

1 SB208
2 147263-3
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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8 SYNOPSIS: This bill would codify the establishment of
9 the Alabama Drought Assessment and Planning Team
10 created by the Governor's June 24, 2011, Executive
11 Order Number 19, and provide for its membership,
12 duties, responsibilities, and powers.

13 This bill would establish the Monitoring and
14 Impacts Group Subcommittee and provide for its
15 membership, duties, responsibilities, and powers.

16 This bill would codify the charges given to
17 the Alabama Office of Water Resources which is a
18 division of the Alabama Department of Economic and
19 Community Affairs, with the responsibility of
20 developing a State Drought Plan and periodically
21 issuing drought declarations.

22 The bill would reaffirm the Governor's
23 ability to respond to extreme drought conditions
24 under the powers provided under the Alabama
25 Emergency Management Act of 1955.

26 This bill would allow the Office of Water
27 Resources to promulgate rules.

1
2 A BILL
3 TO BE ENTITLED
4 AN ACT
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6 Relating to droughts; to codify the establishment of
7 the Alabama Drought Assessment and Planning Team created by
8 the Governor's June 24, 2011, Executive Order Number 19, and
9 provide for its membership, duties, responsibilities, and
10 powers; to establish the Monitoring and Impacts Group
11 Subcommittee and provide for its membership, duties,
12 responsibilities, and powers; to codify the charges given to
13 the Alabama Office of Water Resources which is a division of
14 the Alabama Department of Economic and Community Affairs, with
15 the responsibility of developing a State Drought Plan and
16 periodically issuing drought declarations; to reaffirm the
17 Governor's ability to respond to extreme drought conditions
18 under the powers provided under the Alabama Emergency
19 Management Act of 1955; and to allow the Office of Water
20 Resources to promulgate rules.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

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

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

5 (4) ADEM DIRECTOR. The Director of the Alabama
6 Department of Environmental Management.

7 (5) AEMA DIRECTOR. The Director of the Alabama
8 Emergency Management Agency.

9 (6) ALABAMA ADJUTANT GENERAL. The Commanding General
10 of the Alabama National Guard.

11 (7) AGI COMMISSIONER. The Commissioner of the
12 Alabama Department of Agriculture and Industries.

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

17 (9) DROUGHT CONSERVATION PLAN. A written plan that
18 addresses graduated drought response procedures with
19 implementation of specific measures based on drought severity.
20 The drought conservation plan may be a separate plan or a
21 component of a broader emergency response plan.

22 (10) DROUGHT DECLARATION. A written summary, issued
23 by OWR, containing a description of drought conditions
24 throughout the state.

25 (11) DROUGHT EMERGENCY. A written declaration by the
26 Governor that drought conditions in all or any part of the

1 state are of such severity that public health or safety is
2 threatened.

3 (12) DROUGHT MONITOR. The assessment of drought
4 conditions throughout the United States published weekly by
5 the National Integrated Drought Information System (NIDIS) on
6 the "drought.gov" domain or its successor.

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

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

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

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

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

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

22 (19) STATE FORESTER. The Director of the Alabama
23 Forestry Commission.

24 (20) STATE GEOLOGIST. The Director of the Geological
25 Survey of Alabama.

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

4 (1) Procedures for defining drought levels.

5 (2) ADAPT and MIG operating procedures.

6 (3) Drought-related information collection, storage,
7 and dissemination procedures.

8 (4) Procedures related to the issuance of drought
9 declarations.

10 (5) Procedures for the development of inputs to the
11 drought monitor.

12 (6) Measures that encourage water conservation and
13 efficiency throughout the state.

14 (7) Public information and outreach on drought
15 related programs and conditions.

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

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

24 Section 4. (a) There is created the Alabama Drought
25 Assessment and Planning Team (ADAPT) consisting of the
26 following members:

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

3 (2) The AEMA Director or his or her designated
4 representative.

5 (3) The ADEM Director or his or her designated
6 representative.

7 (4) The Alabama Adjutant General or his or her
8 designated representative.

9 (5) The AGI Commissioner or his or her designated
10 representative.

11 (6) The ADCNR Commissioner or his or her designated
12 representative.

13 (7) The Alabama State Forester or his or her
14 designated representative.

15 (8) The State Geologist of Alabama or his or her
16 designated representative.

17 (9) The State Climatologist of Alabama or his or her
18 designated representative.

19 (10) The Chair of the Drought Monitoring and Impact
20 Group (MIG) Subcommittee.

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

23 (12) Two members representing the state at large
24 appointed by the Governor.

25 (13) From time to time the Governor may appoint
26 additional members of ADAPT as appropriate.

1 (14) In addition to the above members, the Chair of
2 ADAPT is authorized to invite representatives from appropriate
3 federal agencies to be members of ADAPT. A federal
4 representative may participate in an ex officio capacity with
5 no voting rights and shall not count towards a quorum.

6 (b) The Office of Water Resources Division Director,
7 or his or her designee, shall serve as chair of ADAPT and the
8 chair shall have the following duties, powers, and
9 responsibilities:

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

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

15 (3) Appoint the chair of the MIG.

16 (c) ADAPT shall have the following duties, powers,
17 and responsibilities:

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

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

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

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

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

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

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

20 (8) ADAPT may establish other subcommittees as
21 needed.

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

23 (e) Members of ADAPT appointed as at-large members
24 shall be eligible to receive compensation, subsistence
25 allowances, mileage, or associated expenses in accordance with
26 state travel policies and procedures which shall be allocated
27 by ADECA. Officials or other state employees who are appointed

1 or designated to ADAPT shall be allowed to participate in
2 ADAPT as part of their duties and may claim per diem, mileage,
3 or associated expenses as allowed by law.

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

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

21 Section 6. Each community public water system shall
22 develop a drought conservation plan which addresses graduated
23 drought response procedures with implementation of specific
24 measures based on drought severity. The drought conservation
25 plan may be a separate plan or a component of a broader
26 emergency action plan. The procedures or plans shall include
27 appropriate enforcement mechanisms. Copies of all plans shall

1 be submitted to the Office of Water Resources, and it shall
2 provide copies of the plan to ADEM upon its request.

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

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

24 Section 9. Pursuant to the Governor's emergency
25 powers, other powers granted by law, and this act he or she
26 may issue a state of emergency and exercise the rights,
27 powers, privileges, immunities, and responsibilities provided

1 by the Alabama Emergency Management Act of 1955, commencing
2 with Section 31-9-1, Code of Alabama 1975. A declared state of
3 emergency related to the drought conditions may also include
4 executive orders to require restrictions or reductions of
5 water withdrawals, allocating water on an equitable basis, or
6 both. Any executive order restricting or reducing water
7 withdrawals will specify the specific geographic area
8 involved, conditions of the restriction and the amount of the
9 withdrawal reductions. These emergency executive orders may
10 continue so long as conditions giving rise to the declaration
11 of a drought emergency continue to threaten public health or
12 safety.

13 Section 10. The Office of Water Resources may
14 promulgate and adopt rules consistent with the objectives of
15 this act.

16 Section 11. The provisions of this act are
17 severable. If any part of this act is declared invalid or
18 unconstitutional, that declaration shall not affect the part
19 which remains.

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