By: Representatives Mangold, Morgan, Pigott To: Rules

HOUSE BILL NO. 1321

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

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

SECTION 1. Section 33-15-11, Mississippi Code of 1972, is amended 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 plans of the federal government and of other states to the fullest possible extent, and to coordinate the preparation of plans and programs for emergency management by the political subdivisions of this state, such local plans to be integrated into and coordinated with the emergency management plan and program of this state to the fullest possible extent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

finds that a local authority is unable to cope with the emergency. Such proclamation shall be in writing and shall take effect immediately upon its execution by the Governor. As soon thereafter as possible, such proclamation shall be filed with the Secretary of State and be given widespread notice and publicity. The Governor, upon advice of the director, shall review the need for continuing the state of emergency at least every thirty (30) 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. However, in regards to utility shutoffs, this subparagraph shall only allow the Governor to suspend the provisions of any statute, order, rule or regulation for the purpose of authorizing local governing authorities to suspend water, electric, sewer and natural gas shutoffs during the emergency at the discretion and in the manner determined by the local governing authority, and in no instance may the Governor require the local governing authorities to suspend such shutoffs.

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

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

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

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

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

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