

1 HB107
2 77013-5
3 By Representative Albritton
4 RFD: Public Safety
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ENROLLED, An Act,

To amend Sections 31-9-3, 31-9-4, 31-9-8, and 31-9-10, Code of Alabama 1975, relating to state emergencies and the Emergency Management Agency; to provide for the Governor's authority to proclaim an emergency; to expand the authority of state and local responders regarding emergency preparedness and response; to establish degrees of emergency classifications; and to further provide for the powers of political subdivisions with respect to emergency management.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 31-9-3, 31-9-4, 31-9-8, and 31-9-10, Code of Alabama 1975, are amended to read as follows:

"§31-9-3.

"As used in this chapter these terms shall have the following meanings:

"(1) EMERGENCY MANAGEMENT. The preparation for and the carrying out of all emergency functions, other than functions for which military forces or other federal agencies are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters caused by enemy attack, sabotage or other hostile action, or by fire, flood, earthquake or other natural cause. These functions include, without limitation, fire-fighting services; police services; medical and health services; rescue, engineering, air raid

1 warning services; communications; radiological, chemical and
 2 other special weapons of defense; evacuation of persons from
 3 stricken areas; emergency welfare services (civilian war aid);
 4 emergency transportation; plant protection; temporary
 5 restoration of public utility services; and other functions
 6 related to civilian protection, together with all other
 7 activities necessary or incidental to the preparation for and
 8 carrying out of the foregoing functions.

9 "(2) LOCAL ORGANIZATION. The organization of local
 10 emergency management forces designed principally for operation
 11 within their own community but capable of moving to other
 12 areas.

13 "(3) POLITICAL SUBDIVISION. ~~County, city or town~~ Any
 14 county or municipality created pursuant to law.

15 "(4) STATE PUBLIC HEALTH EMERGENCY. A public health
 16 emergency is an occurrence or imminent threat of an illness or
 17 health condition that does all of the following:

18 "a. Is believed to be caused by any of the
 19 following:

20 "1. Bioterrorism.

21 "2. The appearance of a novel or previously
 22 controlled or eradicated infectious agent or biological toxin.

23 "3. A natural disaster.

24 "4. A chemical attack or accidental release.

25 "5. A nuclear or radiological attack or accident.

1 "b. Poses a high probability of any of the following
2 harms:

3 "1. A large number of deaths in the affected
4 population.

5 "2. A large number of serious or long-term
6 disabilities in the affected population.

7 "3. Widespread exposure to an infectious or toxic
8 agent that poses a significant risk of substantial future harm
9 to a large number of people in the affected population.

10 "(5) STATE OF EMERGENCY. When the Governor duly
11 proclaims the existence of conditions of disaster or of
12 extreme peril to the safety of persons and property within the
13 state caused by fire, flood, storm, epidemic, technological,
14 riot, drought, sudden and severe energy shortage, plant or
15 animal infestation or disease, an earthquake, explosion,
16 terrorism, or man-made disaster, or other conditions, other
17 than conditions resulting from a labor controversy or
18 conditions causing a state of war emergency, which, by reason
19 of their magnitude, are or are likely to be beyond the control
20 of the services, personnel, equipment, and facilities of any
21 single county, city and county, or city and require the
22 combined forces of a mutual aid region or regions to combat,
23 or energy shortage requires extraordinary measures beyond the
24 authority vested in the Alabama Public Service Commission.

1 "(6) STATE TECHNOLOGICAL EMERGENCY. An emergency
2 caused by a technological failure or accident, including, but
3 not limited to, an explosion, transportation accident,
4 radiological accident, or chemical or other hazardous material
5 incident.

6 "§31-9-4.

7 "(a) There is hereby created within the executive
8 branch of the state government a department of emergency
9 management, hereinafter called the "Emergency Management
10 Agency," with a Director of Emergency Management, hereinafter
11 called the "director," who shall be the head thereof. The
12 director shall be appointed by the Governor. The director
13 shall devote his or her entire time to the duties of ~~his~~ the
14 office. ~~He~~ The director shall not hold another office under
15 the government of the United States or any other state, or of
16 this state, or any political subdivision thereof, during his
17 or her incumbency in such office, and shall not hold any
18 position of trust or profit, or engage in any occupation or
19 business the conduct of which shall interfere or be
20 inconsistent with the duties of Director of Emergency
21 Management under the provisions of this chapter. ~~He~~ The
22 director shall hold office during the pleasure of the
23 Governor.

24 "(b) The director may employ, subject to the
25 provisions of the Merit System Act, such technical, clerical,

1 stenographic and other personnel and may make such
2 expenditures within the appropriation therefor, or from other
3 funds made available to him or her for purposes of emergency
4 management, as may be necessary to carry out the purposes of
5 this chapter; provided, that the state shall not pay the
6 compensation, if any, of block wardens, fire guards, first aid
7 specialists, auxiliary firemen, auxiliary policemen and
8 similar emergency management personnel, nor shall it pay the
9 compensation of personnel employed by or for a local
10 organization for emergency management.

11 "(c) The director and other personnel of the
12 Emergency Management Agency shall be provided with appropriate
13 office space, furniture, equipment, supplies, stationery, and
14 printing in the same manner as provided for personnel of other
15 state agencies.

16 "(d) The director, subject to the direction and
17 control of the Governor, shall be the executive head of the
18 Emergency Management Agency and shall be responsible to the
19 Governor for carrying out the program for emergency management
20 of this state. ~~He~~ The director shall coordinate the activities
21 of all organizations of emergency management within the state,
22 and shall maintain liaison with and cooperate with major
23 commanders of the armed forces within the state, the State
24 Department of Public Safety, the State Military Department, and
25 and with emergency management agencies and organizations of

1 other states and of the federal government, and shall have
2 such additional authority, duties, and responsibilities
3 authorized by this chapter as may be prescribed by the
4 Governor.

5 "(e) The director shall also hold the position of
6 Assistant Director of Homeland Security for Emergency
7 Preparedness and Response.

8 "§31-9-8.

9 "(a) The provisions of this section shall be
10 operative only during the existence of a state of emergency
11 management emergency, referred to hereinafter as "emergency."
12 as one of the states of emergency defined in Section 31-9-3.
13 The existence of ~~such~~ a state of emergency may be proclaimed
14 by the Governor as provided in this subsection or by joint
15 resolution of the Legislature if the Governor in ~~such~~ the
16 proclamation or the Legislature in ~~such~~ the resolution finds
17 that an attack upon the United States has occurred or is
18 anticipated in the immediate future, or that a natural
19 disaster of major proportions or a public health emergency has
20 ~~actually~~ occurred or is reasonably anticipated in the
21 immediate future within this state and that the safety and
22 welfare of the inhabitants of this state require an invocation
23 of the provisions of this section. ~~Any such~~ The emergency,
24 whether proclaimed by the Governor or by the Legislature,
25 shall terminate ~~upon the~~ 60 days after the date on which it

1 ~~was proclaimed unless the Governor extends the emergency by~~
2 ~~proclamation of the termination thereof by the Governor or the~~
3 ~~passage by the Legislature of~~ extends the emergency by a joint
4 resolution ~~terminating such emergency~~. Upon proclamation by
5 the Governor of a state of emergency ~~management emergency~~, the
6 Governor ~~shall immediately~~ may call the Legislature into
7 special session. Additionally, the Lieutenant Governor or the
8 Speaker of the House may request in writing that the Governor
9 call the Legislature into special session. During ~~such the~~
10 period ~~as such that the state of~~ proclaimed emergency exists
11 or continues, the Governor shall have and may exercise the
12 following additional emergency powers:

13 " (1) To enforce all laws, rules, and regulations
14 relating to emergency management and to assume direct
15 operational control of all emergency management forces and
16 helpers in the state.

17 " (2) To sell, lend, lease, give, transfer, or
18 deliver materials or perform services for emergency management
19 purposes on such terms and conditions as the Governor shall
20 prescribe and without regard to the limitations of any
21 existing law, and to account to the State Treasurer for any
22 funds received for such property.

23 " (3) To procure, by purchase, condemnation, seizure
24 or other means, construct, lease, transport, store, maintain,
25 renovate, or distribute materials and facilities for emergency

1 management without regard to the limitations of any existing
2 law; provided, that this authority shall not be exercised with
3 regard to newspapers, wire facilities leased or owned by news
4 services, and other news publications, and provided further,
5 that he or she shall make compensation for the property so
6 seized, taken, or condemned, on the following basis:

7 "a. In case property is taken for temporary use, the
8 Governor, within 30 days of the taking, shall fix the amount
9 of compensation to be paid therefor, and in case ~~such~~ the
10 property shall be returned to the owner, in a damaged
11 condition, or shall not be returned to the owner, the Governor
12 shall fix within 30 days the amount of compensation to be paid
13 for ~~such~~ the damage or failure to return. Whenever the
14 Governor shall deem it advisable for the state to take title
15 to property taken under this section, he or she shall
16 forthwith cause the owner of ~~such~~ the property to be notified
17 thereof in writing by registered or certified mail, postage
18 prepaid, or by the best available means, and forthwith cause
19 to be filed a copy of ~~said~~ the notice with the Secretary of
20 State.

21 "b. If the person entitled to receive the amount so
22 determined by the Governor as just compensation is unwilling
23 to accept the same as full and complete compensation for such
24 property or the use thereof, he or she shall be paid 75
25 percent of such amount and shall be entitled to recover from

1 the State of Alabama, in an action brought in a court in the
2 county of residence of the claimant or in Montgomery County,
3 in the same manner as other condemnation claims are brought,
4 within three years after the date of the Governor's award,
5 such additional amount, if any, which when added to the amount
6 so paid to him or her, shall be just compensation.

7 "(4) To provide for and compel the evacuation of all
8 or part of the population from any stricken or threatened area
9 or areas within the state and to take such steps as are
10 necessary for the receipt and care of such evacuees.

11 "(5) To perform and exercise such other functions,
12 powers and duties as are necessary to promote and secure the
13 safety and protection of the civilian population.

14 "(6) To employ such measures and give such
15 directions to the state or local boards of health as may be
16 reasonably necessary for the purpose of securing compliance
17 with the provisions of this chapter or with the findings or
18 recommendations of such boards of health by reason of
19 conditions arising from enemy attack or the threat of enemy
20 attack or otherwise.

21 "(7) To utilize the services and facilities of
22 existing officers and agencies of the state and of the
23 political subdivisions thereof. All such officers and agencies
24 shall cooperate with and extend their services and facilities
25 to the Governor as he or she may request.

1 "(8) With due consideration to the recommendations
2 of local authorities, the Governor may formulate and execute
3 plans and regulations for the control of traffic in order to
4 provide for the rapid and safe movement of evacuation over
5 public highways and streets of people, troops, or vehicles and
6 materials for national defense or for use in any defense
7 industry, and may coordinate the activities of the departments
8 or agencies of the state and of the political subdivisions
9 thereof concerned directly or indirectly with public highways
10 and streets, in a manner which will best effectuate such
11 plans.

12 "(9) To establish agencies and offices and to
13 appoint temporary executive, technical, clerical, and other
14 personnel as may be necessary to carry out the provisions of
15 this chapter without regard to the Merit System Act.

16 "(b) The proclamation of a state of public health
17 emergency shall activate the disaster response and recovery
18 aspects of the state, local, and inter-jurisdictional disaster
19 emergency plans in the affected political subdivisions or
20 geographic areas. Such declaration authorizes the deployment
21 and use of any forces to which the plans apply and the use or
22 distribution of any supplies, equipment, and materials and
23 facilities assembled, stockpiled, or available pursuant to
24 this article.

1 "(c) When a state of public health emergency has
2 been declared or terminated, the State Board of Health shall
3 inform members of the public how to protect themselves and
4 what actions are being taken to control the emergency.

5 "§31-9-10.

6 "(a) Each political subdivision of this state is
7 hereby authorized and directed to establish a local
8 organization for emergency management in accordance with the
9 state emergency management plan and program and may confer or
10 authorize the conferring, upon members of the auxiliary
11 police, the powers of peace officers, subject to such
12 restrictions as shall be imposed. The governing body of the
13 political subdivision is authorized to appoint a director, who
14 shall have direct responsibility for the organization,
15 administration and operation of such local organization for
16 emergency management, subject to the direction and control of
17 such governing body. Each local organization for emergency
18 management shall perform emergency management functions within
19 the territorial limits of the political subdivision within
20 which it is organized, and, in addition, shall conduct such
21 functions outside of such territorial limits as may be
22 required pursuant to the provisions of this chapter.

23 "(b) ~~Each~~ The governing body of each political
24 subdivision shall have the power and authority:

1 "(1) To appropriate and expend funds, make
2 contracts, obtain and distribute equipment, materials and
3 supplies for emergency management purposes; to provide for the
4 health and safety of persons and property, including emergency
5 assistance to the victims of any disaster; and to direct and
6 coordinate the development of emergency management plans and
7 programs in accordance with the policies and plans set by the
8 federal and state emergency management agencies.

9 "(2) To appoint, employ, remove or provide, with or
10 without compensation, air raid wardens, rescue teams,
11 auxiliary fire and police personnel and other emergency
12 management workers; provided, that compensated employees shall
13 be subject to any existing civil service or merit system laws.

14 "(3) To establish a primary and one or more
15 secondary control centers to serve as command posts during an
16 emergency.

17 "(4) To assign and make available for duty the
18 employees, property or equipment of the subdivision relating
19 to fire fighting, engineering, rescue, health, medical and
20 related service, police, transportation, construction and
21 similar items or services for emergency management purposes,
22 within or outside of the physical limits of the subdivision.

23 "(5) In the event that ~~any disaster as described in~~
24 ~~Section 31-9-2 occurs,~~ the governing body of the political
25 subdivision determines that any of the conditions described in

1 Section 31-9-2(a) has occurred or is imminently likely to
2 occur, the governing body shall have the power:

3 "a. to waive procedure and formalities otherwise
4 required by law pertaining to the performance of public work,
5 entering into contracts, the incurring of obligations, the
6 employment of temporary workers, the utilization of volunteer
7 workers, the rental of equipment, the purchase and
8 distribution with or without compensation of supplies,
9 materials and facilities and the appropriation and expenditure
10 of public funds.

11 "b. to impose a public safety curfew for its
12 inhabitants. If a public safety curfew is imposed as
13 authorized herein, it shall be enforced by the appropriate law
14 enforcement agency within the political subdivision. A public
15 safety curfew imposed under the subsection shall not apply to
16 employees of utilities and cable telecommunications companies
17 and their contractors engaged in activities necessary to
18 maintain or restore utility and cable communications services
19 or to official emergency management personnel engaged in
20 emergency management activities.

21 "(6) To close, notwithstanding Section 11-1-8, any
22 and all public buildings owned or leased by and under the
23 control of the political subdivision where emergency
24 conditions warrant whether or not a local state of emergency
25 has been declared by the governing body of the political

1 subdivision. In the event that any documents required to be
2 filed by a time certain deadline cannot be filed in a timely
3 manner due to the closing of an office under this subdivision,
4 the deadline for filing shall be extended to the date that the
5 office is reopened as provided in Section 1-1-4.

6 "(c) No local governing body of a political
7 subdivision shall have the authority to provide for and compel
8 evacuation of the area except by the direction and under the
9 supervision of the Governor or the State Emergency Management
10 Agency, or both. Any action taken by the governing body of the
11 political subdivision shall remain in full force and effect
12 unless revoked by proclamation of the Governor, issued as
13 provided in Section 31-9-8."

14 Section 2. This act shall become effective
15 immediately following its passage and approval by the
16 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 02-FEB-06, as amended.

Greg Pappas
Clerk

Senate

17-APR-06

Passed
