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 of 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 Hawaiian Electric Light Company, Inc., have been signatory to the WRMAA since 2006. The Kauai Island Utility Cooperative is also a signatory to the WRMAA as of August 6, 2013. 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 bill will ensure that in times of an emergency, qualified utility workers from out-of-state would be able to provide their services in the State to help restore public electrical 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 infrastructure, that the State along with electrical 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 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 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 facilities" means any equipment and
infrastructure owned and operated by a state utility for the
purpose of generating, transmitting, distributing, or furnishing
electrical energy 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, or electric
cooperative owning, operating, or owning and operating
infrastructure used for electric generation, electric
transmission, or electric distribution in this State may
request that an out-of-state business perform work in this State in anticipation of a disaster or an emergency.

"Out-of-state utility" means a public utility, municipally owned utility, or electric cooperative, that owns, operates, or owns and operates infrastructure used for electric generation, electric transmission, or electric 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 statute
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 orders, rules, or regulation of any state agency, if strict compliance with the provisions of any such statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action of a state utility in coping with the emergency or disasters with assistance that may be provided under the mutual assistance agreement;

(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;

(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;

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

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;

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;

(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

(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. 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 6. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

INTRODUCED BY:  

JAN 24 2019
Report Title:
Mutual Assistance Agreement; Natural Disaster; Emergency

Description:
Authorizes the State and electrical utilities to enter into a mutual assistance agreement with an out-of-state utility to assist in the restoration of electrical power following a natural disaster or emergency.

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