

1 SB208
2 147263-4
3 By Senators Beasley, Orr, Dial, Fielding, Allen, Bedford,
4 Ward, Whatley and Irons
5 RFD: Energy and Natural Resources
6 First Read: 14-FEB-13

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to droughts; to codify the establishment of
12 the Alabama Drought Assessment and Planning Team created by
13 the Governor's June 24, 2011, Executive Order Number 19, and
14 provide for its membership, duties, responsibilities, and
15 powers; to establish the Monitoring and Impacts Group
16 Subcommittee and provide for its membership, duties,
17 responsibilities, and powers; to codify the charges given to
18 the Alabama Office of Water Resources which is a division of
19 the Alabama Department of Economic and Community Affairs, with
20 the responsibility of developing a State Drought Plan and
21 periodically issuing drought declarations; to reaffirm the
22 Governor's ability to respond to extreme drought conditions
23 under the powers provided under the Alabama Emergency
24 Management Act of 1955; and to allow the Office of Water
25 Resources to promulgate rules.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. This act may be known and cited as the
2 Alabama Drought Planning and Response Act.

3 Section 2. As used in this act, the following words
4 shall have the following meanings:

5 (1) ADAPT. The Alabama Drought Assessment and
6 Planning Team as created by this act.

7 (2) ADECA. The Alabama Department of Economic and
8 Community Affairs.

9 (3) ADCNR COMMISSIONER. The Commissioner of the
10 Alabama Department of Conservation and Natural Resources.

11 (4) ADEM DIRECTOR. The Director of the Alabama
12 Department of Environmental Management.

13 (5) AEMA DIRECTOR. The Director of the Alabama
14 Emergency Management Agency.

15 (6) ALABAMA ADJUTANT GENERAL. The Commanding General
16 of the Alabama National Guard.

17 (7) AGI COMMISSIONER. The Commissioner of the
18 Alabama Department of Agriculture and Industries.

19 (8) COMMUNITY PUBLIC WATER SYSTEM. A public water
20 system which serves at least 15 service connections used by
21 year-round residents or regularly serves at least 25
22 year-round residents.

23 (9) DROUGHT CONSERVATION PLAN. A written plan that
24 addresses graduated drought response procedures with
25 implementation of specific measures based on drought severity.
26 The drought conservation plan may be a separate plan or a
27 component of a broader emergency response plan.

1 (10) DROUGHT DECLARATION. A written summary, issued
2 by OWR, containing a description of drought conditions
3 throughout the state.

4 (11) DROUGHT EMERGENCY. A written declaration by the
5 Governor that drought conditions in all or any part of the
6 state are of such severity that public health or safety is
7 threatened.

8 (12) DROUGHT MONITOR. The assessment of drought
9 conditions throughout the United States published weekly by
10 the National Integrated Drought Information System (NIDIS) on
11 the "drought.gov" domain or its successor.

12 (13) EMERGENCY ACTION PLAN. A written emergency
13 response plan.

14 (14) MIG. The Monitoring and Impact Group
15 Subcommittee of ADAPT as created by this act.

16 (15) MIG CHAIR. The chair of the Monitoring and
17 Impact Group Subcommittee as created by this act.

18 (16) OFFICE OF WATER RESOURCES DIVISION DIRECTOR.
19 The Division Director of the Office of Water Resources.

20 (17) OFFICE OF WATER RESOURCES or OWR. The Alabama
21 Office of Water Resources, a division of the Alabama
22 Department of Economic and Community Affairs.

23 (18) STATE CLIMATOLOGIST. The State Climatologist of
24 Alabama as appointed by the Governor and qualified to meet the
25 roles and standards established by the American Association of
26 State Climatologists as a Recognized State Climate Office.

1 (19) STATE FORESTER. The Director of the Alabama
2 Forestry Commission.

3 (20) STATE GEOLOGIST. The Director of the Geological
4 Survey of Alabama.

5 Section 3. (a) The Office of Water Resources shall
6 publish a drought plan for the State of Alabama which shall
7 include as a minimum the following:

8 (1) Procedures for defining drought levels.

9 (2) ADAPT and MIG operating procedures.

10 (3) Drought-related information collection, storage,
11 and dissemination procedures.

12 (4) Procedures related to the issuance of drought
13 declarations.

14 (5) Procedures for the development of inputs to the
15 drought monitor.

16 (6) Measures that encourage water conservation and
17 efficiency throughout the state.

18 (7) Public information and outreach on drought
19 related programs and conditions.

20 (b) The plan shall be updated periodically but no
21 less than every five years.

22 (c) Upon adoption by the state of any statewide
23 legislation addressing water resource planning or policy, OWR
24 shall review the drought plan and no later than 180 days
25 following the adoption of said legislation shall make any
26 changes in the plan necessary to ensure it is consistent with
27 that legislation.

1 Section 4. (a) There is created the Alabama Drought
2 Assessment and Planning Team (ADAPT) consisting of the
3 following members:

4 (1) The Office of Water Resources Division Director
5 or his or her designated representative.

6 (2) The AEMA Director or his or her designated
7 representative.

8 (3) The ADEM Director or his or her designated
9 representative.

10 (4) The Alabama Adjutant General or his or her
11 designated representative.

12 (5) The AGI Commissioner or his or her designated
13 representative.

14 (6) The ADCNR Commissioner or his or her designated
15 representative.

16 (7) The Alabama State Forester or his or her
17 designated representative.

18 (8) The State Geologist of Alabama or his or her
19 designated representative.

20 (9) The State Climatologist of Alabama or his or her
21 designated representative.

22 (10) The Chair of the Drought Monitoring and Impact
23 Group (MIG) Subcommittee.

24 (11) A representative from a recognized Watershed
25 Management Authority as appointed by the Governor.

26 (12) Two members representing the state at large
27 appointed by the Governor.

1 (13) The State Executive Director of the Alabama
2 Soil and Water Conservation Committee, or his or her designee.

3 (14) The State Conservationist of the Alabama
4 Natural Resource Conservation Service, or his or her designee.

5 (15) From time to time the Governor may appoint
6 additional members of ADAPT as appropriate.

7 (16) In addition to the above members, the Chair of
8 ADAPT is authorized to invite representatives from appropriate
9 federal agencies to be members of ADAPT. A federal
10 representative may participate in an ex officio capacity with
11 no voting rights and shall not count towards a quorum.

12 (b) The Office of Water Resources Division Director,
13 or his or her designee, shall serve as chair of ADAPT and the
14 chair shall have the following duties, powers, and
15 responsibilities:

16 (1) Call, chair, and conduct all meetings of ADAPT.

17 (2) Create and appoint members of any subcommittees;
18 including the MIG. Membership of the MIG shall be based upon
19 an individual's drought-related expertise or experience and
20 may include both members and nonmembers of ADAPT.

21 (3) Appoint the chair of the MIG.

22 (c) ADAPT shall have the following duties, powers,
23 and responsibilities:

24 (1) To provide advice to the Office of Water
25 Resources on the development of a statewide drought plan.

26 (2) To assess drought conditions in the state,
27 based on input from the MIG.

1 (3) To advise the Governor when a drought emergency
2 exists either statewide or in an area or areas of the state.

3 (4) To make recommendations to the Governor for any
4 mandatory water withdrawal restrictions or reductions that he
5 or she may wish to order.

6 (5) To establish procedures for the operations and
7 meetings of ADAPT and any subcommittees.

8 (6) To administer and spend such funds as are
9 appropriated by the Legislature or provided from other sources
10 for the establishment and administration of ADAPT. ADECA shall
11 serve as the administrative and financial support of ADAPT.

12 (7) ADAPT shall have at least one standing
13 subcommittee which shall be known as the Monitoring and Impact
14 Group (MIG) whose duties shall be to conduct meetings and
15 report recommendations to ADAPT. The MIG shall collect and
16 summarize information relating to drought conditions and
17 forecasts including rainfall, stream flows, reservoir
18 elevations, soil moisture, and groundwater levels, as well as
19 the impacts of these conditions and forecasts on public water
20 supplies, the environment, agriculture, industry, and
21 recreation. The MIG may also recommend responses and
22 strategies necessary to mitigate drought effects on Alabama.
23 The MIG Chair shall provide a summary of drought conditions at
24 the request of the ADAPT Chair and at each ADAPT meeting.

25 (8) ADAPT may establish other subcommittees as
26 needed.

27 (d) ADAPT shall meet at least twice annually.

1 (e) Members of ADAPT appointed as at-large members
2 shall be eligible to receive compensation, subsistence
3 allowances, mileage, or associated expenses in accordance with
4 state travel policies and procedures which shall be allocated
5 by ADECA. Officials or other state employees who are appointed
6 or designated to ADAPT shall be allowed to participate in
7 ADAPT as part of their duties and may claim per diem, mileage,
8 or associated expenses as allowed by law.

9 (f) If ADAPT determines that the severity of the
10 conditions in a drought area of the state or the whole state
11 have progressed to the extent that the safety or health of the
12 citizens of an area of the state or of the whole state is
13 threatened, ADAPT shall expeditiously report those conditions
14 to the Governor. In coordination with the AEMA, ADAPT shall
15 also present to the Governor a priority list of recommended
16 actions designed to mitigate the effects of drought
17 conditions. Preservation of drinking water for citizens and
18 water for human health and safety shall be the first priority.

19 Section 5. The State Climatologist, in coordination
20 with the Office of Water Resources, shall be responsible for
21 providing an input to the drought monitor concerning drought
22 conditions in this state. The input shall be consistent with
23 any drought declarations issued by the Office of Water
24 Resources. The state drought plan shall include provisions for
25 this coordination process.

26 Section 6. Each community public water system shall
27 develop a drought conservation plan which addresses graduated

1 drought response procedures with implementation of specific
2 measures based on drought severity. The drought conservation
3 plan may be a separate plan or a component of a broader
4 emergency action plan. The procedures or plans shall include
5 appropriate enforcement mechanisms. Copies of all plans shall
6 be submitted to the Office of Water Resources, and it shall
7 provide copies of the plan to ADEM upon its request.

8 Section 7. If a community public water system
9 implements voluntary or mandatory restrictions or reductions
10 in water use, the system shall report these actions to the
11 Office of Water Resources. The Office of Water Resources shall
12 also have the authority to require the reporting of other
13 information, such as the status of local water supplies and
14 sources. OWR shall maintain an information clearinghouse for
15 this and other drought-related information and make the
16 information available via the Internet or other appropriate
17 means.

18 Section 8. The Office of Water Resources, with the
19 advice and input from ADAPT, shall have the authority to issue
20 drought declarations. These drought declarations shall provide
21 information on where drought conditions are affecting this
22 state, and the severity of those conditions. The drought
23 declaration shall be based on a number of factors including,
24 but not limited to, meteorological conditions, stream flow
25 levels, reservoir elevations, soil moisture conditions, ground
26 water levels, weather forecasts, as well as impacts to

1 agriculture, water supplies, industry, recreation, and fish
2 and wildlife habitats.

3 Section 9. Pursuant to the Governor's emergency
4 powers, other powers granted by law, and this act he or she
5 may issue a state of emergency and exercise the rights,
6 powers, privileges, immunities, and responsibilities provided
7 by the Alabama Emergency Management Act of 1955, commencing
8 with Section 31-9-1, Code of Alabama 1975. A declared state of
9 emergency related to the drought conditions may also include
10 executive orders to require restrictions or reductions of
11 water withdrawals, allocating water on an equitable basis, or
12 both. Any executive order restricting or reducing water
13 withdrawals will specify the specific geographic area
14 involved, conditions of the restriction and the amount of the
15 withdrawal reductions. These emergency executive orders may
16 continue so long as conditions giving rise to the declaration
17 of a drought emergency continue to threaten public health or
18 safety.

19 Section 10. The Office of Water Resources may
20 promulgate and adopt rules consistent with the objectives of
21 this act.

22 Section 11. The provisions of this act are
23 severable. If any part of this act is declared invalid or
24 unconstitutional, that declaration shall not affect the part
25 which remains.

1 Section 12. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Energy and Natural Resources 14-FEB-13

Read for the second time and placed on the calen-
dar 1 amendment..... 05-MAR-13

Read for the third time and passed as amended 11-APR-13

Yeas 24
Nays 1

Patrick Harris
Secretary