

JAN 26 2022

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 the
2 coronavirus disease 2019 (COVID-19) and its variants created a
3 great challenge to global health, the economy, and our way of
4 life. The governor and county mayors have exercised their
5 emergency powers under chapter 127A, Hawaii Revised Statutes, to
6 impose rules aimed to combat COVID-19. The legislature further
7 finds that the enforcement of these rules has been critical to
8 efforts to limit the spread of COVID-19, protect the health and
9 safety of the community, manage medical resources, and promote
10 economic recovery. The COVID-19 pandemic has highlighted the
11 importance of clear legal frameworks for state and county
12 emergency management to ensure the State and counties are
13 prepared for any type of emergency. The legislature believes
14 that existing law relating to emergency management should
15 clearly specify and articulate the bases for emergency actions.

16 The purpose of this Act is to reform the legal framework
17 governing emergency management in the State by:



- 1 (1) Clarifying that the powers granted for emergency
2 purposes shall not be inconsistent with the state
3 constitution;
- 4 (2) Providing parameters for the duration of the
5 suspension of laws and require justification for the
6 suspension;
- 7 (3) Authorizing the governor to require counties to obtain
8 the governor's approval or the approval of the
9 director of the Hawaii emergency management agency
10 prior to issuing any emergency order, rule, or
11 proclamation;
- 12 (4) Clarifying that a state of emergency may be extended
13 or terminated by a separate or supplementary
14 proclamation;
- 15 (5) Authorizing the legislature to terminate a state of
16 emergency, in part or in whole, by a two-thirds vote;
17 and
- 18 (6) Specifying that prohibitions on price increases of
19 essential commodities during a severe weather warning
20 expire seventy-two hours after the effective date and



1 time of the initial declaration or any supplemental
2 proclamation.

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

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

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

20 "Severe weather warning" means the issuance by the
21 National Weather Service of a public notification that a



1 dangerous weather condition exists that could impact the State,
2 or any portion of it, within a specified period of time.
3 "Severe weather warning" includes but is not limited to warnings
4 of coastal inundation (high surf), flash flooding, tsunami, or
5 hurricane."

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

8 **"§127A-13 Additional powers in an emergency period. (a)**
9 In the event of a state of emergency declared by the governor
10 pursuant to section 127A-14, the governor may exercise the
11 following additional powers pertaining to emergency management
12 during the emergency period:

- 13 (1) Provide for and require the quarantine or segregation
14 of persons who are affected with or believed to have
15 been exposed to any infectious, communicable, or other
16 disease that is, in the governor's opinion, dangerous
17 to the public health and safety, or persons who are
18 the source of other contamination, in any case where,
19 in the governor's opinion, the existing laws are not
20 adequate to assure the public health and safety;
21 provide for the care and treatment of the persons;



1 supplement the provisions of sections 325-32 to 325-38
2 concerning compulsory immunization programs; provide
3 for the isolation or closing of property [~~which~~] that
4 is a source of contamination or is in a dangerous
5 condition in any case where, in the governor's
6 opinion, the existing laws are not adequate to assure
7 the public health and safety, and designate as public
8 nuisances acts, practices, conduct, or conditions that
9 are dangerous to the public health or safety or to
10 property; authorize that public nuisances be summarily
11 abated and, if need be, that the property be
12 destroyed, by any police officer or authorized person,
13 or provide for the cleansing or repair of property,
14 and if the cleansing or repair is to be at the expense
15 of the owner, the procedure therefor shall follow as
16 nearly as may be the provisions of section 322-2,
17 which shall be applicable; and further, authorize
18 without the permission of the owners or occupants,
19 entry on private premises for any such purposes;

20 (2) Relieve hardships and inequities, or obstructions to
21 the public health, safety, or welfare, found by the



1 governor to exist in the laws and to result from the
2 operation of federal programs or measures taken under
3 this chapter, by suspending the laws, in whole or in
4 part, or by alleviating the provisions of laws on
5 [~~such~~] terms and conditions as the governor may
6 impose, including licensing laws, quarantine laws, and
7 laws relating to labels, grades, and standards;
8 (3) Suspend any law that impedes or tends to impede or be
9 detrimental to the expeditious and efficient execution
10 of, or to conflict with, emergency functions,
11 including laws [~~which~~] that by this chapter
12 specifically are made applicable to emergency
13 personnel; provided that any suspension of law shall
14 be no broader and last no longer than the governor
15 deems necessary for the execution of emergency
16 management functions, and any suspension of law shall
17 identify the section of law suspended, and for each
18 section, shall specify the emergency management
19 functions facilitated and justify the suspension based
20 on protecting the public health, safety, and welfare;
21 provided further that any suspension of any law that



1 requires permits, authorizations, or approvals from
2 any state or county agency may continue beyond the
3 emergency period to allow for the completion of any
4 repairs, reconstruction, rebuilding, or construction
5 of any state or county infrastructure, facilities, or
6 properties that would otherwise be delayed by any such
7 permit, authorization, or approval;

8 (4) Suspend the provisions of any regulatory law
9 prescribing the procedures for out-of-state utilities
10 to conduct business in the State including any
11 licensing laws applicable to out-of-state utilities or
12 their respective employees, as well as any order,
13 rule, or regulation of any state agency, if strict
14 compliance with the provisions of any such law, order,
15 rule, or regulation would in any way prevent, hinder,
16 or delay necessary action of a state utility in coping
17 with the emergency or disaster with assistance that
18 may be provided under a mutual assistance agreement;

19 (5) In the event of disaster or emergency beyond local
20 control, or an event which, in the opinion of the
21 governor, is such as to make state operational control



1 or coordination necessary, or upon request of the
2 ~~[local entity, assume]~~ county:

3 (A) Assume direct operational control over all or any
4 part of the emergency management functions within
5 the affected area; and

6 (B) Notwithstanding sections 127A-14 and 127A-25,
7 require the county to obtain the governor's
8 approval or the director's approval prior to
9 issuing any emergency order, rule, or
10 proclamation under this chapter;

11 (6) Shut off water mains, gas mains, electric power
12 connections, or suspend other services, and, to the
13 extent permitted by or under federal law, suspend
14 electronic media transmission;

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

17 (8) Exercise additional emergency functions to the extent
18 necessary to prevent hoarding, waste, or destruction
19 of materials, supplies, commodities, accommodations,
20 facilities, and services, to effectuate equitable
21 distribution thereof, or to establish priorities



1 therein as the public welfare may require; to
2 investigate; and notwithstanding any other law to the
3 contrary, to regulate or prohibit, by means of
4 licensing, rationing, or otherwise, the storage,
5 transportation, use, possession, maintenance,
6 furnishing, sale, or distribution thereof, and any
7 business or any transaction related thereto;
8 (9) Suspend section 8-1, relating to state holidays,
9 except the last paragraph relating to holidays
10 declared by the president, which shall remain
11 unaffected, and in the event of the suspension, the
12 governor may establish state holidays by proclamation;
13 (10) Adjust the hours for voting to take into consideration
14 the working hours of the voters during the emergency
15 period, and suspend those provisions of section 11-131
16 that fix the hours for voting, and fix other hours by
17 stating the same in the election proclamation or
18 notice, as the case may be;
19 (11) Assure the continuity of service by critical
20 infrastructure facilities, both publicly and privately
21 owned, by regulating or, if necessary to the



1 continuation of the service thereof, by taking over
2 and 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[~~r~~] 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
16 functions, including laws [~~which~~] that by this chapter
17 specifically are made applicable to emergency
18 personnel; provided that any suspension of law shall
19 be no broader and last no longer than the mayor deems
20 necessary for the execution of emergency management
21 functions, and any suspension of law shall identify



1 the section of law suspended, and for each section,
2 shall specify the emergency management functions
3 facilitated and justify the suspension based on
4 protecting the public health, safety, and welfare;
5 provided further that any suspension of any law that
6 requires permits, authorizations, or approvals from
7 any county agency may continue beyond the emergency
8 period to allow for the completion of any repairs,
9 reconstruction, rebuilding, or construction of any
10 county infrastructure, facilities, or properties that
11 would otherwise be delayed by any such permit,
12 authorization, or approval;

13 (3) Shut off water mains, gas mains, electric power
14 connections, or suspend other services; and, to the
15 extent permitted by or under federal law, suspend
16 electronic media transmission;

17 (4) Direct and control the mandatory evacuation of the
18 civilian population; and

19 (5) Exercise additional emergency functions, to the extent
20 necessary to prevent hoarding, waste, or destruction
21 of materials, supplies, commodities, accommodations,



1 facilities, and services, to effectuate equitable
 2 distribution thereof, or to establish priorities
 3 therein as the public welfare may require; to
 4 investigate; and any other county law to the contrary
 5 notwithstanding, to regulate or prohibit, by means of
 6 licensing, rationing, or otherwise, the storage,
 7 transportation, use, possession, maintenance,
 8 furnishing, sale, or distribution thereof, and any
 9 business or any transaction related thereto."

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

12 "**§127A-14 State of emergency.** (a) The governor may
 13 declare the existence of a state of emergency in the State by
 14 proclamation if the governor finds that an emergency or disaster
 15 has occurred or that there is imminent danger or threat of an
 16 emergency or disaster in any portion of the State.

17 (b) A mayor may declare the existence of a local state of
 18 emergency in the county by proclamation if the mayor finds that
 19 an emergency or disaster has occurred or that there is imminent
 20 danger or threat of an emergency or disaster in any portion of
 21 the county.



1 (c) [The] Except as provided in subsection (e), the
2 governor or mayor shall be the sole judge of the existence of
3 the danger, threat, or circumstances giving rise to a
4 declaration, extension, or termination of a state of emergency
5 in the State or a local state of emergency in the county, as
6 applicable. This section shall not limit the power and
7 authority of the governor under section 127A-13(a)(5).

8 (d) A state of emergency and a local state of emergency
9 shall terminate automatically sixty days after the issuance of a
10 proclamation of a state of emergency or local state of
11 emergency, respectively, ~~[or]~~ unless extended or terminated by a
12 separate or supplementary proclamation of the governor or
13 mayor~~[, whichever occurs first]~~.

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

18 SECTION 6. Section 127A-30, Hawaii Revised Statutes, is
19 amended by amending subsection (c) to read as follows:

20 "(c) The prohibitions under subsection (a) shall remain in
21 effect until twenty-four hours after the severe weather warning



1 is canceled by the National Weather Service; or in the event of
 2 a declaration, [~~the later of a date specified by the governor or~~
 3 ~~mayor in the declaration or ninety-six~~] seventy-two hours after
 4 the effective date and time of the declaration, unless [~~such~~]
 5 the prohibition is identified and continued [~~by a supplementary~~
 6 ~~declaration issued~~] by the governor or mayor[-] in the
 7 proclamation or any supplementary proclamation. Any
 8 proclamation issued under this chapter that fails to state the
 9 time at which it will take effect, shall take effect at twelve
 10 noon of the day on which it takes effect."

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

13 SECTION 8. This Act shall take effect upon its approval.

14

INTRODUCED BY: 



S.B. NO. 3285

Report Title:

Emergency Powers; State of Emergency; Local State of Emergency; Termination; Extension; Legislative Override; Price Control

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. Authorizes the governor to require counties to obtain approval prior to issuing any emergency order, rule, or proclamation. Clarifies that a state of emergency may be extended or terminated by a separate or supplementary proclamation. Authorizes the legislature to terminate a state of emergency, in part or in whole, by an affirmative two-thirds vote. Specifies that prohibitions on price increases of essential commodities during a severe weather warning expire seventy-two hours after the effective date and time of the initial declaration or any supplemental proclamation.

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

