

By: Representative Mangold

To: Public Utilities

HOUSE BILL NO. 540

1 AN ACT TO AMEND SECTION 33-15-11, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE GOVERNOR'S EMERGENCY AUTHORITY TO ALLOW FOR LOCAL
3 GOVERNING AUTHORITIES TO HAVE DISCRETION ON SUSPENDING CERTAIN
4 UTILITY SHUTOFFS DURING AN EMERGENCY; AND FOR RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 **SECTION 1.** Section 33-15-11, Mississippi Code of 1972, is
7 amended as follows:

8 33-15-11. (a) The Governor shall have general direction and
9 control of the activities of the Emergency Management Agency and
10 Council and shall be responsible for the carrying out of the
11 provisions of this article, and in the event of a man-made,
12 technological or natural disaster or emergency beyond local
13 control, may assume direct operational control over all or any
14 part of the emergency management functions within this state.

15 (b) In performing his duties under this article, the
16 Governor is further authorized and empowered:

17 (1) To make, amend and rescind the necessary orders,
18 rules and regulations to carry out the provisions of this article
19 with due consideration of the plans of the federal government, and



20 to enter into disaster assistance grants and agreements with the
21 federal government under the terms as may be required by federal
22 law.

23 (2) To work with the Mississippi Emergency Management
24 Agency in preparing a comprehensive plan and program for the
25 emergency management of this state, such plan and program to be
26 integrated into and coordinated with the emergency management
27 plans of the federal government and of other states to the fullest
28 possible extent, and to coordinate the preparation of plans and
29 programs for emergency management by the political subdivisions of
30 this state, such local plans to be integrated into and coordinated
31 with the emergency management plan and program of this state to
32 the fullest possible extent.

33 (3) In accordance with such plan and program for
34 emergency management of this state, to ascertain the requirements
35 of the state or the political subdivisions thereof for food or
36 clothing or other necessities of life in the event of attack or
37 natural or man-made or technological disasters and to plan for and
38 procure supplies, medicines, materials and equipment, and to use
39 and employ from time to time any of the property, services and
40 resources within the state, for the purposes set forth in this
41 article; to make surveys of the industries, resources and
42 facilities within the state as are necessary to carry out the
43 purposes of this article; to institute training programs and
44 public information programs, and to take all other preparatory



45 steps, including the partial or full mobilization of emergency
46 management organizations in advance of actual disaster, to insure
47 the furnishing of adequately trained and equipped forces of
48 emergency management personnel in time of need.

49 (4) To cooperate with the President and the heads of
50 the Armed Forces, and the Emergency Management Agency of the
51 United States, and with the officers and agencies of other states
52 in matters pertaining to the emergency management of the state and
53 nation and the incidents thereof; and in connection therewith, to
54 take any measures which he may deem proper to carry into effect
55 any request of the President and the appropriate federal officers
56 and agencies, for any action looking to emergency management,
57 including the direction or control of (a) blackouts and practice
58 blackouts, air raid drills, mobilization of emergency management
59 forces, and other tests and exercises, (b) warnings and signals
60 for drills or attacks and the mechanical devices to be used in
61 connection therewith, (c) the effective screening or extinguishing
62 of all lights and lighting devices and appliances, (d) shutting
63 off water mains, gas mains, electric power connections and the
64 suspension of all other utility services, (e) the conduct of
65 civilians and the movement and cessation of movement of
66 pedestrians and vehicular traffic during, prior and subsequent to
67 drills or attack, (f) public meetings or gatherings under
68 emergency conditions, and (g) the evacuation and reception of the
69 civilian population.



70 (5) To take such action and give such directions to
71 state and local law enforcement officers and agencies as may be
72 reasonable and necessary for the purpose of securing compliance
73 with the provisions of this article and with the orders, rules and
74 regulations made pursuant thereto.

75 (6) To employ such measures and give such directions to
76 the state or local boards of health as may be reasonably necessary
77 for the purpose of securing compliance with the provisions of this
78 article or with the findings or recommendations of such boards of
79 health by reason of conditions arising from enemy attack or the
80 threat of enemy attack or natural, man-made or technological
81 disaster.

82 (7) To utilize the services and facilities of existing
83 officers and agencies of the state and of the political
84 subdivisions thereof; and all such officers and agencies shall
85 cooperate with and extend their services and facilities to the
86 Governor as he may request.

87 (8) To establish agencies and offices and to appoint
88 executive, technical, clerical and other personnel as may be
89 necessary to carry out the provisions of this article including,
90 with due consideration to the recommendation of the local
91 authorities, part-time or full-time state and regional area
92 directors.



93 (9) To delegate any authority vested in him under this
94 article, and to provide for the subdelegation of any such
95 authority.

96 (10) On behalf of this state to enter into reciprocal
97 aid agreements or compacts with other states and the federal
98 government, either on a statewide basis or local political
99 subdivision basis or with a neighboring state or province of a
100 foreign country. Such mutual aid arrangements shall be limited to
101 the furnishings or exchange of food, clothing, medicine and other
102 supplies; engineering services; emergency housing; police
103 services; national or state guards while under the control of the
104 state; health, medical and related services; firefighting, rescue,
105 transportation and construction services and equipment; personnel
106 necessary to provide or conduct these services; and such other
107 supplies, equipment, facilities, personnel and services as may be
108 needed; the reimbursement of costs and expenses for equipment,
109 supplies, personnel and similar items for mobile support units,
110 firefighting and police units and health units; and on such terms
111 and conditions as are deemed necessary.

112 (11) To sponsor and develop mutual aid plans and
113 agreements between the political subdivisions of the state,
114 similar to the mutual aid arrangements with other states referred
115 to above.

116 (12) To collect information and data for assessment of
117 vulnerabilities and capabilities within the borders of Mississippi



118 as it pertains to the nation and state's security and homeland
119 defense. This information shall be exempt from the Mississippi
120 Public Records Act, Section 25-61-1 et seq.

121 (13) Authorize any agency or arm of the state to create
122 a special emergency management revolving fund, accept donations,
123 contributions, fees, grants, including federal funds, as may be
124 necessary for such agency or arm of the state to administer its
125 functions of this article as set forth in the Executive Order of
126 the Governor.

127 (14) To authorize the Commissioner of Public Safety to
128 select, train, organize and equip a ready reserve of auxiliary
129 highway patrolmen.

130 (15) To suspend or limit the sale, dispensing or
131 transportation of alcoholic beverages, firearms, explosives and
132 combustibles.

133 (16) To control, restrict and regulate by rationing,
134 freezing, use of quotas, prohibitions on shipments, price-fixing,
135 allocation or other means, the use, sale or distribution of food,
136 feed, fuel, clothing and other commodities, materials, goods or
137 services.

138 (17) To proclaim a state of emergency in an area
139 affected or likely to be affected thereby when he finds that the
140 conditions described in Section 33-15-5(g) exist, or when he is
141 requested to do so by the mayor of a municipality or by the
142 president of the board of supervisors of a county, or when he



143 finds that a local authority is unable to cope with the emergency.
144 Such proclamation shall be in writing and shall take effect
145 immediately upon its execution by the Governor. As soon
146 thereafter as possible, such proclamation shall be filed with the
147 Secretary of State and be given widespread notice and publicity.
148 The Governor, upon advice of the director, shall review the need
149 for continuing the state of emergency at least every thirty (30)
150 days until the emergency is terminated and shall proclaim a
151 reduction of area or the termination of the state of emergency at
152 the earliest possible date that conditions warrant.

153 (18) To declare an emergency impact area when he finds
154 that the conditions described in Section 33-15-5(o) exist. The
155 proclamation shall be in writing and shall take effect immediately
156 upon its execution by the Governor. As soon as possible, the
157 proclamation shall be filed with the Secretary of State and be
158 given widespread notice and publicity. The Governor shall review
159 the need for continuing the declaration of emergency impact area
160 at least every thirty (30) days until the emergency is terminated,
161 and shall proclaim the reduction of the emergency impact area or
162 termination of the declaration of emergency impact area at the
163 earliest date or dates possible.

164 (c) In addition to the powers conferred upon the Governor in
165 this section, the Legislature hereby expressly delegates to the
166 Governor the following powers and duties in the event of an
167 impending enemy attack, an enemy attack, or a man-made,



168 technological or natural disaster where such disaster is beyond
169 local control:

170 (1) To suspend the provisions of any regulatory statute
171 prescribing the procedures for conduct of state business, or the
172 orders, rules or regulations of any state agency, if strict
173 compliance with the provisions of any statute, order, rule or
174 regulation would in any way prevent, hinder or delay necessary
175 action in coping with a disaster or emergency. However, in
176 regards to utility shutoffs, this subparagraph shall only allow
177 the Governor to suspend the provisions of any statute, order, rule
178 or regulation for the purpose of authorizing local governing
179 authorities to suspend water, electric, sewer and natural gas
180 shutoffs during the emergency at the discretion and in the manner
181 determined by the local governing authority, and in no instance
182 may the Governor require the local governing authorities to
183 suspend such shutoffs.

184 (2) To transfer the direction, personnel or functions
185 of state agencies, boards, commissions or units thereof for the
186 purpose of performing or facilitating disaster or emergency
187 services.

188 (3) To commandeer or utilize any private property if
189 necessary to cope with a disaster or emergency, provided that such
190 private property so commandeered or utilized shall be paid for
191 under terms and conditions agreed upon by the participating
192 parties. The owner of said property shall immediately be given a



193 receipt for the said private property and said receipt shall serve
194 as a valid claim against the Treasury of the State of Mississippi
195 for the agreed upon market value of said property.

196 (4) To perform and exercise such other functions,
197 powers and duties as may be necessary to promote and secure the
198 safety and protection of the civilian population in coping with a
199 disaster or emergency.

200 (d) This section does not authorize the Governor or a
201 designee of the Governor to act in contravention of Section
202 33-7-303.

203 **SECTION 2.** This act shall take effect and be in force from
204 and after its passage.

