

1 HB475
2 117395-1
3 By Representative Graham
4 RFD: Government Appropriations
5 First Read: 02-FEB-10

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8 SYNOPSIS: This bill would add a new Article 44 to
9 Chapter 9 of Title 41 of the Code of Alabama 1975,
10 to provide for the creation of the Creek War and
11 War of 1812 Bicentennial Commission. This bill
12 would provide for the purpose, membership, powers,
13 duties, operations, and termination of the
14 commission.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT
19

20 To add Article 44 to Chapter 9 of Title 41 of the
21 Code of Alabama 1975, to create the Creek War and War of 1812
22 Bicentennial Commission; to make legislative findings; to
23 provide definitions; to provide for the purpose, membership,
24 powers, duties, and operations of the commission; to provide
25 for expenses subject to available funds; and to provide for
26 termination of the commission.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Article 44 is added to Chapter 9 of Title
2 41 of the Code of Alabama 1975, to read as follows:

3 Article 44.

4 §41-9-1060.

5 There is hereby created and established the Creek
6 War and War of 1812 Bicentennial Commission.

7 §41-9-1061.

8 The Legislature of Alabama makes the following
9 findings:

10 (1) Because the onset and subsequent activities of
11 the Creek War and the War of 1812 were seminal events for our
12 young nation, and especially for the area that would become
13 the State of Alabama, it is important for this state to
14 commemorate the historical activities and people of this era.

15 (2) At the onset of the War of 1812, the lands
16 comprising the future State of Alabama were a part of the
17 Mississippi territory, the Kingdom of Spain, and the Cherokee,
18 Chickasaw, Choctaw, and Creek Indian Nations. At the time of
19 the outbreak of the War of 1812, the Creek nation was on the
20 verge of civil conflict, which broke out in early 1813. When
21 the Creek National Council called on the United States for
22 assistance in fighting the Red Stick insurgents, the Creek
23 civil war quickly became an American-Creek war, and Red Stick
24 Creeks sought British assistance against their adversaries. In
25 the ensuing conflict, the United States and its Indian allies
26 won victories against Red Stick forces, conquered Spanish

1 territory, and twice defended the Alabama coastline against
2 British-led invasions.

3 (3) The Creek War and the War of 1812 were
4 distinguished by a number of significant battles. Battles,
5 campaigns, encampments, and expeditions took place in every
6 part of the state, with American armies from Georgia,
7 Tennessee, and the Mississippi territory converging on the
8 central part of the state. Naval activity also occurred in
9 Mobile Bay. These battles and troop movements exposed the
10 lands of the future State of Alabama to potential settlers.

11 (4) Among the most prominent battles were the Fort
12 Mims Massacre, an action by Red Stick insurgents that
13 galvanized American public opinion in support of a war against
14 the Creeks; the Battle of Horseshoe Bend, in which Andrew
15 Jackson's forces won a decisive victory against the Creeks,
16 thereby ending the Creek War and securing for Jackson the
17 status of national war hero and propelling him to fame; the
18 defeat of the British in their attempt to take Mobile Bay,
19 thereby delaying the British campaign to take New Orleans and
20 allowing time for American armies to prepare for defenses in
21 that city; and the final large-scale military action of the
22 War of 1812 that took place at Fort Bowyer, now called Fort
23 Morgan, more than a month after the Battle of New Orleans.

24 (5) As a result of the war, 22,000,000 acres were
25 ceded by the Creek Nation to the United States in the Treaty
26 of Fort Jackson. The majority of this land ultimately became
27 part of the Alabama territory and was later designated as the

1 State of Alabama. The subjugation of the Creek Indians
2 precipitated a land rush in the newly-ceded lands, leading to
3 the rapid expansion of settlement in Baldwin and Mobile
4 Counties and in the Tennessee Valley.

5 (6) Current Alabama counties which saw significant
6 action during the war years were: Autauga, Baldwin, Chambers,
7 Cherokee, Clarke, Clay, Coosa, Dallas, Elmore, Lee, Lowndes,
8 Macon, Madison, Marengo, Marshall, Mobile, Monroe, Montgomery,
9 Morgan, Perry, Randolph, Russell, St. Clair, Talladega,
10 Tallapoosa, Washington, and Wilcox.

11 (7) The importance of a bicentennial commemoration
12 has been recognized by other states and by the United States
13 Congress. Commemoration of the period offers an excellent
14 opportunity to enhance educational programs and engender
15 heritage tourism within Alabama. Therefore, it is in the
16 interest of the state to provide and support the appropriate
17 celebrations and commemorative activities to maximize public
18 education and appreciation of significant events in the
19 history of the period.

20 §41-9-1062.

21 For purposes of this article, the following words
22 shall have the following meanings:

23 (1) COMMEMORATION. A commemoration of the Creek War
24 and the War of 1812.

25 (2) COMMISSION. The Creek War and War of 1812
26 Bicentennial Commission.

1 (3) COUNTIES. The counties of Autauga, Baldwin,
2 Chambers, Cherokee, Clarke, Clay, Coosa, Dallas, Elmore, Lee,
3 Lowndes, Macon, Madison, Marengo, Marshall, Mobile, Monroe,
4 Montgomery, Morgan, Perry, Randolph, Russell, St. Clair,
5 Talladega, Tallapoosa, Washington, and Wilcox.

6 (4) QUALIFIED RESIDENT. Any resident of the State of
7 Alabama with an interest in, support for, and expertise
8 appropriate to the commemoration.

9 §41-9-1063.

10 (a) The commission shall be composed of 29 members
11 to be appointed by the following:

12 (1) Ten members shall be qualified residents
13 appointed by the commission after consideration of nominations
14 submitted by the county commissions of Autauga, Baldwin,
15 Clarke, Elmore, Macon, Madison, Mobile, Talladega, Tallapoosa,
16 and Washington Counties.

17 (2) Four members shall be qualified residents
18 appointed by the commission after consideration of nominations
19 submitted by the mayors of the City of Alexander City, the
20 City of Huntsville, the City of Mobile, and the City of
21 Montgomery.

22 (3) Two members shall be employees of and appointed
23 by the Alabama Historical Commission.

24 (4) One member shall be an employee of and appointed
25 by the Bureau of Tourism and Travel.

26 (5) One member shall be an employee of and appointed
27 by the Alabama Department of Archives and History.

1 (6) One member shall be an employee of and appointed
2 by the Alabama Department of Indian Affairs.

3 (7) One member shall be an employee of, and
4 appointed by the Department of Conservation and Natural
5 Resources.

6 (8) One member shall be an employee of and appointed
7 by the Alabama Department of Education.

8 (9) One member shall be an employee of and appointed
9 by the Horseshoe Bend National Military Park.

10 (10) One member shall be appointed by the Alabama
11 Historical Commission.

12 (11) One member shall be appointed by the Poarch
13 Band of Creek Indians.

14 (12) One member shall be appointed by the Alabama
15 Archaeological Society.

16 (13) One member shall be appointed by the Alabama
17 Association of Historians.

18 (14) One member shall be appointed by the Historic
19 Chattahoochee Commission.

20 (15) One member shall be appointed by the Alabama
21 Black Heritage Council.

22 (16) One member shall be appointed by the Alabama
23 Humanities Foundation.

24 (b) Members of the commission shall be appointed to
25 reflect the racial, gender, geographic, urban/rural, and
26 economic diversity of the State of Alabama.

1 (c) The members of the commission shall be appointed
2 120 days after the effective date of this act. A person
3 appointed to the commission shall serve until written notice
4 is given to the chair by the appointing authority that the
5 appointment is no longer effective, or until the commission
6 determines that such appointment is no longer effective.

7 (d) Members shall be appointed for the life of the
8 commission.

9 (e) A vacancy on the commission shall not affect the
10 powers of the commission and shall be filled in the same
11 manner as the original appointment for any unexpired term.

12 (f) The commission shall act on an affirmative vote
13 of a majority of the members of the commission attending a
14 meeting of the commission for which notice was provided
15 pursuant to subsection (g). Members of the commission may
16 participate in any meeting of the commission by means of a
17 conference telephone or similar communications equipment by
18 means of which all persons participating at the meeting can
19 hear each other at the same time, and participation by such
20 means shall constitute presence in person at a meeting.

21 (g) Notice of the time, day, and place of all
22 meetings of the commission shall be given to all members of
23 the commission in person or by telephone, mail, e-mail, or
24 facsimile, by or at the direction of the chair or the vice
25 chair. If the notice is sent by mail, it shall be deposited in
26 the United States post office as first class mail or with a
27 private mail carrier for overnight delivery, postage prepaid

1 and addressed to the member at his or her address as it
2 appears on the records of the commission, at least five days
3 before the day of the meeting. If the notice is sent by any
4 other method or is delivered in person, the notice shall be
5 sent or delivered at least 48 hours before the meeting.

6 (h) The commission shall select a chair and a vice
7 chair from among the members of the commission.

8 (i) The commission shall hold an initial meeting
9 within 150 days after the effective date of this act.

10 (j) During the years 2010 and 2011, there shall be
11 no fewer than three meetings of the commission per year at the
12 call of the chair or a majority of the members of the
13 commission.

14 (k) During the years 2012 through 2015, there shall
15 be no fewer than two meetings of the commission per year at
16 the call of the chair or a majority of the members of the
17 commission.

18 §41-9-1064.

19 Subject to available funds, the commission shall do
20 all of the following:

21 (1) Plan, develop, execute, coordinate, and assist
22 in programs, observances, studies, and activities
23 commemorating the historic events associated with the Creek
24 War and War of 1812.

25 (2) Facilitate and encourage the commemoration
26 throughout the state.

1 (3) Lead in the establishment of a statewide
2 observance of the Creek War and War of 1812 by complementing,
3 cooperating with, and providing assistance to the programs and
4 activities of the various counties and organizations involved
5 in the commemoration.

6 (4) Encourage observances benefiting the diverse
7 population of the state by interacting with all of the natural
8 and cultural treasures of the state.

9 (5) In cooperation with the appropriate federal
10 agencies, and through archival and archaeological research,
11 the commission may work with the state archaeologist to update
12 and augment the inventory and assessments of the
13 archaeological and historic sites enumerated in the
14 state-developed and National Park Service American Battlefield
15 Protection Programs to also reflect historic sites that are
16 not associated with battles.

17 (6) Encourage and assist in the preparation of
18 printed books, electronic web pages, and associated
19 educational material.

20 (7) Encourage and welcome international involvement
21 in celebrations and observances and cooperate and coordinate
22 with the National War of 1812 Bicentennial Commission and
23 commissions in other states.

24 (8) Cooperate with and assist the Alabama Bureau of
25 Tourism and Travel in developing maps and other material to
26 encourage heritage-related tourism during the commemoration
27 period, with such cooperation extended to counties and

1 municipalities through chambers of commerce, convention and
2 visitors bureaus, and similar agencies.

3 (9) Seek out and encourage national and regional
4 groups to hold events and living history gatherings.

5 (10) Coordinate with appropriate private, municipal,
6 county, regional, and federal agencies including the National
7 Park Service and the federal Department of Defense.

8 (11) Encourage agencies and groups throughout the
9 state to organize and participate in the commemoration.

10 (12) Encourage civic, patriotic, historical,
11 educational, religious, economic, tourism, and other
12 organizations throughout the state to expand the understanding
13 and appreciation of the significance of the Creek War and War
14 of 1812.

15 (13) Coordinate with the States of Mississippi,
16 Georgia, Louisiana, Tennessee, North Carolina, South Carolina,
17 and Florida to exchange information, present beneficial joint
18 programs, encourage tourism, and educate students and the
19 public.

20 (14) Provide a calendar of events to the Departments
21 of Education and Tourism and Travel no later than six months
22 prior to the commemoration.

23 (15) Work with the Department of Archives and
24 History and state colleges and universities to design,
25 develop, and provide, during the designated commemoration
26 period for the purpose of promoting education and tourism, a
27 website that shall include a calendar of statewide

1 commemoration festivities, an explanation of events preceding
2 and associated with the Creek War and War of 1812 in Alabama,
3 and a selection of documents and maps from the period in order
4 to make the wealth of historical resources of the state easily
5 accessible to the general public and schools.

6 (16) Collaborate with the Department of Archives and
7 History to design, develop, and provide an exhibit or exhibits
8 to interpret the events of the period for the educational and
9 informational benefit of the citizens and tourists of Alabama.

10 (17) Collaborate with the State Archaeologist to
11 update and enhance the inventory of significant archaeological
12 sites and structures associated with the commemorative period
13 and, upon completion of the list, execute surveys necessary
14 for the identification and potential preservation of the
15 sites.

16 (18) Cooperate with the Department of Tourism and
17 Travel, state historians, regional and local agencies, and the
18 State Archaeologist to produce a Bicentennial Trail map to be
19 available for public distribution no later than January 1,
20 2012.

21 (19) Direct a state historian to compile for
22 distribution to appropriate state historic sites and Alabama
23 schools a pamphlet including the biographies of notable War of
24 1812-era Alabamians, including citizens, military figures,
25 political figures, Indian leaders, and namesakes for Alabama
26 counties.

1 (20) Ensure that commemorations provide a lasting
2 legacy and long-term public benefit leading to the protection
3 of the resources associated with the era.

4 (21) Cooperate and coordinate with other state and
5 national archives, museums, and repositories holding pertinent
6 Alabama-associated artifacts, images, and documents to secure
7 loans and exhibits of the materials in Alabama during the
8 commemoration period.

9 (22) Cooperate and coordinate with the Department of
10 Transportation to mark and interpret the Old Federal Road
11 route.

12 (23) Cooperate and coordinate with the Alabama
13 Humanities Foundation to establish a speakers' bureau of
14 experts and publicize the experts to communities across the
15 state.

16 (24) Cooperate with the Department of Education, the
17 Department of Archives and History, state colleges and
18 universities, and the Alabama Humanities Foundation to
19 encourage and support the development of teaching materials
20 and teacher workshops related to the Creek War and War of 1812
21 in Alabama.

22 (25) Prepare a strategic plan and annual performance
23 plans for any activity carried out by the commission.

24 (26) Solicit, accept, use, and dispose of gifts or
25 donations of money, services, and real and personal property
26 related to its mission.

1 (27) Appoint an advisory committee as the commission
2 deems necessary.

3 (28) Authorize any member or employee of the
4 commission to take any action the commission is authorized to
5 undertake.

6 (29) Use the United States mails in the same manner
7 and under the same conditions as other agencies of the state
8 government.

9 (30) Use the printing and other state resources in
10 the same manner and under the same conditions as other
11 agencies of the state government.

12 (31) Make grants to communities, nonprofit
13 commemorative commissions, educational institutions and
14 organizations, and research and scholarly organizations to
15 develop programs and products to assist in researching,
16 publishing, marketing, and distributing information relating
17 to the commemoration.

18 (32) Secure supplies, services, and property.

19 (33) Make or enter into contracts, leases, or other
20 legal agreements not to extend beyond the termination date of
21 the commission.

22 (34) Secure directly from a state agency such
23 information as the commission considers to be necessary to
24 carry out its mission and, upon request of the chair of the
25 commission, the head of the agency shall provide information
26 to the commission.

1 (35) Have any other powers the commission deems
2 necessary to commemorate the Creek War and War of 1812.

3 (36) Receive and expend any funds, including state
4 funds which are appropriated to the commission.

5 (37) Employ state employees.

6 Notwithstanding the above powers, the commission
7 shall have no authority to obligate state funds or to require
8 any unit of state or local government to expend or obligate
9 funds. Any provision of this article that shall make any power
10 or duty of the commission subject to availability of funding,
11 the provision shall be intended to make the exercise of such
12 power or duty contingent on the commission having received
13 grants, donations, or contract funds sufficient for such
14 purpose.

15 §41-9-1065.

16 (a) No later than September 30, 2015, the commission
17 shall submit a report to the Department of Examiners of Public
18 Accounts that includes all of the following:

19 (1) A summary of the activities of the commission.

20 (2) A final accounting of any funds received or
21 expended by the commission.

22 (3) The final disposition of any historically
23 significant items or other items acquired by the commission.

24 (b) The commission shall terminate upon submission
25 of the final report pursuant to subsection (a).

26 (c) No later than the date of termination of the
27 commission, the commission shall transfer any documents,

1 materials, books, manuscripts, miscellaneous printed matter,
2 memorabilia, relics, and exhibits and any materials donated to
3 the commission that relate to the Creek War and War of 1812 to
4 the Alabama Department of Archives and History, which may
5 de-accession any of these materials that do not conform with
6 its mission. Following the termination of the commission, the
7 Alabama Department of Archives and History may continue any of
8 the initiatives and purposes of the commission. Items produced
9 for sale by the commission shall be transferred to the Alabama
10 Historical Commission and the Alabama Department of Archives
11 and History for use at its retail outlets.

12 (d) Any funds held by the commission on the date of
13 termination shall be deposited into the State General Fund.

14 §41-9-1066.

15 (a) Except as provided in subsection (b), all
16 members of the commission shall serve without compensation.

17 (b) A member of the commission who is an official or
18 employee of the State of Alabama shall serve without
19 compensation and shall receive his or her compensation for his
20 or her employment or official duties.

21 (c) Subject to available funds, a member of the
22 commission shall be allowed travel expenses within the
23 guidelines established by the State of Alabama for state
24 employees and officials.

25 (d) Subject to available funds, the chair of the
26 commission, without regard to Merit System laws and
27 regulations, may appoint and terminate an executive director

1 and such other additional personnel as shall be necessary to
2 enable the commission to perform the duties of the commission.
3 The employment of an executive director shall be subject to
4 confirmation by the commission. The chair of the commission
5 may fix the compensation of the executive director and other
6 personnel without regard to the provisions of the law relating
7 to classification of positions, general schedule pay rates,
8 and any provisions of the state Merit System, but only upon
9 the approval of the commission.

10 (e) At the request of the commission and subject to
11 available funds, the head of any state agency may assign, on a
12 reimbursable or nonreimbursable basis, any of the personnel of
13 such agency to the commission to assist the commission in
14 carrying out the duties of the commission under this article.
15 The assignment of an employee shall be without loss of Merit
16 System status or privilege. Any city and any county may assign
17 personnel on similar terms and conditions. Notwithstanding the
18 foregoing sentences of this subsection, the commission shall
19 receive administrative support from the Alabama Historical
20 Commission on a nonreimbursable basis.

21 (f) The commission may accept and use voluntary and
22 uncompensated services as the commission determines necessary.

23 (g) Nothing in this article shall be construed to
24 require any state appropriations.

25 §41-9-1067.

26 (a) The commission and all contracts made by it
27 shall be exempt from all laws of the State of Alabama

1 requiring competitive bids in connection with contracts,
2 including, without limitation, Chapter 16 of Title 41 of the
3 Code of Alabama 1975.

4 (b) The commission shall not be subject to Article 3
5 of Chapter 15 of Title 9 of the Code of Alabama 1975,
6 regardless of the prior ownership of any property or interest
7 therein to be disposed of in any fashion by the commission.

8 (c) The commission shall not be subject to the Open
9 Meetings Act codified at Chapter 25A of Title 36 of the Code
10 of Alabama 1975 nor to any public record requirements of the
11 state, including without limitation, Chapter 12 of Title 36
12 and Chapter 13 of Title 41 of the Code of Alabama 1975.

13 (d) The commission shall not be subject to the
14 Alabama Administrative Procedure Act codified at Chapter 22 of
15 Title 41 of the Code of Alabama 1975.

16 (e) Members of the commission shall not be subject
17 to Chapter 25 of Title 36 merely because of their service on
18 the commission or because of the reimbursement of travel
19 expenses provided in Section 41-9-1066(c) of this act.
20 However, compensated employees of the commission shall be
21 subject to Chapter 25 of Title 36 of the Code of Alabama 1975,
22 so long as they are not employed in maintenance, clerical,
23 secretarial, or other similar positions.

24 (f) The commission shall be exempt from all state
25 and local taxes and assessments.

26 (g) Members and employees of the commission shall be
27 immune from civil liability and shall not be liable for

1 damages when performing their duties under this article. The
2 Attorney General shall represent members of the commission and
3 the employees of the commission in litigation filed because of
4 the performance of their duties under this article.

5 (h) Subject to available funding, the commission
6 shall hire an independent certified public accounting firm to
7 examine its books and records and render a written audit
8 report annually.

9 (i) No part of the net earnings of the commission
10 remaining after payment of its expenses shall inure to the
11 benefit of any private entity or person.

12 (j) The commission, by resolution legally adopted to
13 conform to rules prescribed by the Board of Control of the
14 State of Alabama Employees' Retirement System, may elect to
15 have its employees become eligible to participate in the State
16 of Alabama Employees' Retirement System. The commission may
17 similarly agree that its employees shall be subject to state
18 insurance on the same basis as other state employees of the
19 Alabama Historical Commission.

20 (k) Notwithstanding any other provisions of this
21 act, the members of the commission, all employees, and any
22 contracts entered into by the commission shall reflect the
23 racial, gender, geographic, urban/rural, and economic
24 diversity of the state.

25 Section 2. If a court of competent jurisdiction
26 adjudges invalid or unconstitutional any clause, sentence,
27 paragraph, section, or part of this act, such judgment or

1 decree shall not affect, impair, invalidate, or nullify the
2 remainder of this act, but the effect of the decision shall be
3 confined to the clause, sentence, paragraph, section, or part
4 of this act adjudged to be invalid or unconstitutional.

5 Section 3. All laws or parts of laws which conflict
6 with this act are repealed.

7 Section 4. This act shall become effective
8 immediately following its passage and approval by the
9 Governor, or its otherwise becoming law.