RELATING TO EMERGENCY POWERS.

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

SECTION 1. The legislature finds that COVID-19 continues to endanger the health, safety, and welfare of the people of Hawaii. Our response requires the serious attention, effort, and sacrifice of all people and state agencies to avert unmanageable strains on our healthcare system and other catastrophic impacts to the State.

The legislature further finds that COVID-19 has directly and indirectly caused fiscal and economic catastrophe not previously experienced by the State and that state facilities must be fully utilized to serve public need without further costs to its residents.

The purpose of this Act is to clarify the Governor's emergency powers to assume control, use, or operate any state facility in the furtherance of emergency management at no cost or requirement of compensation.

SECTION 2. Section 127A-12, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:
(b) The governor may exercise the following powers pertaining to emergency management:

1. Support requests from a mayor for assistance in preparing for, responding to, and recovering from any emergency or disaster or threat thereof;

2. Lease, lend, or otherwise furnish, on such terms and conditions as the governor may consider necessary to promote the public welfare and protect the interest of the State, any real or personal property of the state government, to the President of the United States, the armed forces, or to the emergency management agency of the United States;

3. Enter into, participate in, or carry out mutual aid agreements or compacts for emergency management or emergency management functions with the federal government and with other states;

4. Sponsor and develop mutual aid plans and agreements for emergency management between the State, one or more counties, and other governmental, private-sector, and nonprofit organizations, for the furnishing or exchange of food, clothing, medicine, and other
materials; engineering services; emergency housing; police services; health, medical, and related services; firefighting, rescue, transportation, and construction services and facilities; personnel necessary to provide or conduct these services; and such other materials, facilities, personnel, and services as may be needed. The mutual aid plans and agreements may be made with or without provisions for reimbursement of costs and expenses, and on such terms and conditions as are deemed necessary;

(5) Take possession of, use, manage, control, and reallocate any public property of the State, real or personal, required by the governor for the purposes of this chapter, including airports, parks, playgrounds, and schools, and other public buildings. Whenever the property is so taken, the governor may make such provision for the temporary accommodation of the government service affected thereby as the governor may deem advisable;

(6) Utilize all services, materials, and facilities of nongovernmental agencies, relief organizations,
community associations, and other private-sector and
nonprofit organizations that may be made available;

(7) Receive, expend, or use contributions or grants, which
shall be deemed to be trust funds, in money, property,
or services, or loans of property, or special
contributions or grants in money, property, or
services, or loans of property, for special purposes
provided for by this chapter; establish funds in the
state treasury for the deposit and expenditure of the
moneys; procure federal aid as the same may be
available; and apply the provisions of chapter 29 in
cases of federal aid, even though not in the form of
money. The contributions or grants are appropriated
for the purposes of this chapter, or for the special
purposes;

(8) Purchase, make, produce, construct, rent, lease, or
procure by condemnation or otherwise, transport,
store, install, maintain, and insure, repair,
renovate, restore, replace or reconstruct, and
distribute, furnish or otherwise dispose of, with or
without charges, materials and facilities for
emergency management; and to procure federal aid therefor whenever feasible. Chapter 103D and sections 103-50, 103-53, 103-55, 105-1 to 105-10, and 464-4 shall not apply to any emergency management functions of the governor to the extent that the governor finds that the provisions, in whole or in part, impede or tend to impede the expeditious discharge of those functions, or that compliance therewith is impracticable due to existing conditions; (9) Provide for the appointment, employment, training, equipping, and maintaining with compensation, or on a volunteer basis without compensation and without regard to chapters 76, 78, and 88, of such agencies, officers, and other persons as the governor deems necessary to carry out the purposes of this chapter; to determine to what extent any law prohibiting the holding of more than one office or employment applies to the agencies, officers, and other persons; and subject to provisions of this chapter, to provide for the interchange of personnel, by detail, transfer, or
otherwise, between agencies or departments of the State;

(10) Make charges in such cases and in amounts as the governor deems advisable, for any property sold, work performed, services rendered, or accommodations or facilities furnished by the State under this chapter;

(11) Make or authorize contracts as may be necessary to carry out this chapter;

(12) Establish special accounting forms and practices whenever necessary;

(13) Require each public utility, or any person owning, controlling, or operating a critical infrastructure facility as identified by the governor, to protect and safeguard its or the person's property, or to provide for the protection and safeguarding thereof; and provide for the protection and safeguarding of all critical infrastructure and key resources; provided that without prejudice to the generality of the foregoing two clauses, the protecting and safeguarding may include the regulation or prohibition of public
entry thereon, or the permission of the entry upon
terms and conditions as the governor may prescribe;
(14) Restrict the congregation of the public in stricken or
dangerous areas or under dangerous conditions;
(15) Direct and control the non-compulsory evacuation of
the civilian population;
(16) Order and direct government agencies, officials,
officers, and employees of the State, to take action
and employ measures for law enforcement, medical,
health, firefighting, traffic control, warnings and
signals, engineering, rescue, construction, emergency
housing, other welfare, hospitalization,
transportation, water supply, public information,
training, and other emergency functions as may be
necessary, and utilize the services, materials, and
facilities of the agencies and officers. All agencies
and officers shall cooperate with and extend their
services, materials, and facilities to the governor as
the governor may request;
(17) Assume control, use, or operate any state facility as may be necessary to carry out this chapter, at no cost or requirement of compensation;

(18) Provide for the repair and maintenance of public property, whenever adequate provision therefor is not otherwise made; insure the property against any emergency or disaster; provide for the restoration, renovation, replacement, or reconstruction of insured property in the event of damage or loss; and make temporary restoration of public utilities and other critical infrastructure facilities in the event of an emergency or disaster;

(19) Fix or revise the hours of government business; and

(20) Take any and all steps necessary or appropriate to carry out the purposes of this chapter notwithstanding that those powers in section 127A-13(a) may only be exercised during an emergency period."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.
SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY:  

JAN 25 2021
Report Title:
Emergency Management; Governor

Description:
Specifies the Governor's emergency powers to include the authority to assume control, use, or operate any state facility at no cost or requirement of compensation.

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