

## ACT 214

H.B. NO. 1305

A Bill for an Act Relating to Mutual Assistance Agreement.

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

SECTION 1. In 2006, the Hawaii legislature approved the Emergency Management Assistance Compact allowing the State of Hawaii to become a member with forty-nine other states, the District of Columbia, Puerto Rico, and the Virgin Islands. As a member of the Emergency Management Assistance Compact, the State would be able to receive interstate aid in the event of a disaster. In doing so, the legislature recognized that while Hawaii may be capable of managing most emergencies, there are times when disasters exceed state and local resources and therefore require outside assistance. The legislature recognized that such outside assistance is especially crucial for a geographically isolated state such as Hawaii.

For any critical infrastructure providers, particularly public utility providers, in time of a major natural disaster or emergency, one priority is restoration of utilities to ensure the public has available resources to recover from any disaster. For the electrical utilities, one major concern is being able to safely and timely respond to all customers' needs, including residents, businesses, and the federal, state, and county governments following any disasters. While Hawaii's utility providers are reliable and in much better condition than those of Puerto Rico, if a disaster like Hurricane Maria in Puerto Rico hit Hawaii, the public utility providers in the State may need to seek assistance from outside the State.

All Hawaii based public utility providers are members of the Western Region Mutual Assistance Agreement (WRMAA), an agreement between public electric and gas utilities throughout the continental United States and certain Canadian utilities, to make their resources available in the event of emergencies or disasters, similar to the Emergency Management Assistance Compact entered into by the State with other states. The Hawaiian Electric Companies, consisting of Hawaiian Electric Company, Maui Electric Company, Ltd., and Hawai-

ian Electric Light Company, Inc., have been signatory parties to the WRMAA since 2006. The Kauai Island Utility Cooperative is also a signatory party to the WRMAA as of August 6, 2013. Hawaii Gas has been a signatory party to the WRMAA as of November 13, 2003. Most recently, in November 2018, the Hawaiian Electric Companies provided support to Pacific Gas and Electric by sending a team of thirty-five linemen and support staff to assist its recovery after the Camp Fire that devastated the town of Paradise, California. The support was provided under the terms of the WRMAA. In the event that the State suffers devastating effects from a disaster, out-of-state public utilities are willing and able to provide the State with similar support. This Act will help ensure that in times of an emergency, qualified out-of-state utility workers will be able to provide services in the State to help restore public electrical and natural gas utilities to operating condition.

The purpose of this Act is to ensure that in times of emergencies or a natural disaster where assistance may be necessary to restore critical electrical and natural gas infrastructure, the State, along with electrical and natural gas utilities, would be lawfully allowed to enter into a mutual assistance agreement with an out-of-state utility to assist in the restoration of electrical and natural gas power.

SECTION 2. Section 127A-1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Because of the existing and increasing possibility of the occurrence of disasters or emergencies of unprecedented size and destructiveness resulting from natural or man-made hazards, and in order to ensure that the preparations of this State will be adequate to deal with such disasters or emergencies; to ensure the administration of state and federal programs providing disaster relief to individuals; and generally to protect the public health, safety, and welfare, and to preserve the lives and property of the people of the State, it is hereby found and declared to be necessary:

- (1) To provide for emergency management by the State, and to authorize the creation of local organizations for emergency management in the counties of the State;
- (2) To confer upon the governor and upon the mayors of the counties of the State the emergency powers necessary to prepare for and respond to emergencies or disasters;
- (3) To provide for the rendering of mutual aid among the counties of the State and with other states and in cooperation with the federal government with respect to the carrying out of emergency management functions; ~~and~~
- (4) To permit out-of-state utilities to provide services in the State pursuant to a mutual assistance agreement with a state utility to repair, renovate, or install electrical or natural gas facilities that have been damaged, impaired, or destroyed due to or in connection with such disasters or emergencies; and
- ~~[(4)]~~ (5) To provide programs, in cooperation with other governmental agencies, the private sector, and nonprofit organizations, to educate and train the public to be prepared for emergencies and disasters.”

SECTION 3. Section 127A-2, Hawaii Revised Statutes, is amended by adding four new definitions to be appropriately inserted and to read as follows:

““Electrical or natural gas facilities” means any equipment and infrastructure owned and operated by a state utility for the purpose of generating, transmitting, distributing, or furnishing electrical energy or natural gas service.

“Mutual assistance agreement” means an agreement to which two or more business entities are parties and under which a public utility, municipally owned utility, electric cooperative, natural gas special district, natural gas transmission pipeline, or joint agency owning, operating, or owning and operating infrastructure used for electric generation, electric or natural gas transmission, or electric or natural gas distribution in this State may request that an out-of-state utility perform work in this State in anticipation of a disaster or an emergency.

“Out-of-state utility” means a public utility, municipally owned utility, electric cooperative, or natural gas special district that owns, operates, or owns and operates infrastructure used for electric generation, electric or natural gas transmission, or electric or natural gas distribution outside of the State, and is regulated by the public utilities commission of the state where they operate.

“State utility” means and refers to any public utility within the State under a franchise or charter granted by the State.”

SECTION 4. Section 127A-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In the event of a state of emergency declared by the governor pursuant to [§]section[§] 127A-14, the governor may exercise the following additional powers pertaining to emergency management during the emergency period:

- (1) Provide for and require the quarantine or segregation of persons who are affected with or believed to have been exposed to any infectious, communicable, or other disease that is, in the governor’s opinion, dangerous to the public health and safety, or persons who are the source of other contamination, in any case where, in the governor’s opinion, the existing laws are not adequate to assure the public health and safety; provide for the care and treatment of the persons; supplement the provisions of sections 325-32 to 325-38 concerning compulsory immunization programs; provide for the isolation or closing of property which is a source of contamination or is in a dangerous condition in any case where, in the governor’s opinion, the existing laws are not adequate to assure the public health and safety, and designate as public nuisances acts, practices, conduct, or conditions that are dangerous to the public health or safety or to property; authorize that public nuisances be summarily abated and, if need be, that the property be destroyed, by any police officer or authorized person, or provide for the cleansing or repair of property, and if the cleansing or repair is to be at the expense of the owner, the procedure therefor shall follow as nearly as may be the provisions of section 322-2, which shall be applicable; and further, authorize without the permission of the owners or occupants, entry on private premises for any such purposes;
- (2) Relieve hardships and inequities, or obstructions to the public health, safety, or welfare, found by the governor to exist in the laws and to result from the operation of federal programs or measures taken under this chapter, by suspending the laws, in whole or in part, or by alleviating the provisions of laws on such terms and conditions as the governor may impose, including licensing laws, quarantine laws, and laws relating to labels, grades, and standards;
- (3) Suspend any law that impedes or tends to impede or be detrimental to the expeditious and efficient execution of, or to conflict with, emergency functions, including laws which by this chapter specifically are made applicable to emergency personnel;

- (4) Suspend the provisions of any regulatory law prescribing the procedures for out-of-state utilities to conduct business in the State including any licensing laws applicable to out-of-state utilities or their respective employees, as well as any order, rule, or regulation of any state agency, if strict compliance with the provisions of any such law, order, rule, or regulation would in any way prevent, hinder, or delay necessary action of a state utility in coping with the emergency or disaster with assistance that may be provided under a mutual assistance agreement;
- [(4)] (5) In the event of disaster or emergency beyond local control, or an event which, in the opinion of the governor, is such as to make state operational control necessary, or upon request of the local entity, assume direct operational control over all or any part of the emergency management functions within the affected area;
- [(5)] (6) Shut off water mains, gas mains, electric power connections, or suspend other services, and, to the extent permitted by or under federal law, suspend electronic media transmission;
- [(6)] (7) Direct and control the mandatory evacuation of the civilian population;
- [(7)] (8) Exercise additional emergency functions to the extent necessary to prevent hoarding, waste, or destruction of materials, supplies, commodities, accommodations, facilities, and services, to effectuate equitable distribution thereof, or to establish priorities therein as the public welfare may require; to investigate; and notwithstanding any other law to the contrary, to regulate or prohibit, by means of licensing, rationing, or otherwise, the storage, transportation, use, possession, maintenance, furnishing, sale, or distribution thereof, and any business or any transaction related thereto;
- [(8)] (9) Suspend section 8-1, relating to state holidays, except the last paragraph relating to holidays declared by the president, which shall remain unaffected, and in the event of the suspension, the governor may establish state holidays by proclamation;
- [(9)] (10) Adjust the hours for voting to take into consideration the working hours of the voters during the emergency period, and suspend those provisions of section 11-131 that fix the hours for voting, and fix other hours by stating the same in the election proclamation or notice, as the case may be;
- [(10)] (11) Assure the continuity of service by critical infrastructure facilities, both publicly and privately owned, by regulating or, if necessary to the continuation of the service thereof, by taking over and operating the same; and
- [(11)] (12) Except as provided in section 134-7.2, whenever in the governor's opinion, the laws of the State do not adequately provide for the common defense, public health, safety, and welfare, investigate, regulate, or prohibit the storage, transportation, use, possession, maintenance, furnishing, sale, or distribution of, as well as any transaction related to, explosives, firearms, and ammunition, inflammable materials and other objects, implements, substances, businesses, or services of a hazardous or dangerous character, or particularly capable of misuse, or obstructive of or tending to obstruct law enforcement, emergency management, or military operations, including intoxicating liquor and the liquor business; and authorize the seizure and forfeiture of any such objects, implements, or substances unlawfully possessed, as provided in this chapter."

SECTION 5. Section 127A-14, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The governor or mayor shall be the sole judge of the existence of the danger, threat, or circumstances giving rise to a declaration of a state of emergency in the State or a local state of emergency in the county, as applicable. This section shall not limit the power and authority of the governor under section ~~[127A-13(a)(4)]~~ 127A-13(a)(5).”

SECTION 6. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act shall take effect on July 1, 2019.

(Approved July 2, 2019.)