

By: Representative Powell

To: Public Utilities

HOUSE BILL NO. 1182

1 AN ACT TO BRING FORWARD SECTIONS 33-15-5, 33-15-11 AND
2 33-15-13, MISSISSIPPI CODE OF 1972, WHICH DEFINE CERTAIN TERMS AND
3 ESTABLISH THE POWERS OF THE GOVERNOR UNDER THE MISSISSIPPI
4 EMERGENCY MANAGEMENT LAW, FOR PURPOSES OF POSSIBLE AMENDMENT; AND
5 FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 33-15-5, Mississippi Code of 1972, is
8 brought forward as follows:

9 33-15-5. The following words, whenever used in this article
10 shall, unless a different meaning clearly appears from the
11 context, have the following meanings:

12 (a) "Agency" means the Mississippi Emergency Management
13 Agency, created by Section 33-15-7.

14 (b) "Director" means the Director of Emergency
15 Management, appointed pursuant to Section 33-15-7.

16 (c) "Emergency management" means the preparation for,
17 the mitigation of, the response to, and the recovery from
18 emergencies and disasters. Specific emergency management
19 responsibilities include, but are not limited to:



(i) Reduction of vulnerability of people and communities of this state to damage, injury and loss of life and property resulting from natural, technological or man-made emergencies or hostile military paramilitary action.

(ii) Preparation for prompt and efficient response and recovery to protect lives and property affected by emergencies.

(iii) Response to emergencies using all systems, plans and resources necessary to preserve adequately the health, safety and welfare of persons or property affected by the emergency.

(iv) Recovery from emergencies by providing for the rapid and orderly start of restoration and rehabilitation of persons and property affected by emergencies.

(v) Provision of an emergency management system embodying all aspects of preemergency preparedness and postemergency response, recovery and mitigation.

(vi) Assistance in anticipation, recognition, appraisal, prevention and mitigation of emergencies which may be caused or aggravated by inadequate planning for, and regulation of public and private facilities and land use.

(d) "Civil defense," whenever it appears in the laws of the State of Mississippi, shall mean "emergency management" unless the context clearly indicates otherwise.



44 (e) "State of war emergency" means the condition which
45 exists immediately, with or without a proclamation thereof by the
46 Governor, whenever this state or nation is attacked by an enemy of
47 the United States or upon receipt by the state of a warning from
48 the federal government indicating that such an attack is probable
49 or imminent.

50 (f) "State of emergency" means the duly proclaimed
51 existence of conditions of disaster or extreme peril to the safety
52 of persons or property within the state caused by air or water
53 pollution, fire, flood, storm, epidemic, earthquake, hurricane,
54 resource shortages, or other natural or man-made conditions other
55 than conditions causing a "state of war emergency," which
56 conditions by reasons of their magnitude are or are likely to be
57 beyond the control of the services, personnel, equipment and
58 facilities of any single county and/or municipality and requires
59 combined forces of the state to combat.

60 (g) "Local emergency" means the duly proclaimed
61 existence of conditions of disaster or extreme peril to the safety
62 of persons and property within the territorial limits of a county
63 and/or municipality caused by such conditions as air or water
64 pollution, fire, flood, storm, epidemic, earthquake, hurricane,
65 resource shortages or other natural or man-made conditions, which
66 conditions are or are likely to be beyond the control of the
67 services, personnel, equipment and facilities of the political



subdivision and require the combined forces of other subdivisions
or of the state to combat.

(h) "Emergency" means any occurrence, or threat
thereof, whether natural, technological, or man-made, in war or in
peace, which results or may result in substantial injury or harm
to the population or substantial damage to or loss of property.

(i) "Man-made emergency" means an emergency caused by
an action against persons or society, including, but not limited
to, emergency attack, sabotage, terrorism, civil unrest or other
action impairing the orderly administration of government.

(j) "Natural emergency" means an emergency caused by a
natural event, including, but not limited to, a hurricane, a
storm, a flood, severe wave action, a drought or an earthquake.

(k) "Technological emergency" means an emergency caused
by a technological failure or accident, including, but not limited
to, an explosion, transportation accident, radiological accident,
or chemical or other hazardous material incident.

(l) "Local emergency management agency" means an
organization created to discharge the emergency management
responsibilities and functions of a political subdivision.

(m) "Disaster" means any natural, technological or
civil emergency as defined in this section that causes damage of
sufficient severity and magnitude to result in a declaration of an
emergency by a county or municipality, the Governor or the



President of the United States. Disasters shall be identified by the severity of resulting damage, as follows:

(i) "Catastrophic disaster" means a disaster that will require massive state and federal assistance, including immediate military involvement.

(ii) "Major disaster" means a disaster that will likely exceed local capabilities and require a broad range of state and federal assistance.

(iii) "Minor disaster" means a disaster that is likely to be within the response capabilities of local government and to result in only a minimal need for state or federal assistance.

(n) "Disaster Reservist" means any person hired on a temporary basis pursuant to State Personnel Board policies and procedures regulating personal service contracts, that is hired to perform specific tasks related to a Governor's State of Emergency, or by an emergency or disaster declaration of the President of the United States, by the agency, and is assigned to perform such duties as may be required under the direction of the appropriate agency supervisor.

(o) "Emergency impact area" means the area of the state in which market conditions exist due to a state of emergency creating a likelihood that prices ordinarily charged for goods and services could be raised unfairly due to the underlying emergency.



(p) "Political subdivision" means a local government created by the State of Mississippi to assist in fulfilling the state's obligations. The term "political subdivision" includes levee districts.

SECTION 2. Section 33-15-11, Mississippi Code of 1972, is brought forward as follows:

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

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

(1) To make, amend and rescind the necessary orders, rules and regulations to carry out the provisions of this article with due consideration of the plans of the federal government, and to enter into disaster assistance grants and agreements with the federal government under the terms as may be required by federal law.

(2) To work with the Mississippi Emergency Management Agency in preparing a comprehensive plan and program for the emergency management of this state, such plan and program to be integrated into and coordinated with the emergency management



141 plans of the federal government and of other states to the fullest
142 possible extent, and to coordinate the preparation of plans and
143 programs for emergency management by the political subdivisions of
144 this state, such local plans to be integrated into and coordinated
145 with the emergency management plan and program of this state to
146 the fullest possible extent.

147 (3) In accordance with such plan and program for
148 emergency management of this state, to ascertain the requirements
149 of the state or the political subdivisions thereof for food or
150 clothing or other necessities of life in the event of attack or
151 natural or man-made or technological disasters and to plan for and
152 procure supplies, medicines, materials and equipment, and to use
153 and employ from time to time any of the property, services and
154 resources within the state, for the purposes set forth in this
155 article; to make surveys of the industries, resources and
156 facilities within the state as are necessary to carry out the
157 purposes of this article; to institute training programs and
158 public information programs, and to take all other preparatory
159 steps, including the partial or full mobilization of emergency
160 management organizations in advance of actual disaster, to insure
161 the furnishing of adequately trained and equipped forces of
162 emergency management personnel in time of need.

163 (4) To cooperate with the President and the heads of
164 the Armed Forces, and the Emergency Management Agency of the
165 United States, and with the officers and agencies of other states



166 in matters pertaining to the emergency management of the state and
167 nation and the incidents thereof; and in connection therewith, to
168 take any measures which he may deem proper to carry into effect
169 any request of the President and the appropriate federal officers
170 and agencies, for any action looking to emergency management,
171 including the direction or control of (a) blackouts and practice
172 blackouts, air raid drills, mobilization of emergency management
173 forces, and other tests and exercises, (b) warnings and signals
174 for drills or attacks and the mechanical devices to be used in
175 connection therewith, (c) the effective screening or extinguishing
176 of all lights and lighting devices and appliances, (d) shutting
177 off water mains, gas mains, electric power connections and the
178 suspension of all other utility services, (e) the conduct of
179 civilians and the movement and cessation of movement of
180 pedestrians and vehicular traffic during, prior and subsequent to
181 drills or attack, (f) public meetings or gatherings under
182 emergency conditions, and (g) the evacuation and reception of the
183 civilian population.

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

189 (6) To employ such measures and give such directions to
190 the state or local boards of health as may be reasonably necessary



191 for the purpose of securing compliance with the provisions of this
192 article or with the findings or recommendations of such boards of
193 health by reason of conditions arising from enemy attack or the
194 threat of enemy attack or natural, man-made or technological
195 disaster.

196 (7) To utilize the services and facilities of existing
197 officers and agencies of the state and of the political
198 subdivisions thereof; and all such officers and agencies shall
199 cooperate with and extend their services and facilities to the
200 Governor as he may request.

201 (8) To establish agencies and offices and to appoint
202 executive, technical, clerical and other personnel as may be
203 necessary to carry out the provisions of this article including,
204 with due consideration to the recommendation of the local
205 authorities, part-time or full-time state and regional area
206 directors.

207 (9) To delegate any authority vested in him under this
208 article, and to provide for the subdelegation of any such
209 authority.

210 (10) On behalf of this state to enter into reciprocal
211 aid agreements or compacts with other states and the federal
212 government, either on a statewide basis or local political
213 subdivision basis or with a neighboring state or province of a
214 foreign country. Such mutual aid arrangements shall be limited to
215 the furnishings or exchange of food, clothing, medicine and other



216 supplies; engineering services; emergency housing; police
217 services; national or state guards while under the control of the
218 state; health, medical and related services; firefighting, rescue,
219 transportation and construction services and equipment; personnel
220 necessary to provide or conduct these services; and such other
221 supplies, equipment, facilities, personnel and services as may be
222 needed; the reimbursement of costs and expenses for equipment,
223 supplies, personnel and similar items for mobile support units,
224 firefighting and police units and health units; and on such terms
225 and conditions as are deemed necessary.

226 (11) To sponsor and develop mutual aid plans and
227 agreements between the political subdivisions of the state,
228 similar to the mutual aid arrangements with other states referred
229 to above.

230 (12) To collect information and data for assessment of
231 vulnerabilities and capabilities within the borders of Mississippi
232 as it pertains to the nation and state's security and homeland
233 defense. This information shall be exempt from the Mississippi
234 Public Records Act, Section 25-61-1 et seq.

235 (13) Authorize any agency or arm of the state to create
236 a special emergency management revolving fund, accept donations,
237 contributions, fees, grants, including federal funds, as may be
238 necessary for such agency or arm of the state to administer its
239 functions of this article as set forth in the Executive Order of
240 the Governor.



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

244 (15) To suspend or limit the sale, dispensing or
245 transportation of alcoholic beverages, firearms, explosives and
246 combustibles.

247 (16) To control, restrict and regulate by rationing,
248 freezing, use of quotas, prohibitions on shipments, price-fixing,
249 allocation or other means, the use, sale or distribution of food,
250 feed, fuel, clothing and other commodities, materials, goods or
251 services.

252 (17) To proclaim a state of emergency in an area
253 affected or likely to be affected thereby when he finds that the
254 conditions described in Section 33-15-5(g) exist, or when he is
255 requested to do so by the mayor of a municipality or by the
256 president of the board of supervisors of a county, or when he
257 finds that a local authority is unable to cope with the emergency.
258 Such proclamation shall be in writing and shall take effect
259 immediately upon its execution by the Governor. As soon
260 thereafter as possible, such proclamation shall be filed with the
261 Secretary of State and be given widespread notice and publicity.
262 The Governor, upon advice of the director, shall review the need
263 for continuing the state of emergency at least every thirty (30)
264 days until the emergency is terminated and shall proclaim a



reduction of area or the termination of the state of emergency at the earliest possible date that conditions warrant.

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

(c) In addition to the powers conferred upon the Governor in this section, the Legislature hereby expressly delegates to the Governor the following powers and duties in the event of an impending enemy attack, an enemy attack, or a man-made, technological or natural disaster where such disaster is beyond local control:

(1) To suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule or regulation would in any way prevent, hinder or delay necessary action in coping with a disaster or emergency.



290 (2) To transfer the direction, personnel or functions
291 of state agencies, boards, commissions or units thereof for the
292 purpose of performing or facilitating disaster or emergency
293 services.

294 (3) To commandeer or utilize any private property if
295 necessary to cope with a disaster or emergency, provided that such
296 private property so commandeered or utilized shall be paid for
297 under terms and conditions agreed upon by the participating
298 parties. The owner of said property shall immediately be given a
299 receipt for the said private property and said receipt shall serve
300 as a valid claim against the Treasury of the State of Mississippi
301 for the agreed upon market value of said property.

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

306 (d) This section does not authorize the Governor or a
307 designee of the Governor to act in contravention of Section
308 33-7-303.

309 **SECTION 3.** Section 33-15-13, Mississippi Code of 1972, is
310 brought forward as follows:

311 33-15-13. (a) In the event of actual or impending enemy
312 attack, as determined by the President, against the United States
313 and the State of Mississippi, the Governor may proclaim that a
314 state of war emergency exists, and thereafter the Governor shall



315 have and may exercise for such period as such state of war
316 emergency exists or continues, the following additional emergency
317 powers:

318 (1) To enforce all laws, rules and regulations relating
319 to emergency management and to assume direct operational control
320 of all emergency management forces and helpers in the state;

321 (2) To purchase supplies and services for emergency
322 management purposes, including aiding the populace, without
323 necessity for advertising therefor; to call upon all persons,
324 firms and corporations to furnish such supplies, services and
325 facilities as they may control which may be needed for the
326 protection of the public, and to enter into all necessary
327 contracts and agreements as may be necessary with relation
328 thereto, all or any provisions of law with reference to
329 advertisements in such matters being expressly waived for this
330 purpose;

331 (3) To utilize or commandeer any private property for
332 the protection of the public or at the request of the President,
333 the Armed Forces or the Emergency Management Agency of the United
334 States including:

335 (A) For use during emergency only, all means of
336 transportation and communication, except newspapers, or
337 publications, or wire facilities leased or owned by news services,
338 newspapers and other news publications;



339 (B) Food, clothing, equipment, materials,
340 medicines, any supplies and stocks of fuel of whatever nature;

341 (C) Facilities including buildings and plants, for
342 use during emergency only; in the event it shall become necessary
343 to utilize any such facilities, plants or services, the operation
344 thereof, if possible, shall be left in the hands of the owner,
345 subject to direction of the Governor, and only such portion as may
346 be essential for the protection of life and property, or the
347 national defense, shall be commandeered or utilized;

348 (4) To sell, lend, give or distribute all or any such
349 personal property utilized among the inhabitants of the state and
350 to account to the State Treasurer for any funds received for such
351 property;

352 (5) To perform and exercise such other functions,
353 powers and duties as may be deemed necessary to promote and secure
354 the safety and protection of the civilian population.

355 (b) Adequate compensation shall be paid for any property so
356 utilized, taken or condemned. In case it shall become necessary
357 to take or use any private property as provided above, the full
358 faith and credit of the State of Mississippi shall be pledged to
359 pay just compensation therefor. In case the Governor and the
360 owner of any such property so utilized or taken shall not be able
361 to agree on the compensation to be paid for use, damage or taking
362 thereof, the amount of such compensation to be paid shall be



363 determined in conformity with the statutes of this state relating
364 to eminent domain procedures.

365 (c) All powers granted to the Governor by this section with
366 respect to a state of war emergency shall terminate when the state
367 of war emergency has been terminated by proclamation of the
368 Governor or by concurrent resolution of the Legislature declaring
369 it at an end.

370 **SECTION 4.** This act shall take effect and be in force from
371 and after July 1, 2025.

