

1 HB335
2 58821-6
3 By Representatives Page, Ball, Newton (D), Fite, Guin,
4 Bridges, Greer, Thigpen, Letson, Sanderford, Garner, Thomas
5 (E), Grantland, Oden, Beck, Sherer, Hurst, Boothe, Laird, Ford
6 (C) and Hinshaw
7 RFD: Public Safety
8 First Read: 11-MAR-03

1
2 ENROLLED, An Act,

3 Enacting the Alabama Homeland Security Act of 2003;
4 expressing legislative findings and purposes; creating the
5 Department of Homeland Security and specifying its functions
6 and powers; creating the Director and Deputy Director of
7 Homeland Security and specifying the duties and powers of
8 these officers; providing for employees of the department;
9 specifying additional powers of the director when the Governor
10 declares a state of emergency under the authority of Section
11 31-9-8; authorizing the director to accept certain services,
12 equipment and supplies; specifying control of appropriated
13 funds and grants, excepting grants listed in 42 U.S.C. § 5121
14 through 42 U.S.C. § 5206, the Robert T. Stafford Disaster
15 Relief Act; creating a Homeland Security Task Force; exempting
16 certain information from public disclosure; creating a joint
17 legislative oversight committee; specifying certain
18 governmental immunity; prescribing criminal penalties; upon
19 executive order of the Governor authorize the expenditure by
20 the Department of Public Safety, Alabama Bureau of
21 Investigation, and to the Criminal Justice Information Center
22 in the amount of one hundred thousand dollars (\$100,000) each
23 for the purpose of funding implementation and participation in
24 the Integrated Automated Fingerprint System and in connection
25 therewith would have as its purpose or effect the requirement

1 of a new or increased expenditure of local funds within the
2 meaning of Amendment 621 of the Constitution of Alabama of
3 1901.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Short title. This act shall be known and
6 may be cited as the "Alabama Homeland Security Act of 2003."

7 Section 2. Findings and declaration of necessity;
8 purpose of act and public policy.

9 (a) As a result of the unprecedented and devastating
10 attack of September 11, 2001, upon the people and the vital
11 infrastructure of the United States of America and the
12 possibility that such attacks may be perpetrated in the future
13 by those persons identified as terrorists and other enemies of
14 this country, and in order to ensure that preparations of this
15 state will be adequate to deal with such events and to
16 generally provide for the common defense and to protect and
17 preserve the life, health, welfare, and property of the people
18 of Alabama, it is found and is declared to be necessary to:

19 (1) Create a State Department of Homeland Security.

20 (2) Confer upon the Governor the powers provided in
21 this act.

22 (3) Provide for the rendering of aid to the
23 political subdivisions of the state, and between other states,
24 and the federal government with respect to performing those
25 functions related to homeland security.

1 (4) Authorize necessary and appropriate action to
2 implement this act.

3 (b) It is further declared to be the purpose of this
4 act and policy of the State of Alabama to assist, coordinate,
5 and encourage homeland security preparedness by state
6 departments and agencies and political subdivisions of the
7 state by authorizing the making of grants, as funds are
8 appropriated for such purpose, to any political subdivision of
9 the state in amounts not to exceed the amounts authorized, for
10 the purpose of promoting homeland security.

11 Section 3. Definitions.

12 Unless a different meaning is clearly indicated by
13 the context, for the purposes of this act, the terms defined
14 in this section have the following meanings ascribed to them:

15 (1) DEPARTMENT. The Department of Homeland Security.

16 (2) DIRECTOR. The Director of Homeland Security.

17 (3) HOMELAND SECURITY. The development,
18 coordination, and implementation of a state policy to secure
19 the State of Alabama from terrorist threat or attack. The term
20 includes efforts to detect, prepare for, prevent, protect
21 against, share intelligence where applicable, respond to, and
22 recover from terrorist attacks within the State of Alabama.

23 (4) POLITICAL SUBDIVISION. A county, city, town, or
24 fire district of the State of Alabama.

25 Section 4. Department of Homeland Security.

1 (a) The Department of Homeland Security is created
2 within the Executive Branch of the state government, and shall
3 be inclusive and reflect the racial, gender, geographic,
4 urban/rural, and economic diversity of the state.

5 (b) The department is designated as the principal
6 state agency to coordinate the receipt, distribution, and
7 monitoring of all funds available from any source for the
8 purpose of equipping, training, research, and education in
9 regard to homeland security related items, issues, or
10 services. The department is further designated and authorized
11 to coordinate and establish standards for all operations and
12 activities of the state related to homeland security efforts.

13 ~~(c) The department shall not have any power or~~
14 ~~authority to interfere with any of the rights of the Alabama~~
15 ~~State Port Authority, the Birmingham Airport Authority, the~~
16 ~~Huntsville Airport Authority, the Mobile Airport Authority,~~
17 ~~and the Montgomery Airport Authority to any funds available~~
18 ~~from any source.~~

19 (c) The department shall not have any power or
20 authority to interfere with any funds from any source
21 specifically appropriated for the Alabama State Port
22 Authority, the Birmingham Airport Authority, the Huntsville
23 Airport Authority, the Mobile Airport Authority, and the
24 Montgomery Airport Authority.

25 Section 5. Director of Homeland Security.

1 (a) The position of Director of Homeland Security is
 2 created. The director shall be the head of the department. The
 3 director shall be appointed by and hold office at the pleasure
 4 of the Governor. and shall be subject to confirmation by the
 5 Senate. Notwithstanding the foregoing, any person holding the
 6 position of director on the effective date of this act shall
 7 not be subject to confirmation by the Senate. The director
 8 shall devote his or her entire time to the duties of office
 9 and shall be subject to the provisions of Chapter 25, Title
 10 36, Code of Alabama 1975, the Alabama Ethics Law. The salary
 11 of the director shall be set by the Governor.

12 (b) The director, subject to the direction and
 13 authority of the Governor, shall be the executive head of the
 14 department and shall be responsible to the Governor for
 15 coordinating, designing, and implementing Alabama's program
 16 for homeland security. The director shall be the principal
 17 point of contact for and to the Governor with respect to
 18 homeland security issues.

19 (c) The director is given the following additional
 20 and cumulative powers and duties to:

21 (1) Receive intelligence information from federal
 22 authorities relating to homeland security and ensure that, to
 23 the extent allowed by law, all appropriate and necessary
 24 intelligence and law enforcement information regarding
 25 homeland security is disseminated to and exchanged among

1 appropriate executive departments responsible for homeland
2 security, and where appropriate, promote the exchange of such
3 information with county and local governments and private
4 entities.

5 (2) Assist in planning and executing exercises and
6 simulations designed to practice those systems that would be
7 utilized in response to a terrorist threat or attack within
8 Alabama.

9 (3) Assist in state efforts to ensure public health
10 preparedness for a terrorist event.

11 (4) Engage in the exchange of information with the
12 federal government relating to immigration and efforts to
13 improve the security of the borders, territorial waters, and
14 ports of the United States.

15 (5) Coordinate the efforts to protect the people of
16 Alabama and the state's critical infrastructure from terrorist
17 attack, including, but not limited to, energy production,
18 transmission and distribution systems, telecommunications,
19 nuclear facilities, public and privately owned information
20 systems, special public and private events, transportation
21 hubs and networks, livestock, water, and food supplies, and
22 research institutions. Notwithstanding any other provision of
23 this act, the director shall not impose security requirements
24 on any private sector facility that are inconsistent with
25 existing or future requirements applicable to private sector

1 facilities pursuant to federal law or regulations, including
2 those adopted by the Nuclear Regulatory Commission, the
3 Federal Energy Regulatory Commission, the federal Department
4 of Homeland Security or other federal agencies.

5 (6) Ensure that state, county and local governmental
6 agencies and authorities coordinate and cooperate with private
7 sector security forces responsible for the protection of
8 critical infrastructure consistent with federal laws and
9 regulations applicable to private sector security forces
10 related to homeland security issues.

11 (7) Promulgate, pursuant to the Alabama
12 Administrative Procedure Act, necessary rules to implement and
13 administer this act.

14 (d) The director shall coordinate the strategy of
15 the Executive Branch for communicating with the public in the
16 event of a terrorist threat or attack within the State of
17 Alabama. The director shall also coordinate the development of
18 programs for educating the public about the nature of
19 terrorist threats and the appropriate precautions and
20 responses.

21 (e) The director shall provide information and
22 advice to the Director of Finance and to the Permanent Joint
23 Legislative Committee on Finances and Budgets on the level and
24 use of funding for state departments and agencies relating to
25 homeland security. Prior to the Governor transmitting the

1 annual budget to the Legislature, the director shall certify
2 to the Director of Finance the funding levels that are
3 necessary and appropriate to carry out the homeland security
4 activities of the Executive Branch.

5 (f) The director and other personnel of the
6 department shall be provided with appropriate office space,
7 furniture, equipment, supplies, stationery, and printing in
8 the same manner as provided for personnel of other state
9 agencies.

10 (g) The director shall have such additional
11 authority, duties, and responsibilities as may be prescribed
12 by the Governor within the confines of this act.

13 Section 6. Deputy Director of Homeland Security.

14 (a) The position of Deputy Director of Homeland
15 Security is created. The deputy director shall be responsible
16 for such tasks and duties as assigned by the director.

17 (b) The deputy director shall be appointed by and
18 serve at the pleasure of the Governor. The salary of the
19 deputy director shall be set by the Governor.

20 Section 7. Authority to establish personnel
21 policies; salary schedules; employ various persons.

22 (a) The director may establish personnel policies
23 and salary schedules for all of its employees. The director
24 may appoint assistant directors who shall be inclusive and
25 reflect the racial, gender, geographic, urban/rural, and

1 economic diversity of the state. The positions of director,
2 deputy director, and assistant director may not be limited by
3 Sections 36-6-5 and 36-6-6 of the Code of Alabama 1975.

4 (b) Subject to the Merit System, the director may
5 appoint or employ such other professional, technical,
6 clerical, and other personnel as may be necessary to carry out
7 this act. The salary of these personnel shall be determined by
8 the Governor and the State Personnel Board in accordance with
9 Section 36-26-12 of the Code of Alabama 1975. The director may
10 make expenditures from the appropriation for these personnel,
11 or from other funds made available for purposes of homeland
12 security.

13 (c) One of the assistant directors shall be the
14 state Director of Emergency Management, whose position shall
15 also include the title of Assistant Director of Homeland
16 Security for Emergency Preparedness and Response. Any
17 conflicting provisions in Section 31-9-4 to this section shall
18 be void.

19 (d) The employees of the department shall represent
20 the diversity of the state and shall be inclusive and reflect
21 the racial, gender, geographic, urban/rural, and economic
22 diversity of the state.

23 Section 8. Additional powers and duties. In
24 performing his or her duties under this act, the director may

1 perform all of the following duties, under the direction and
2 control of the Governor, and shall be authorized to:

3 (1) Prepare a comprehensive plan and program for
4 homeland security, such plan and program to be integrated and
5 coordinated with the plans of the federal government and of
6 other states to the fullest possible extent, including plans
7 for the security of critical infrastructure licensed or
8 regulated by agencies of the federal government.

9 (2) Cooperate with the President and the heads of
10 the armed forces, with the U. S. Department of Homeland
11 Security, and with the officers and agencies of other states
12 in matters pertaining to the security and defense of the state
13 and nation.

14 (3) Assist in the utilization of the services and
15 facilities of existing officers and agencies of the state and
16 the political subdivisions of the state for homeland security
17 issues.

18 (4) Assist state and local law enforcement officers
19 and agencies as may be reasonable and necessary for the
20 purpose of securing compliance with this act and with the
21 orders, rules, and regulations made pursuant to this act.

22 Section 9. Additional powers of director that may be
23 exercised under the direction and control of the Governor
24 during a declaration of emergency as authorized in Section
25 31-9-8.

1 When the Governor declares a state of emergency as
2 authorized in Section 31-9-8, if the emergency is related to
3 homeland security, the director shall have and may exercise
4 the following additional powers, under the direction and
5 control of the Governor:

6 (1) Enforce all laws, rules, and regulations
7 relating to homeland security and direct state resource
8 allocations when required; provided, this act shall not vest
9 authority to enforce the criminal laws of this state in the
10 Director of Homeland Security, or the deputies or personnel of
11 the department.

12 (2) Sell, lend, lease, give, transfer, or deliver
13 materials or perform services for homeland security purposes
14 on such terms and conditions as the Governor shall prescribe
15 and without regard to the limitations of any existing law, and
16 account to the State Treasurer for any funds received for such
17 property.

18 (3) Perform and exercise such other functions,
19 powers, and duties as are necessary to promote and secure the
20 safety and protection of the civilian population and achieve
21 the purposes of this act.

22 (4) Assist the Department of Agriculture and
23 Industries and the Department of Public Health to employ such
24 measures as the quarantine of persons, animals, plants,

1 fruits, or food products, as may be reasonably necessary for
2 the purpose of securing compliance with this act.

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

15 (6) During the pendency of the emergency and the
16 subsequent recovery period, state employees called upon to
17 respond to the emergency, upon the approval of the director,
18 may claim state per diem, the provisions of Section
19 36-7-20(a), notwithstanding.

20 Section 10. Director may accept services from
21 federal government and private persons.

22 Whenever the federal government or any agency or
23 officer of the federal government, any other state, or any
24 person, firm, or corporation offers to the state or, through
25 the state, to any political subdivision of the state,

1 services, equipment, supplies, materials, or funds by way of
2 gift, grant, or loan for purposes of homeland security, the
3 state, acting through the director, or such political
4 subdivision, acting through its governing body, may accept the
5 offer, and, upon the acceptance, the director or governing
6 body of the political subdivision may authorize any officer of
7 the state or of the political subdivision, as the case may be,
8 to receive the services, equipment, supplies, materials, or
9 funds on behalf of the state or political subdivision. This
10 provision does not include grants listed in 42 U.S.C. § 5121
11 through 42 U.S.C. § 5206, the Robert T. Stafford Disaster
12 Relief Act.

13 Section 11. Regular and emergency appropriations;
14 state grants to political subdivisions.

15 (a) The funds appropriated by the Legislature in the
16 general appropriation act for the support and maintenance of
17 the department shall be expended solely for the purposes
18 designated in the appropriation act and shall be limited to
19 the amounts provided therein and shall be disbursed, in the
20 same manner as all other state funds are disbursed, by warrant
21 of the Comptroller authorized by the director.

22 (b) The department may coordinate the receipt,
23 distribution, and monitoring of all funds available for
24 homeland security purposes that may be appropriated, or
25 provided by any grant program, to any political subdivision of

1 the state in amounts not to exceed the amounts expended, or to
2 be expended, by the political subdivision for training,
3 planning, education, exercises, personnel, and administrative
4 costs of local homeland security preparedness.

5 Section 12. Homeland Security Task Force.

6 (a) The Homeland Security Task Force shall consist
7 of the following members:

8 (1) The Governor, as Chairman.

9 (2) The Director of Homeland Security.

10 (3) The Director of Emergency Management.

11 (4) The Adjutant General.

12 (5) The Attorney General.

13 (6) The Commissioner of Agriculture and Industries.

14 (7) The State Health Officer.

15 (8) The Director of Public Safety.

16 (9) The Director of Transportation.

17 (10) The Director of Finance.

18 (11) The Director of the Alabama Port Authority.

19 (12) The State Fire Marshal.

20 (13) A representative of county governments
21 appointed by the Governor.

22 (14) A representative of municipal governments
23 appointed by the Speaker of the House of Representatives.

1 (15) A representative of county law enforcement
2 agencies appointed by the Speaker of the House of
3 Representatives.

4 (16) A representative of municipal law enforcement
5 agencies appointed by the President Pro Tempore of the Senate.

6 (17) A representative of paid fire departments
7 appointed by the President Pro Tempore of the Senate.

8 (18) A representative of volunteer fire departments
9 appointed by the Speaker of the House of Representatives.

10 (19) A representative of local emergency management
11 agencies appointed by the Speaker of the House of
12 Representatives.

13 (20) A representative of local emergency
14 communications districts appointed by the Lieutenant Governor.

15 (21) A representative of the airport authorities
16 located within the state appointed by the Lieutenant Governor.

17 (22) A representative of the Judicial Branch of
18 Government of Alabama appointed by the Chief Justice of the
19 Alabama Supreme Court.

20 ~~(22)~~ (23) Other representatives as deemed necessary
21 and appointed by the Governor, and approved by the Legislative
22 Oversight Committee.

23 The appointments identified in subdivisions (13)
24 through (21), inclusive, shall be made from a list of three
25 nominees from each of the enumerated groups.

1 The membership of the Homeland Security Task Force
2 shall be inclusive and reflect the racial, gender, geographic,
3 urban/rural, and economic diversity of the state.

4 (b) The task force shall meet at least twice each
5 year and when convened by the Governor for the purpose of
6 advising the Homeland Security Director on the comprehensive
7 plan and program for homeland security and other matters as
8 determined by majority vote of the task force.

9 Section 13. Immunity of state from liability.

10 All functions under this act and all other
11 activities relating to homeland security are declared to be
12 governmental functions and protected by the State of Alabama
13 governmental immunity.

14 Section 14. Exemption from disclosure.

15 Records and information under this act are protected
16 from disclosure by applicable state and federal laws. Further
17 exemptions may specifically be granted by administrative rules
18 promulgated under this act.

19 Section 15. Joint Legislative Committee; powers.

20 (a) The Joint Legislative Committee on Homeland
21 Security Oversight is created. The committee shall be composed
22 of three members of the Senate, one appointed by the President
23 of the Senate, and one appointed by the President Pro Tempore
24 of the Senate, and one appointed by the Senate Committee on
25 Assignments; and three members of the House of Representatives

1 appointed by the Speaker. Each member shall serve a term on
2 the committee concurrent with the legislative term of the
3 member. Vacancies shall be filled by the original appointing
4 authority. Members shall serve at the pleasure of the
5 appointing authority.

6 (b) Each member of the committee shall be entitled
7 to regular legislative compensation, per diem, and travel
8 expenses for each day he or she attends a meeting of the
9 committee, which shall be paid out of the funds appropriated
10 to the use of the Legislature, on warrants drawn on the state
11 Comptroller upon requisition signed by the committee's chair.
12 Members shall not receive additional compensation or per diem
13 when the Legislature is in session.

14 (c) The committee shall review the operations of the
15 department and shall report thereon annually to the
16 Legislature. The report shall include, but not be limited to,
17 suggestions for legislation.

18 (d) The department shall report quarterly to the
19 committee the receipt and disbursement of federal funds for
20 homeland security.

21 (e) The initial meeting of the committee shall
22 jointly be called by the Speaker of the House of
23 Representatives and the President of the Senate. The committee
24 shall organize itself at the first meeting and elect from

1 among its membership a chair and a vice chair. The committee
2 shall hold regular meetings at least quarterly.

3 Section 16. Penalties. Any person violating any
4 provision of this act, or any rule, order, or regulation made
5 pursuant to this act, upon conviction thereof, shall be guilty
6 of a Class A misdemeanor.

7 Section 17. Pursuant to executive order of the
8 Governor, the sum of one hundred thousand dollars (\$100,000)
9 each is authorized to be expended by the Department of Public
10 Safety, Alabama Bureau of Investigation, and the Criminal
11 Justice Information Center for the fiscal year ending
12 September 30, 2003, for the purpose of funding implementation
13 and participation in the Integrated Automated Fingerprint
14 System.

15 Section 18. Although this bill would have as its
16 purpose or effect the requirement of a new or increased
17 expenditure of local funds, the bill is excluded from further
18 requirements and application under Amendment 621 because the
19 bill defines a new crime or amends the definition of an
20 existing crime.

21 Section 19. The provisions of this act are
22 severable. If any part of this act is declared invalid or
23 unconstitutional, that declaration shall not affect the part
24 which remains.

1 Section 20. 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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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 15-APR-03, as amended.

Greg Pappas
Clerk

Senate	12-JUN-03	Amended and Passed
House	16-JUN-03	Concurred in Senate Amendment