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3 HOUSE HEALTH COMMITTEE SUBSTITUTE FOR SB97, AS ENGROSSED
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8 SYNOPSIS: Under existing law, a state of emergency may
9 be declared by the Governor by proclamation or by
10 the Legislature by joint resolution. A state of
11 emergency terminates after 60 days unless extended
12 by proclamation of the Governor or joint resolution
13 of the Legislature.

14 This bill would provide that the
15 proclamation or joint resolution declaring a state
16 of emergency must describe the basis for justifying
17 the state of emergency.

18 This bill would provide that a state of
19 emergency terminates after 45 days unless extended
20 and would provide that the Governor's power to
21 extend a state of emergency would be subject to the
22 Legislature's power to terminate the state of
23 emergency.

24 This bill would provide that the President
25 Pro Tempore of the Senate, in addition to the
26 Lieutenant Governor and Speaker of the House of
27 Representatives, may request in writing that the

1 Governor call the Legislature into special session
2 upon proclamation of a state of emergency.

3 This bill would require the proclamation or
4 joint resolution proclaiming a state of emergency
5 to define in writing the basis upon which the state
6 of emergency is justified and would limit the scope
7 of the Governor's emergency powers to actions that
8 bear a reasonable relationship to preventing or
9 mitigating the cited emergency.

10 This bill would require the Governor, during
11 a state public health emergency, to consult with
12 members of the Legislative Council before issuing
13 or approving any directive that would restrict,
14 limit, or otherwise burden the conduct of private
15 citizens or businesses.

16 This bill would provide that an order or
17 directive issued by the State Health Officer
18 relating to the outbreak of a disease or pandemic
19 has the full force and effect of law once it is
20 approved by the Governor and a copy is filed with
21 the Office of the Secretary of State.

22 Also under existing law, municipalities have
23 the power to adopt and enforce ordinances to compel
24 vaccinations in order to prevent the introduction
25 or spread of disease.

26 This bill would repeal the law authorizing
27 municipalities to compel vaccinations.

1 This bill would also make nonsubstantive,
2 technical revisions to update the existing code
3 language to current style.

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5 A BILL
6 TO BE ENTITLED
7 AN ACT

8
9 Relating to states of emergency; to amend Sections
10 22-2-8, Code of Alabama 1975, to provide that an order or
11 directive issued by the State Health Officer relating to the
12 outbreak of a disease or pandemic has the full force and
13 effect of law once it is approved by the Governor and a copy
14 is filed with the Secretary of State; to amend Section 31-9-8,
15 and 31-9-13, Code of Alabama 1975; to provide further for the
16 duration and termination of states of emergency; to further
17 provide for requesting a special session during a state of
18 emergency; to further provide for the Governor's authority to
19 issue and approve directives during a state of emergency; to
20 limit certain orders mandating vaccinations; to repeal Section
21 11-47-132, Code of Alabama 1975, which authorizes
22 municipalities to adopt and enforce ordinances to compel
23 certain vaccinations; and to make nonsubstantive, technical
24 revisions to update the existing code language to current
25 style.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

27 Section 1. Sections 22-2-8, 31-9-8, and 31-9-13,
28 Code of Alabama 1975, are amended to read as follows:

1 "§22-2-8.

2 "(a) The State Committee of Public Health shall
3 elect an executive officer who shall be a physician licensed
4 in the State of Alabama to be known as the State Health
5 Officer and shall fix his or her term of office and salary.
6 The qualifications of this individual shall be determined by
7 the State Committee of Public Health. Before entering upon the
8 duties of ~~his~~ the office, the State Health Officer shall
9 execute to the State of Alabama a bond, to be approved by the
10 Governor, in the amount of five thousand dollars (\$5,000.00),
11 for the faithful performance of ~~his~~ the duties of the office.

12 "(b) The State Health Officer so elected ~~shall~~,
13 under the direction of the State Committee of Public Health
14 and with the approval of the State Personnel Board, shall fix
15 the salaries of the medical employees of the State Committee
16 of Public Health. When the State Committee of Public Health is
17 not in session, the State Health Officer, as executive officer
18 of the Department of Public Health, shall act for ~~said the~~ the
19 committee and shall have and discharge all the prerogatives
20 and duties of ~~said the~~ the committee. ~~He~~ The State Health Officer
21 shall report his or her actions to the committee at its next
22 meeting after ~~such the~~ the action is taken, and ~~such the~~ the action ~~of~~
23 ~~the State Health Officer~~ shall then be subject to confirmation
24 or modification by the committee. The State Health Officer
25 shall exercise general supervision over county boards of
26 health and county health officers and promptly report to ~~said~~
27 the county boards of health any delinquencies of official duty

1 on the part of ~~said~~ the county health officers which may come
2 to his or her knowledge., ~~keep himself informed in regard to~~
3 ~~all diseases which may be in danger of invading the state~~

4 "(c) The State Health Officer shall stay informed
5 with regard to an actual or potential outbreak of any disease
6 or pandemic affecting this state and, as far as authorized by
7 law, take prompt measures to prevent ~~such invasions~~ an
8 outbreak and keep the Governor and the Legislature informed as
9 to the health conditions prevailing in the state, especially
10 as to outbreaks of any of the diseases enumerated in Chapter
11 ~~of this title~~, and submit to the Governor and Legislature
12 ~~such~~ recommendations as he or she deems proper to control,
13 prevent, or minimize such outbreaks. an outbreak. If a state
14 public health emergency has been declared pursuant to Section
15 31-9-8, any order or other directive issued by the State
16 Health Officer to control, prevent, or minimize an outbreak of
17 any disease or pandemic may not take effect unless and until
18 the order or directive is approved by the Governor and a copy
19 of the approved order or directive is filed in the Office of
20 the Secretary of State, at which time the order or directive
21 has the full force and effect of law. Any order or other
22 directive issued pursuant to the authority granted under this
23 subsection is subject to the prohibition described in
24 paragraph (f) (2)b. of Section 31-9-8.

25 "§31-9-8.

26 "(a) ~~The provisions of this~~ This section shall be
27 operative only during the existence of a state of emergency,
28 referred to ~~hereinafter~~ as one of the states of emergency

1 defined in Section 31-9-3. The existence of a state of
2 emergency may be proclaimed by the Governor as provided in
3 this subsection or by joint resolution of the Legislature if
4 the Governor in the proclamation, or the Legislature in the
5 resolution, ~~finds that an attack upon the United States has~~
6 ~~occurred or is anticipated in the immediate future, or that a~~
7 ~~natural disaster of major proportions or a public health~~
8 ~~emergency has occurred or is reasonably anticipated in the~~
9 ~~immediate future within this state and that the safety and~~
10 ~~welfare of the inhabitants of this state require~~ describes,
11 with reasonable particularity, the basis for the state of
12 emergency justifying an invocation of the provisions of this
13 section. If the state of emergency affects less than the
14 entire state, the Governor or the Legislature shall designate
15 in the proclamation or joint resolution those counties to
16 which the state of emergency applies.

17 "(b) The A state of emergency, whether proclaimed by
18 the Governor or by the Legislature, shall terminate ~~60~~ 45 days
19 after the date on which it was proclaimed unless the Governor
20 extends the state of emergency by proclamation, or the
21 Legislature extends the state of emergency by passage of a
22 joint resolution; provided, however, the Governor's power to
23 extend a state of emergency is subject to the Legislature's
24 power to terminate the emergency at any time.

25 "(c) Upon proclamation by the Governor of a state of
26 emergency, the Governor may call the Legislature into special
27 session. Additionally, the Lieutenant Governor, President Pro

1 Tempore of the Senate, or the Speaker of the House of
2 Representatives may request in writing that the Governor call
3 the Legislature into special session.

4 "(d) During the period that the ~~proclaimed~~ state of
5 emergency exists or continues, the Governor shall have and may
6 exercise the following additional emergency powers:

7 "(1) To enforce all laws, and rules, ~~and regulations~~
8 relating to emergency management and to assume direct
9 operational control of all emergency management forces and
10 helpers in the state.

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

17 "(3) To procure, by purchase, condemnation, seizure,
18 or other means, construct, lease, transport, store, maintain,
19 renovate, or distribute materials and facilities for emergency
20 management without regard to the limitations of any existing
21 law; provided, that this authority shall not be exercised with
22 regard to newspapers, wire facilities leased or owned by news
23 services, and other news publications, and provided further,
24 that he or she shall make compensation for the property so
25 seized, taken, or condemned, on the following basis:

26 "a. ~~In case~~ If property is taken for temporary use,
27 the Governor, within 30 days of the taking, shall fix the
28 amount of compensation to be paid ~~therefor~~ for use of the

1 property, and ~~in case~~ if the property ~~shall be~~ is returned to
2 the owner in a damaged condition, or ~~shall not be~~ is not
3 returned to the owner, the Governor shall fix within 30 days
4 the amount of compensation to be paid for the damage or
5 failure to return. Whenever the Governor ~~shall deem~~ deems it
6 advisable for the state to take title to property taken under
7 this section, he or she shall ~~forthwith cause the owner of the~~
8 ~~property to be notified thereof~~ immediately notify the
9 property owner in writing by registered or certified mail,
10 postage prepaid, or by the best available means, and ~~forthwith~~
11 ~~cause to be filed~~ file a copy of the notice with the Secretary
12 of State.

13 "b. If the person entitled to receive the amount so
14 determined by the Governor as just compensation is unwilling
15 to accept the same as full and complete compensation for ~~such~~
16 the property or the use thereof, he or she shall be paid 75
17 percent of such amount and shall be entitled to recover from
18 the State of Alabama, in an action brought in a court in the
19 county of residence of the claimant or in Montgomery County,
20 in the same manner as other condemnation claims are brought,
21 within three years after the date of the Governor's award,
22 such additional amount, if any, which when added to the amount
23 so paid to him or her, shall be just compensation.

24 "(4) To provide for and compel the evacuation of all
25 or part of the population from any stricken or threatened area
26 or areas within the state and to take ~~such~~ steps as are
27 necessary for the receipt and care of such evacuees.

1 "(5) ~~To~~ Subject to subsection (g), to perform and
2 exercise ~~such~~ other functions, powers, and duties as are
3 necessary to promote and secure the safety and protection of
4 the civilian population if reasonably related to preventing,
5 mitigating, or otherwise responding to the conditions
6 described in the proclamation or joint resolution warranting
7 the declaration of a state of emergency.

8 "(6) To employ ~~such~~ measures and give ~~such~~
9 directions to the state or local boards of health as may be
10 reasonably necessary for the purpose of securing compliance
11 with ~~the provisions of~~ this article or with the findings or
12 recommendations of ~~such~~ the boards of health by reason of
13 conditions arising from enemy attack or the threat of enemy
14 attack or otherwise.

15 "(7) To utilize the services and facilities of
16 existing officers and agencies of the state and of the
17 political subdivisions thereof. All such officers and agencies
18 shall cooperate with and extend their services and facilities
19 to the Governor as he or she may request.

20 "(8) With due consideration to the recommendations
21 of local authorities, the Governor may formulate and execute
22 plans and regulations for the control of traffic in order to
23 provide for the rapid and safe movement of evacuation over
24 public highways and streets of people, troops, or vehicles and
25 materials for national defense or for use in any defense
26 industry, and may coordinate the activities of the departments
27 or agencies of the state and of the political subdivisions
28 thereof concerned directly or indirectly with public highways

1 and streets, in a manner ~~which~~ that will best effectuate ~~such~~
2 the plans.

3 "(9) To establish agencies and offices and to
4 appoint temporary executive, technical, clerical, and other
5 personnel as may be necessary to carry out ~~the provisions of~~
6 this article without regard to the State Merit System Act.

7 "~~(b)~~ (e) The proclamation of a state ~~of~~ public
8 health emergency shall activate the disaster response and
9 recovery aspects of the state, local, and inter-jurisdictional
10 disaster emergency plans in the affected political
11 subdivisions or geographic areas. Such declaration authorizes
12 the deployment and use of any forces to which the plans apply
13 and the use or distribution of any supplies, equipment, and
14 materials and facilities assembled, stockpiled, or available
15 pursuant to this article.

16 "~~(c)~~ (f) (1) When a state ~~of~~ public health emergency
17 has been declared or terminated, the State Board of Health
18 shall inform members of the public on how to protect
19 themselves and what actions are being taken to control the
20 emergency.

21 "(2)a. When a state public health emergency has been
22 declared, any order or other directive issued by the State
23 Health Officer pursuant to the authority granted under Title
24 22 to abate any condition prejudicial to public health or
25 otherwise control, prevent, or minimize an outbreak of any
26 disease or pandemic may not take effect unless and until the

1 order or directive is approved by the Governor and filed with
2 the Secretary of State, as provided in Section 22-2-8.

3 "b. Notwithstanding paragraph a., under no
4 circumstances may the Governor or the State Health Officer,
5 during a state of emergency, order the vaccination of
6 individuals over an assertion made that the vaccination cannot
7 be administered because of a bona fide medical condition or is
8 contrary to a bona fide religious belief or otherwise
9 sincerely held personal belief.

10 "(g) During a state public health emergency, before
11 the Governor may issue any proclamation, rule, order, or other
12 directive pursuant to subdivision (d) (5) or approve any order
13 or other directive pursuant to subsection (c) of Section
14 22-2-8, which directive would restrict, limit, or otherwise
15 burden the conduct of private citizens or businesses, he or
16 she shall make a good faith attempt to consult with members of
17 the Legislative Council regarding the content, scope, and
18 purpose of the directive.

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

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

1 officer arrests that individual for engaging in criminal
2 activity or seizes the firearm as evidence pursuant to an
3 investigation for the commission of a crime or, at the
4 discretion of the officer, the individual poses a threat to
5 himself or herself or to others.

6 "§31-9-13.

7 "All orders, rules, ~~and regulations promulgated or~~
8 other directives issued by the Governor as authorized by this
9 article shall have the full force and effect of law when a
10 copy thereof is filed in the office of the Secretary of State.
11 All existing laws, ordinances, rules, and regulations or parts
12 thereof inconsistent with the provisions of this article or of
13 any proclamation, order, rule, or regulation other directive
14 issued under the authority of this article, shall be suspended
15 during the period of time and to the extent that such
16 inconsistency exists. The Secretary of State shall cause to be
17 printed and distributed to the ~~probate~~ judges of probate of
18 the several counties and to the clerks of the several
19 municipalities of this state a copy of each proclamation,
20 order, rule, or regulation other directive issued under the
21 authority of this article."

22 Section 2. Section 11-47-132, Code of Alabama 1975,
23 providing for a system of compulsory vaccination by cities and
24 towns, is repealed.

25 Section 3. This act shall become effective January
26 1, 2022, upon its passage and approval by the Governor, or its
27 otherwise becoming law.

