

ACT 55

H.B. NO. 2443

A Bill for an Act Relating to the Emergency Management Assistance Compact.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the Emergency Management Assistance Compact was ratified during the 2nd session of the 104th Congress and became Public Law 104-321 in October 1996. Since that time, forty-nine states, the District of Columbia, Puerto Rico, and the Virgin Islands have enacted legislation to become members.

While states are capable of managing most emergencies, there are times when disasters exceed state and local resources and therefore require outside assistance. This is crucial especially for a geographically isolated state such as Hawaii. Normally, assistance comes from federal sources. However, not all disasters are eligible for federal disaster assistance. The Emergency Management Assistance Compact provides another way for states to receive interstate aid in a disaster. Even when federal assistance is merited, assistance from the Emergency Management Assistance Compact may be more readily available or cheaper. This assistance may supplement federal assistance when the latter is available or replace federal assistance when it is unavailable. Most importantly, the Emergency Management Assistance Compact allows for a quick response to disasters using the unique resources and expertise possessed by member states.

Member states are guaranteed reimbursement for all eligible assistance provided through the Emergency Management Assistance Compact. Under the compact, it is the responsibility of states requesting assistance to pay back the states that provide it. This legal standard also helps to speed the process and reduce the paperwork required. In addition, under the compact, requesting states are responsible for the actions of workers from assisting states. Without the Emergency Management Assistance Compact, emergency workers from assisting states might be sued in the courts of requesting states, incurring substantial state costs. Under the compact, however, requesting states assume tort responsibility for out-of-state emergency workers.

The legislature also finds that the Emergency Management Assistance Compact also offers the following benefits:

- (1) Assistance may be more readily available than other resources;
- (2) The compact allows for a quick response to disasters using the unique human resources and expertise possessed by member states;
- (3) The compact offers state-to-state assistance during governor-declared states of emergency. The compact offers a responsive and straightforward system for states to send personnel and equipment to help disaster relief efforts in other states. When resources are overwhelmed, the compact helps to fill the shortfalls;
- (4) The compact establishes a firm legal foundation. Once the conditions for providing assistance to a requesting state have been set, the terms constitute a legally binding contractual agreement that make affected states responsible for reimbursement. Responding states can rest assured that sending aid will not be a financial or legal burden and personnel sent are protected under workers' compensation and liability provisions. The compact solves the problems of liability and responsibility for costs and allows for credentials to be honored across state lines;
- (5) The compact provides fast and flexible assistance. It allows states to ask for whatever assistance they need for any type of emergency, from earthquakes to acts of terrorism. The compact's simple procedures help states dispense with bureaucratic wrangling; and
- (6) The compact can move resources such as medical resources, that other compacts cannot.

Membership in the Emergency Management Assistance Compact is free and the only requirement to become a member is for a state's legislature to enact legislation to approve the compact.

The purpose of this Act is to approve the Emergency Management Assistance Compact and to become a member of the Emergency Management Assistance Compact.

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

**“CHAPTER
EMERGENCY MANAGEMENT ASSISTANCE COMPACT**

§ -1 **Name.** This chapter may be cited as the Emergency Management Assistance Compact.

§ -2 **Terms and provisions of compact.** The legislature of the State of Hawaii hereby authorizes the governor of the State of Hawaii to enter into a compact on behalf of the State of Hawaii with any other state legally joining therein, in the form substantially as follows:

EMERGENCY MANAGEMENT ASSISTANCE COMPACT

Article I. Purpose and Authorities

This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this compact, the term “states” is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all United States territorial possessions.

The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the governor of the affected state, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

Article II. General Implementation

Each party state entering into this compact recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

On behalf of the governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

Article III. Party State Responsibilities

A. It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

- (1) Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resource shortages, civil disorders, insurgency, or enemy attack;
- (2) Review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency;
- (3) Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;
- (4) Assist in warning communities adjacent to or crossing the state boundaries;

- (5) Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material;
- (6) Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and
- (7) Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the responsibilities enumerated above.

B. The authorized representative of a party state may request assistance of another party state by contacting the authorized representative of that state. The provisions of this compact shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty days of the verbal request. Requests shall provide the following information:

- (1) A description of the emergency service function for which assistance is needed, including but not limited to fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;
- (2) The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed; and
- (3) The specific place and time for staging of the assisting party's response and a point of contact at that location.

C. There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States government, with free exchange of information, plans, and resource records relating to emergency capabilities.

Article IV. Limitations

Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state.

Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers (except that of arrest unless specifically authorized by the receiving state), duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state of emergency or disaster by the governor of the party state that is to receive assistance or upon commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect or loaned resources remain in the receiving states, whichever is longer.

Article V. Licenses and Permits

Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the governor of the requesting state may prescribe by executive order or otherwise.

Article VI. Liability

Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes. No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

Article VII. Supplementary Agreements

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this compact contains elements of a broad base common to all states, and nothing contained in this compact shall preclude any state from entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

Article VIII. Compensation

Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

Article IX. Reimbursement

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall not be reimbursable under this article.

Article X. Evacuation

Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management/services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

Article XI. Implementation

A. This compact shall become operative immediately upon its enactment into law by any two states; thereafter, this compact shall become effective as to any other state upon its enactment by such state.

B. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until thirty days after the governor of the withdrawing state has given notice in writing of such withdrawal to the governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

C. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Federal Emergency Management Agency and other appropriate agencies of the United States government.

Article XII. Validity

This compact shall be construed to effectuate the purposes stated in Article I hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be affected thereby.

Article XIII. Additional Provisions

Nothing in this compact shall authorize or permit the use of military force by the National Guard of a state at any place outside that state in any emergency for which the President is authorized by law to call into federal service the militia, or for any purpose for which the use of the Army or the Air Force would in the absence of express statutory authorization be prohibited under Section 1385 of Title 18, United States Code.”

SECTION 3. This Act shall take effect upon its approval.

(Approved May 1, 2006.)