

1 HB347
2 157114-1
3 By Representatives Boothe, Vance and Jones
4 RFD: Public Safety and Homeland Security
5 First Read: 22-JAN-14

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8 SYNOPSIS: Under the Alabama Emergency Management Act
9 of 1955, the Governor by proclamation or the
10 Legislature by joint resolution may declare a state
11 of emergency.

12 This bill would require the Governor or the
13 Legislature to designate in the proclamation or
14 resolution declaring a state of emergency, if the
15 state of emergency affects less than the entire
16 state, those counties to which the state of
17 emergency applies.

18
19 A BILL

20 TO BE ENTITLED

21 AN ACT

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23 To amend Section 31-9-8, Code of Alabama 1975,
24 relating to the Alabama Emergency Management Act of 1955; to
25 require the Governor or the Legislature to designate, in a
26 proclamation or resolution declaring a state of emergency

1 affecting less than the entire state, those counties to which
2 the state of emergency applies.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 31-9-8 of the Code of Alabama
5 1975, is amended to read as follows:

6 "§31-9-8.

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

1 joint resolution. Upon proclamation by the Governor of a state
2 of emergency, the Governor may call the Legislature into
3 special session. Additionally, the Lieutenant Governor or the
4 Speaker of the House may request in writing that the Governor
5 call the Legislature into special session. During the period
6 that the proclaimed emergency exists or continues, the
7 Governor shall have and may exercise the following additional
8 emergency powers:

9 "(1) To enforce all laws, rules, and regulations
10 relating to emergency management and to assume direct
11 operational control of all emergency management forces and
12 helpers in the state.

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

19 "(3) To procure, by purchase, condemnation, seizure,
20 or other means, construct, lease, transport, store, maintain,
21 renovate, or distribute materials and facilities for emergency
22 management without regard to the limitations of any existing
23 law; provided, that this authority shall not be exercised with
24 regard to newspapers, wire facilities leased or owned by news
25 services, and other news publications, and provided further,
26 that he or she shall make compensation for the property so
27 seized, taken, or condemned, on the following basis:

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

14 "b. If the person entitled to receive the amount so
15 determined by the Governor as just compensation is unwilling
16 to accept the same as full and complete compensation for such
17 property or the use thereof, he or she shall be paid 75
18 percent of such amount and shall be entitled to recover from
19 the State of Alabama, in an action brought in a court in the
20 county of residence of the claimant or in Montgomery County,
21 in the same manner as other condemnation claims are brought,
22 within three years after the date of the Governor's award,
23 such additional amount, if any, which when added to the amount
24 so paid to him or her, shall be just compensation.

25 "(4) To provide for and compel the evacuation of all
26 or part of the population from any stricken or threatened area

1 or areas within the state and to take such steps as are
2 necessary for the receipt and care of such evacuees.

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

6 "(6) To employ such measures and give such
7 directions to the state or local boards of health as may be
8 reasonably necessary for the purpose of securing compliance
9 with the provisions of this article or with the findings or
10 recommendations of such boards of health by reason of
11 conditions arising from enemy attack or the threat of enemy
12 attack or otherwise.

13 "(7) To utilize the services and facilities of
14 existing officers and agencies of the state and of the
15 political subdivisions thereof. All such officers and agencies
16 shall cooperate with and extend their services and facilities
17 to the Governor as he or she may request.

18 "(8) With due consideration to the recommendations
19 of local authorities, the Governor may formulate and execute
20 plans and regulations for the control of traffic in order to
21 provide for the rapid and safe movement of evacuation over
22 public highways and streets of people, troops, or vehicles and
23 materials for national defense or for use in any defense
24 industry, and may coordinate the activities of the departments
25 or agencies of the state and of the political subdivisions
26 thereof concerned directly or indirectly with public highways

1 and streets, in a manner which will best effectuate such
2 plans.

3 "(9) To establish agencies and offices and to
4 appoint temporary executive, technical, clerical, and other
5 personnel as may be necessary to carry out the provisions of
6 this article without regard to the Merit System Act.

7 "(b) The proclamation of a state of public health
8 emergency shall activate the disaster response and recovery
9 aspects of the state, local, and inter-jurisdictional disaster
10 emergency plans in the affected political subdivisions or
11 geographic areas. Such declaration authorizes the deployment
12 and use of any forces to which the plans apply and the use or
13 distribution of any supplies, equipment, and materials and
14 facilities assembled, stockpiled, or available pursuant to
15 this article.

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

20 "(d) (1) Nothing in this section shall authorize the
21 seizure or confiscation of any firearm or ammunition from any
22 individual who is lawfully carrying or possessing the firearm
23 or ammunition except as provided in subdivision (2).

24 "(2) A law enforcement officer who is acting in the
25 lawful discharge of the officer's official duties may disarm
26 an individual if the officer reasonably believes that it is
27 immediately necessary for the protection of the officer or

1 another individual. The officer shall return the firearm to
2 the individual before discharging that individual unless the
3 officer arrests that individual for engaging in criminal
4 activity or seizes the firearm as evidence pursuant to an
5 investigation for the commission of a crime or, at the
6 discretion of the officer, the individual poses a threat to
7 himself or herself or to others."

8 Section 2. This act shall become effective
9 immediately following its passage and approval by the
10 Governor, or its otherwise becoming law.