

1 SB272
2 157114-2
3 By Senators Dunn, Irons, Singleton, Smitherman, Reed,
4 Fielding, Bedford, Sanders, Figures, and Coleman
5 RFD: Governmental Affairs
6 First Read: 23-JAN-14

1 SB272

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4 ENROLLED, An Act,

5 To amend Section 31-9-8, Code of Alabama 1975,
6 relating to the Alabama Emergency Management Act of 1955; to
7 require the Governor or the Legislature to designate, in a
8 proclamation or resolution declaring a state of emergency
9 affecting less than the entire state, those counties to which
10 the state of emergency applies.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Section 31-9-8 of the Code of Alabama
13 1975, is amended to read as follows:

14 "§31-9-8.

15 "(a) The provisions of this section shall be
16 operative only during the existence of a state of emergency,
17 referred to hereinafter as one of the states of emergency
18 defined in Section 31-9-3. The existence of a state of
19 emergency may be proclaimed by the Governor as provided in
20 this subsection or by joint resolution of the Legislature if
21 the Governor in the proclamation or the Legislature in the
22 resolution finds that an attack upon the United States has
23 occurred or is anticipated in the immediate future, or that a
24 natural disaster of major proportions or a public health
25 emergency has occurred or is reasonably anticipated in the

1 immediate future within this state and that the safety and
2 welfare of the inhabitants of this state require an invocation
3 of the provisions of this section. If the state of emergency
4 affects less than the entire state, the Governor or the
5 Legislature shall designate in the proclamation or resolution
6 those counties to which the state of emergency applies. The
7 emergency, whether proclaimed by the Governor or by the
8 Legislature, shall terminate 60 days after the date on which
9 it was proclaimed unless the Governor extends the emergency by
10 proclamation or the Legislature extends the emergency by a
11 joint resolution. Upon proclamation by the Governor of a state
12 of emergency, the Governor may call the Legislature into
13 special session. Additionally, the Lieutenant Governor or the
14 Speaker of the House may request in writing that the Governor
15 call the Legislature into special session. During the period
16 that the proclaimed emergency exists or continues, the
17 Governor shall have and may exercise the following additional
18 emergency powers:

19 "(1) To enforce all laws, rules, and regulations
20 relating to emergency management and to assume direct
21 operational control of all emergency management forces and
22 helpers in the state.

23 "(2) To sell, lend, lease, give, transfer, or
24 deliver materials or perform services for emergency management
25 purposes on such terms and conditions as the Governor shall

1 prescribe and without regard to the limitations of any
2 existing law, and to account to the State Treasurer for any
3 funds received for such property.

4 "(3) To procure, by purchase, condemnation, seizure,
5 or other means, construct, lease, transport, store, maintain,
6 renovate, or distribute materials and facilities for emergency
7 management without regard to the limitations of any existing
8 law; provided, that this authority shall not be exercised with
9 regard to newspapers, wire facilities leased or owned by news
10 services, and other news publications, and provided further,
11 that he or she shall make compensation for the property so
12 seized, taken, or condemned, on the following basis:

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

1 "b. If the person entitled to receive the amount so
2 determined by the Governor as just compensation is unwilling
3 to accept the same as full and complete compensation for such
4 property or the use thereof, he or she shall be paid 75
5 percent of such amount and shall be entitled to recover from
6 the State of Alabama, in an action brought in a court in the
7 county of residence of the claimant or in Montgomery County,
8 in the same manner as other condemnation claims are brought,
9 within three years after the date of the Governor's award,
10 such additional amount, if any, which when added to the amount
11 so paid to him or her, shall be just compensation.

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

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

19 "(6) To employ such measures and give such
20 directions to the state or local boards of health as may be
21 reasonably necessary for the purpose of securing compliance
22 with the provisions of this article or with the findings or
23 recommendations of such boards of health by reason of
24 conditions arising from enemy attack or the threat of enemy
25 attack or otherwise.

1 "(7) To utilize the services and facilities of
2 existing officers and agencies of the state and of the
3 political subdivisions thereof. All such officers and agencies
4 shall cooperate with and extend their services and facilities
5 to the Governor as he or she may request.

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

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

21 "(b) The proclamation of a state of public health
22 emergency shall activate the disaster response and recovery
23 aspects of the state, local, and inter-jurisdictional disaster
24 emergency plans in the affected political subdivisions or
25 geographic areas. Such declaration authorizes the deployment

1 and use of any forces to which the plans apply and the use or
2 distribution of any supplies, equipment, and materials and
3 facilities assembled, stockpiled, or available pursuant to
4 this article.

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

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

13 "(2) A law enforcement officer who is acting in the
14 lawful discharge of the officer's official duties may disarm
15 an individual if the officer reasonably believes that it is
16 immediately necessary for the protection of the officer or
17 another individual. The officer shall return the firearm to
18 the individual before discharging that individual unless the
19 officer arrests that individual for engaging in criminal
20 activity or seizes the firearm as evidence pursuant to an
21 investigation for the commission of a crime or, at the
22 discretion of the officer, the individual poses a threat to
23 himself or herself or to others."

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

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB272

Senate 30-JAN-14

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris
Secretary

House of Representatives
Passed: 13-FEB-14

By: Senator Dunn