the expense of the
 5 owner, the procedure therefor shall follow as nearly
 6 as may be the provisions of section 322-2, which shall
 7 be applicable; and further, authorize without the
 8 permission of the owners or occupants, entry on
 9 private premises for any of these purposes;

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

20 (3) ~~[Suspend]~~ Except as provided in section 127A- ,
 21 suspend any law that impedes or tends to impede or be



1 detrimental to the expeditious and efficient execution
2 of, or to conflict with, emergency functions,
3 including laws that by this chapter specifically are
4 made applicable to emergency personnel; provided that
5 any suspension of law shall be no broader and last no
6 longer than the governor deems necessary for the
7 execution of emergency management functions, and any
8 suspension of law shall identify the section of law
9 suspended and, for each section, shall both specify
10 the emergency management functions facilitated and
11 justify the suspension based on protecting the public
12 health, safety, and welfare; provided further that any
13 suspension of any law that requires permits,
14 authorizations, or approvals from any state or county
15 agency may continue beyond the emergency period to
16 allow for the completion of any repairs,
17 reconstruction, rebuilding, or construction of any
18 state or county infrastructure, facilities, or
19 properties that would otherwise be delayed by any
20 permit, authorization, or approval;



- 1 (4) Suspend the provisions of any regulatory law
2 prescribing the procedures for out-of-state utilities
3 to conduct business in the State including any
4 licensing laws applicable to out-of-state utilities or
5 their respective employees, as well as any order,
6 rule, or regulation of any state agency, if strict
7 compliance with the provisions of any law, order,
8 rule, or regulation would in any way prevent, hinder,
9 or delay necessary action of a state utility in coping
10 with the emergency or disaster with assistance that
11 may be provided under a mutual assistance agreement;
- 12 (5) In the event of disaster or emergency beyond local
13 control, [~~or~~] an event that in the opinion of the
14 governor[~~, renders~~] makes state operational control or
15 coordination necessary, or upon request of the [~~local~~
16 entity,] county, and notwithstanding sections 127A-14
17 and 127A-25, requires the county to obtain the
18 governor's approval, or the approval of the director
19 of the Hawaii emergency management agency, before
20 issuing any emergency order, rule, or proclamation
21 under this chapter, assume direct operational control



- 1 over all or any part of the emergency management
2 functions within the affected area;
- 3 (6) Shut off water mains, gas mains, or electric power
4 connections, or suspend other services;
- 5 (7) Direct and control the mandatory evacuation of the
6 civilian population;
- 7 (8) Exercise additional emergency functions to the extent
8 necessary to prevent hoarding, waste, or destruction
9 of materials, supplies, commodities, accommodations,
10 facilities, and services, to effectuate equitable
11 distribution thereof, or to establish priorities
12 therein as the public welfare may require; to
13 investigate; and notwithstanding any other law to the
14 contrary, to regulate or prohibit, by means of
15 licensing, rationing, or otherwise, the storage,
16 transportation, use, possession, maintenance,
17 furnishing, sale, or distribution thereof, and any
18 business or any transaction related thereto;
- 19 (9) Suspend section 8-1, relating to state holidays,
20 except the last paragraph relating to holidays
21 declared by the president, which shall remain



1 unaffected, and in the event of the suspension, the
2 governor may establish state holidays by proclamation;
3 (10) Adjust the hours for voting to take into consideration
4 the working hours of the voters during the emergency
5 period, and suspend those provisions of section 11-131
6 that fix the hours for voting, and fix other hours by
7 stating the same in the election proclamation or
8 notice, as the case may be;
9 (11) Assure the continuity of service by critical
10 infrastructure facilities, both publicly and privately
11 owned, by regulating or, if necessary to the
12 continuation of the service thereof, by taking over
13 and operating the same; and
14 (12) Except as provided in section 134-7.2, whenever in the
15 governor's opinion, the laws of the State do not
16 adequately provide for the common defense, public
17 health, safety, and welfare, investigate, regulate, or
18 prohibit the storage, transportation, use, possession,
19 maintenance, furnishing, sale, or distribution of, as
20 well as any transaction related to, explosives,
21 firearms, and ammunition, inflammable materials and



1 other objects, implements, substances, businesses, or
2 services of a hazardous or dangerous character, or
3 particularly capable of misuse, or obstructive of or
4 tending to obstruct law enforcement, emergency
5 management, or military operations, including
6 intoxicating liquor and the liquor business; and
7 authorize the seizure and forfeiture of any objects,
8 implements, or substances unlawfully possessed, as
9 provided in this chapter.

10 (b) In the event of a local state of emergency declared by
11 the mayor pursuant to section 127A-14, the mayor may exercise
12 the following additional powers pertaining to emergency
13 management during the emergency period:

14 (1) Relieve hardships and inequities, or obstructions to
15 the public health, safety, or welfare, found by the
16 mayor to exist in the laws of the county and to result
17 from the operation of federal programs or measures
18 taken under this chapter, by suspending the county
19 laws, in whole or in part, or by alleviating ~~the~~
20 ~~provisions of county laws on~~, subject to terms and
21 conditions ~~as~~ that the mayor may ~~impose,~~ specify,



1 the provisions of county laws, including county
2 licensing laws[7] and county laws relating to labels,
3 grades, and standards;

4 (2) [~~Suspend~~] Except as provided in section 127A- ,
5 suspend any county law that impedes or tends to impede
6 or be detrimental to the expeditious and efficient
7 execution of, or to conflict with, emergency
8 functions, including laws that by this chapter
9 specifically are made applicable to emergency
10 personnel; provided that any suspension of law shall
11 be no broader and last no longer than the mayor deems
12 necessary for the execution of emergency management
13 functions, and any suspension of law shall identify
14 the section of law suspended and, for each section,
15 shall both specify the emergency management functions
16 facilitated and justify the suspension based on
17 protecting the public health, safety, and welfare;
18 provided further that any suspension of any law that
19 requires permits, authorizations, or approvals from
20 any state or county agency may continue beyond the
21 emergency period to allow for the completion of any



1 repairs, reconstruction, rebuilding, or construction
2 of any state or county infrastructure, facilities, or
3 properties that would otherwise be delayed by any
4 permit, authorization, or approval;

5 (3) Shut off water mains, gas mains, or electric power
6 connections, or suspend other services;

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

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



1 SECTION 5. Section 127A-14, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§127A-14 State of emergency.** (a) The governor may
4 declare the existence of a state of emergency in the State by
5 proclamation if the governor finds that an emergency or a
6 disaster has occurred or that there is imminent danger or threat
7 of an emergency or a 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 a disaster has occurred or that there is
11 imminent danger or threat of an emergency or a disaster in any
12 portion of 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, an extension, or a termination of a state of
17 emergency in the State or a local state of emergency in the
18 county, as applicable. This section shall not limit the power
19 and authority of the governor under 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, unless extended or terminated by a
3 separate or supplementary proclamation of the governor or mayor.
4 The governor or mayor shall proclaim the termination of a state
5 of emergency or local state of emergency, respectively, at the
6 earliest possible date that conditions warrant.

7 (e) The legislature may, by an affirmative vote of two-
8 thirds of the members to which each house is entitled, terminate
9 a state of emergency, in part or in whole, declared by the
10 governor pursuant to this section.

11 (f) The county council may, by an affirmative vote of two-
12 thirds, terminate a state of emergency, in part or in whole,
13 declared by the mayor pursuant to this section."

14 SECTION 6. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 7. This Act shall take effect on July 1, 2077.



S.B. NO. 353
S.D. 1

Report Title:

Emergency Management; State of Emergency

Description:

Amends chapter 127A, HRS, to clarify State and local authority. Prohibits the Governor or Mayor from suspending requests for public records or vital specifics during a state of emergency. Adds definition of the term "severe warning". Allows the Legislature and city councils to terminate a state of emergency, in whole or in part, issued by the Governor or Mayor, respectively. Effective 7/1/2077. (SD1)

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