

1 SB334  
2 206819-3  
3 By Senators Whatley, Albritton, McClendon, Elliott, Williams,  
4 Ward and Marsh  
5 RFD: Governmental Affairs  
6 First Read: 04-MAY-20

8 SYNOPSIS: Under existing law, a state of emergency may  
9 be declared by the Governor by proclamation or by  
10 the Legislature by joint resolution. A state of  
11 emergency terminates after 60 days unless extended  
12 by proclamation of the Governor or joint resolution  
13 of the Legislature.

14 This bill would provide that a state of  
15 emergency terminates after 14 days and may be  
16 extended only by joint resolution of the  
17 Legislature or, if the Legislature is not in  
18 session, by joint proclamation of the President Pro  
19 Tempore of the Senate and the Speaker of the House  
20 of Representatives.

21 This bill would also provide that an order  
22 or directive issued by the State Health Officer  
23 relating to the outbreak of a disease or pandemic  
24 has the full force and effect of law once it is  
25 approved by the Governor and a copy is filed with  
26 the Office of the Secretary of State.

1 A BILL  
2 TO BE ENTITLED  
3 AN ACT  
4

5 Relating to states of emergency; to amend Sections  
6 22-2-8 and 31-9-8, Code of Alabama 1975; to provide that a  
7 state of emergency terminates after 14 days and may be  
8 extended only by joint resolution of the Legislature or, if  
9 the Legislature is not in session, by joint proclamation of  
10 the President Pro Tempore of the Senate and the Speaker of the  
11 House of Representatives; and to provide that an order or  
12 directive issued by the State Health Officer relating to the  
13 outbreak of a disease or pandemic has the full force and  
14 effect of law once it is approved by the Governor and a copy  
15 is filed with the Secretary of State.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 22-2-8 and 31-9-8, Code of  
18 Alabama 1975, are amended to read as follows:

19 "§22-2-8.

20 "(a) The State Committee of Public Health shall  
21 elect an executive officer who shall be a physician licensed  
22 in the State of Alabama to be known as the State Health  
23 Officer and shall fix his or her term of office and salary.  
24 The qualifications of this individual shall be determined by  
25 the State Committee of Public Health. Before entering upon the  
26 duties of ~~his~~ the office, the State Health Officer shall  
27 execute to the State of Alabama a bond, to be approved by the

1 Governor, in the amount of five thousand dollars (\$5,000.00),  
2 for the faithful performance of ~~his~~ the duties of the office.

3 "(b) The State Health Officer so elected ~~shall~~,  
4 under the direction of the State Committee of Public Health  
5 and with the approval of the State Personnel Board, shall fix  
6 the salaries of the medical employees of the State Committee  
7 of Public Health. When the State Committee of Public Health is  
8 not in session, the State Health Officer, as executive officer  
9 of the Department of Public Health, shall act for ~~said the~~ the  
10 committee and shall have and discharge all the prerogatives  
11 and duties of ~~said the~~ the committee. ~~He~~ The State Health Officer  
12 shall report his or her actions to the committee at its next  
13 meeting after ~~such the~~ the action is taken, and ~~such the~~ the action of  
14 ~~the State Health Officer~~ shall then be subject to confirmation  
15 or modification by the committee. The State Health Officer  
16 shall exercise general supervision over county boards of  
17 health and county health officers and promptly report to ~~said~~  
18 the county boards of health any delinquencies of official duty  
19 on the part of ~~said the~~ the county health officers which may come  
20 to his or her knowledge, ~~keep himself informed in regard to~~  
21 ~~all diseases which may be in danger of invading the state~~

22 "(c) The State Health Officer shall stay informed  
23 with regard to an actual or potential outbreak of any disease  
24 or pandemic affecting this state and, as far as authorized by  
25 law, take prompt measures to prevent ~~such invasions~~ an  
26 outbreak and keep the Governor and the Legislature informed as  
27 to the health conditions prevailing in the state, especially

1 as to outbreaks of any of the diseases enumerated in Chapter  
2 11 ~~of this title~~, and submit to the Governor and Legislature  
3 ~~such~~ recommendations as he or she deems proper to control,  
4 prevent, or minimize such outbreaks. an outbreak. If a state  
5 public health emergency has been declared pursuant to Section  
6 31-9-8, any order or directive issued by the State Health  
7 Officer to control, prevent, or minimize an outbreak of any  
8 disease or pandemic may not take effect unless and until the  
9 order or directive is approved by the Governor and a copy of  
10 the approved order or directive is filed in the Office of the  
11 Secretary of State, at which time the order or directive has  
12 the full force and effect of law.

13 "§31-9-8.

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

1 affects less than the entire state, the Governor or the  
2 Legislature shall designate in the proclamation or resolution  
3 those counties to which the state of emergency applies.

4 "(b) The emergency, whether proclaimed by the  
5 Governor or by the Legislature, shall terminate ~~60~~ 14 days  
6 after the date on which it was proclaimed unless ~~the Governor~~  
7 ~~extends the emergency by proclamation or~~ the Legislature  
8 extends the emergency by a joint resolution or, if the  
9 Legislature is not in session, the President Pro Tempore of  
10 the Senate and the Speaker of the House of Representatives  
11 extend the emergency by signing a joint proclamation.

12 "(c) Upon proclamation by the Governor of a state of  
13 emergency, the Governor may call the Legislature into special  
14 session. Additionally, the Lieutenant Governor or the Speaker  
15 of the House may request in writing that the Governor call the  
16 Legislature into special session.

17 "(d) During the period that the proclaimed emergency  
18 exists or continues, the Governor shall have and may exercise  
19 the following additional emergency powers:

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

24 "(2) To sell, lend, lease, give, transfer, or  
25 deliver materials or perform services for emergency management  
26 purposes on such terms and conditions as the Governor shall  
27 prescribe and without regard to the limitations of any

1 existing law, and to account to the State Treasurer for any  
2 funds received for such property.

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

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

26            "(7) To utilize the services and facilities of  
27 existing officers and agencies of the state and of the



1 political subdivisions thereof. All such officers and agencies  
2 shall cooperate with and extend their services and facilities  
3 to the Governor as he or she may request.

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

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

19 "~~(b)~~ (e) The proclamation of a state of public  
20 health emergency shall activate the disaster response and  
21 recovery aspects of the state, local, and inter-jurisdictional  
22 disaster emergency plans in the affected political  
23 subdivisions or geographic areas. Such declaration authorizes  
24 the deployment and use of any forces to which the plans apply  
25 and the use or distribution of any supplies, equipment, and  
26 materials and facilities assembled, stockpiled, or available  
27 pursuant to this article.

1           "~~(c)~~ (f) (1) When a state of public health emergency  
2 has been declared or terminated, the State Board of Health  
3 shall inform members of the public on how to protect  
4 themselves and what actions are being taken to control the  
5 emergency.

6           "(2) When a state public health emergency has been  
7 declared, any order or directive issued by the State Health  
8 Officer pursuant to the authority granted under Title 22 to  
9 abate any condition prejudicial to public health or otherwise  
10 control, prevent, or minimize an outbreak of any disease or  
11 pandemic may not take effect unless and until the order or  
12 directive is approved by the Governor, as provided in Section  
13 22-2-8.

14           "~~(d)~~ (g) (1) Nothing in this section shall authorize  
15 the seizure or confiscation of any firearm or ammunition from  
16 any individual who is lawfully carrying or possessing the  
17 firearm or ammunition except as provided in subdivision (2).

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

1       discretion of the officer, the individual poses a threat to  
2       himself or herself or to others."

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