

1 SB43
2 189094-2
3 By Senator Albritton
4 RFD: Governmental Affairs
5 First Read: 09-JAN-18
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8 SYNOPSIS: Under existing law, emergency powers are
9 granted to the political subdivisions of this state
10 during a state of emergency, and political
11 subdivisions are authorized to establish local
12 emergency management organizations to assist in
13 disaster preparedness and recovery.

14 This bill would grant the chair or president
15 of a political subdivision the authority to execute
16 a resolution on behalf of the governing body
17 declaring emergency conditions if the Governor or
18 the Legislature has declared a state of emergency.

19 Also under existing law, the Alabama
20 Disaster Recovery Program, through the Alabama
21 Disaster Recovery Fund, provides financial
22 assistance to counties and municipalities following
23 certain disasters.

24 This bill would revise some of the
25 procedures related to providing assistance under
26 the program and would authorize the Alabama
27 Disaster Recovery Program Committee to establish a

1 program to provide financial assistance from the
2 Alabama Disaster Recovery Fund to individuals and
3 certain private nonprofit facilities following
4 certain disasters to cover the costs of certain
5 emergency protective measures.

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To amend Sections 31-9-10 and 31-9-83, Code of
12 Alabama 1975, relating to the emergency powers of political
13 subdivisions and the Alabama Disaster Recovery Program; to
14 grant the chair or president of a political subdivision the
15 authority to execute a resolution on behalf of the governing
16 body declaring emergency conditions if the Governor or the
17 Legislature has declared a state of emergency; to expand and
18 clarify some of the proper uses for funds of the Alabama
19 Disaster Recovery Program; to add Section 31-9-86, Code of
20 Alabama 1975, to authorize the Alabama Disaster Recovery
21 Program Committee to establish a program to provide financial
22 assistance from the Alabama Disaster Recovery Fund to
23 individuals following certain disasters to cover the costs of
24 certain emergency protective measures; and to require the
25 committee to adopt rules.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 31-9-10 and 31-9-83, Code of
2 Alabama 1975, are amended to read as follows:

3 "§31-9-10.

4 "(a) Each political subdivision of this state is
5 hereby authorized and directed to establish a local
6 organization for emergency management in accordance with the
7 state emergency management plan and program and may confer or
8 authorize the conferring, upon members of the auxiliary
9 police, the powers of peace officers, subject to such
10 restrictions as shall be imposed. The governing body of the
11 political subdivision is authorized to appoint a director, who
12 shall have direct responsibility for the organization,
13 administration, and operation of such local organization for
14 emergency management, subject to the direction and control of
15 such governing body. Each local organization for emergency
16 management shall perform emergency management functions within
17 the territorial limits of the political subdivision within
18 which it is organized, and, in addition, shall conduct such
19 functions outside of such territorial limits as may be
20 required pursuant to the provisions of this article.

21 "(b) The governing body of each political
22 subdivision shall have the power and authority:

23 "(1) To appropriate and expend funds, make
24 contracts, obtain, and distribute equipment, materials, and
25 supplies for emergency management purposes; to provide for the
26 health and safety of persons and property, including emergency
27 assistance to the victims of any disaster; and to direct and

1 coordinate the development of emergency management plans and
2 programs in accordance with the policies and plans set by the
3 federal and state emergency management agencies.

4 "(2) To appoint, employ, remove, or provide, with or
5 without compensation, air raid wardens, rescue teams,
6 auxiliary fire and police personnel, and other emergency
7 management workers; provided, that compensated employees shall
8 be subject to any existing civil service or Merit System laws.

9 "(3) To establish a primary and one or more
10 secondary control centers to serve as command posts during an
11 emergency.

12 "(4) To assign and make available for duty the
13 employees, property, or equipment of the subdivision relating
14 to fire fighting, engineering, rescue, health, medical and
15 related service, police, transportation, construction, and
16 similar items or services for emergency management purposes,
17 within or outside of the physical limits of the subdivision.

18 "(5) In the event that the governing body of the
19 political subdivision determines that any of the conditions
20 described in Section 31-9-2(a) has occurred or is imminently
21 likely to occur, the governing body shall have the power:

22 "a. To waive procedure and formalities otherwise
23 required by law pertaining to the performance of public work,
24 entering into contracts, the incurring of obligations, the
25 employment of temporary workers, the utilization of volunteer
26 workers, the rental of equipment, the purchase and
27 distribution with or without compensation of supplies,

1 materials, and facilities, and the appropriation and
2 expenditure of public funds.

3 "b. To impose a public safety curfew for its
4 inhabitants. If a public safety curfew is imposed as
5 authorized herein, it shall be enforced by the appropriate law
6 enforcement agency within the political subdivision. A public
7 safety curfew imposed under this subsection shall not apply to
8 employees of utilities, cable, and telecommunications
9 companies and their contractors engaged in activities
10 necessary to maintain or restore utility, cable, and
11 telecommunications services or to official emergency
12 management personnel engaged in emergency management
13 activities.

14 "(6) To close, notwithstanding Section 11-1-8, any
15 and all public buildings owned or leased by and under the
16 control of the political subdivision where emergency
17 conditions warrant, whether or not a local state of emergency
18 has been declared by the governing body of the political
19 subdivision. In the event that any documents required to be
20 filed by a time certain deadline cannot be filed in a timely
21 manner due to the closing of an office under this subdivision,
22 the deadline for filing shall be extended to the date that the
23 office is reopened as provided in Section 1-1-4.

24 "(c) (1) In the event that the Governor or the
25 Legislature proclaims a state of emergency affecting a
26 political subdivision as set forth in Section 31-9-8, the
27 chair or president of the governing body for the political

1 subdivision may execute a resolution on behalf of the
2 governing body declaring that any of the conditions described
3 in Section 31-9-2(a) has occurred or is imminently likely to
4 occur.

5 "(2) Execution of the resolution by the chair or
6 president of the governing body shall authorize the governing
7 body to exercise the powers enumerated in subdivision (b) (5).

8 ~~"(c)~~ (d) No local governing body of a political
9 subdivision shall have the authority to provide for and compel
10 evacuation of the area except by the direction and under the
11 supervision of the Governor or the State Emergency Management
12 Agency, or both. Any action taken by the governing body of the
13 political subdivision shall remain in full force and effect
14 unless revoked by proclamation of the Governor, issued as
15 provided in Section 31-9-8.

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

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

1 investigation for the commission of a crime or, at the
2 discretion of the officer, the individual poses a threat to
3 himself or herself or to others.

4 "§31-9-83.

5 "(a) Disbursements from the recovery fund for
6 purposes set out in this section shall only be available ~~as~~
7 ~~approved~~ as provided herein upon a proclamation from the
8 Governor or Legislature made pursuant to Section 31-9-8, and a
9 proclamation made by the local governing body in the county or
10 municipality affected by the disaster. The following rules
11 shall apply for all distributions from the recovery fund for
12 purposes set out in this section:

13 "~~(1) No funds may be used to match federal funds.~~

14 "~~(2)~~ (1) Distributions may not be used for state
15 emergency response and relief efforts, except as determined
16 appropriate pursuant to rules adopted by the committee under
17 Section 31-9-86.

18 "~~(3)~~ (2) Distributions under this section shall only
19 be available to reimburse an eligible county or municipality
20 for those expenses not covered by insurance or other similar
21 programs.

22 "~~(4)~~ (3) Distributions under this section may only be
23 made if an emergency or major disaster declaration for public
24 assistance will not be requested by the Governor or has been
25 denied by the President of the United States.

26 "~~(5)~~ (4) Distributions ~~for each incident period~~ under
27 this section shall be limited for each incident period to 50

1 percent of the monies existing in the recovery fund at the
2 time of the award or 75 percent of the expenses incurred by
3 the eligible county or municipality, whichever is less.

4 "(b) To be eligible for financial assistance from
5 the recovery fund under this section, the county or
6 municipality requesting assistance shall have complied with
7 Article 3, commencing with Section 41-16-50 of Chapter 16,
8 Title 41, and Title 39, unless the emergency provisions
9 authorized in paragraph a. of subdivision (5) of subsection
10 (b) of Section 31-9-10, apply. Additionally, the eligible
11 county or municipality shall be a participant in or have in
12 place on the date of the disaster proclamation each of the
13 following:

14 "(1) A current emergency operations plan which has
15 been in effect for three years or less or has been amended or
16 renewed during the previous three years.

17 "(2) An adopted debris management plan.

18 "(3) A hazard mitigation plan approved according to
19 guidelines established by the Federal Emergency Management
20 Agency.

21 "(4) A local emergency management director, working
22 directly with or employed by the applying local government,
23 who meets or is working toward the certification requirements
24 provided in Section 31-9-61.

25 "(5) Active coverage from the National Flood
26 Insurance Program, if such coverage is available, which
27 applies to any publicly owned structure or property for which

1 the applying local government seeks assistance from the state
2 disaster recovery program established by this article.

3 "(c) The recovery fund shall be available to
4 eligible counties and municipalities for the following
5 designated activities, which may include reimbursement of any
6 overtime wages paid for disaster related activities, but shall
7 not include reimbursement for any regular wages paid:

8 "(1) Debris removal which is necessary to eliminate
9 immediate threats to life, public health, and safety; to
10 eliminate immediate threats of significant damage to public
11 property; or to ensure economic recovery of the affected
12 community to the benefit of the community-at-large. For the
13 purposes of this article, debris removal shall include all of
14 the following:

15 "a. The clearance of trees and woody debris.

16 "b. Removal of wrecked buildings.

17 "c. Sand, mud, silt, and gravel removal.

18 "d. Vehicle removal.

19 "e. Removal of other disaster-related material.

20 "(2) Emergency protective measures necessary to
21 eliminate or reduce an immediate threat to life, public
22 health, or safety or an immediate hazard that threatens
23 significant damage to public property. Emergency protective
24 measures shall include all of the following:

25 "a. Search and rescue.

26 "b. Emergency medical care.

1 "c. Emergency mass care and shelter which cannot be
2 provided by volunteer agencies.

3 "d. Security in the disaster area.

4 "e. Provision of food, water, ice, and other
5 essential needs for use by local citizens.

6 "f. Provision of temporary facilities for essential
7 community services.

8 "(3) Replacement or repair of infrastructure
9 including roads and bridges, water control facilities,
10 buildings, and equipment."

11 Section 2. Section 31-9-86 is added to the Code of
12 Alabama 1975, to read as follows:

13 §31-9-86.

14 (a) In addition to the program purposes set out in
15 Section 31-9-81, the Alabama Disaster Recovery Program shall
16 also be available for the following purposes:

17 (1) To provide assistance under circumstances
18 determined appropriate by the Alabama Disaster Recovery
19 Committee as set out in subsection (b) for individual Alabama
20 residents who suffer loss as a result of an event that could
21 enable a county or municipality to seek reimbursement from the
22 Alabama Disaster Recovery Fund pursuant to Section 31-9-83 or
23 for private nonprofit facilities otherwise eligible for
24 assistance under the Stafford Act, 42 U.S.C.5121 et seq., as
25 amended.

26 (2) For mitigation projects or programs developed by
27 the Alabama Emergency Management Agency or a local government

1 according to rules and procedures allowing for such activities
2 adopted pursuant to subsection (b).

3 (3) For reimbursement of day-to-day administrative
4 costs incurred by the Alabama Emergency Management Agency or a
5 local emergency management program according to rules and
6 procedures allowing for such reimbursement adopted pursuant to
7 subsection (b).

8 (b) In order to provide for the additional program
9 purposes set out in subsection (a) and for authorizing
10 distributions for state emergency response and relief efforts,
11 the committee shall develop and implement rules and procedures
12 for providing assistance to individual Alabama residents or to
13 eligible private nonprofit facilities, for reimbursing costs
14 associated with implementing mitigation projects or programs
15 that meet the requirements established by the committee, and
16 for reimbursing day-to-day administrative costs incurred by
17 the Alabama Emergency Management Agency or a local emergency
18 management program. The rules and procedures, which shall be
19 adopted pursuant to the Administrative Procedure Act, shall
20 include, at a minimum, circumstances under which individuals
21 or private nonprofit facilities will be eligible for
22 assistance and the application and approval process to be
23 utilized, procedures for mitigation projects or programs
24 authorized by the committee, and procedures for reimbursement
25 of day-to-day administrative costs. The committee may also
26 develop rules and procedures which allow for recovery funds to
27 be made available as federal matching funds for any of the

1 program purposes set out in Section 31-9-83 or subsection (a).
2 Expenditures from the recovery fund made in accordance with
3 the rules adopted under this section are hereby authorized,
4 provided the expenditures are otherwise consistent with the
5 provisions and intent of this article.

6 (c) Notwithstanding the time frames for effective
7 dates of rules in the Administrative Procedure Act, the rules
8 adopted pursuant to this section shall become effective on
9 January 1 following their final adoption and shall govern
10 distributions and reimbursements for events occurring after
11 the rules are effective. The committee shall meet to establish
12 the rules required under this section no later than 90 days
13 following the enactment of a funding source for the Alabama
14 Disaster Recovery Fund by the Legislature. No reimbursement
15 shall be made as provided in this section for events occurring
16 before the effective date of the rules adopted pursuant to
17 this section.

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