

1 SB108
2 147793-3
3 By Senators Marsh, Brewbaker, Williams, Holtzclaw, Fielding,
4 McGill, Scofield, Bussman, Taylor, Blackwell, Reed, Sanford,
5 Holley, Whatley, Dial, Allen, Ward, Beason, Glover, Waggoner
6 and Pittman
7 RFD: Fiscal Responsibility and Accountability
8 First Read: 05-FEB-13

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8 SYNOPSIS: Under existing law, various state agencies,
9 including the Department of Public Safety, perform
10 law enforcement and investigative services to
11 enhance public safety.

12 This bill would create the Alabama State Law
13 Enforcement Agency and the position of Secretary of
14 the Alabama State Law Enforcement Agency, appointed
15 by the Governor, to coordinate public safety in
16 this state.

17 Effective October 1, 2014, this bill would
18 consolidate certain investigative and law
19 enforcement functions and reorganize the
20 administration of public safety services in this
21 state.

22 This bill would reorganize state public
23 safety services within the Alabama State Law
24 Enforcement Agency, which would be comprised of two
25 units: the reorganized Department of Public Safety,
26 which would consolidate uniformed state law
27 enforcement services and a newly created State

1 Bureau of Investigations, which would consolidate
2 state investigative law enforcement services.

3 This bill also would transfer the functions
4 of the Department of Homeland Security to the
5 Secretary of the Alabama State Law Enforcement
6 Agency.

7
8 A BILL

9 TO BE ENTITLED

10 AN ACT

11
12 Relating to public safety; to create the Alabama
13 State Law Enforcement Agency; to create the Secretary of the
14 Alabama State Law Enforcement Agency to coordinate various law
15 enforcement and investigative services and serve as the
16 Homeland Security Advisor for this state; to create the Public
17 Safety Fund; to create the State Bureau of Investigations to
18 assume the duties and functions of the Alabama Bureau of
19 Investigation; to transfer certain enforcement and
20 investigative functions of certain agencies to the State
21 Bureau of Investigations; to transfer all functions of the
22 Alabama Department of Homeland Security to the Secretary of
23 the Alabama State Law Enforcement Agency; to transfer certain
24 enforcement functions of certain agencies to the Department of
25 Public Safety; to create new divisions within the Department
26 of Public Safety; to require the Code Commissioner to make
27 conforming changes in the code; and to amend Sections 41-9-592

1 and 41-9-593, Code of Alabama 1975, relating to the Criminal
2 Justice Information Center Commission, to provide that the
3 Secretary of the Alabama State Law Enforcement Agency would be
4 the chairman of the commission.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. The Alabama State Law Enforcement Agency
7 is hereby created within the Executive Branch of State
8 Government to coordinate public safety in this state. The
9 Alabama State Law Enforcement Agency shall be comprised of the
10 following:

11 (1) The Department of Public Safety.

12 (2) The State Bureau of Investigations.

13 Section 2. (a) The position of Secretary of the
14 Alabama State Law Enforcement Agency is created. The secretary
15 shall serve as the appointing authority and executive head of
16 the agency and the appointing authority and department head of
17 the Department of Public Safety and State Bureau of
18 Investigations. The secretary may delegate all or part of the
19 functions of appointing authority and department head for the
20 department and bureau to the Director of the Department of
21 Public Safety and the Director of the State Bureau of
22 Investigations, respectively.

23 (b) (1) The secretary shall be appointed by and hold
24 office at the pleasure of the Governor, and shall serve until
25 his or her successor is appointed. The salary of the secretary
26 shall be set by the Governor, and shall not be subject to
27 Section 36-6-6, Code of Alabama 1975.

1 (2) A person appointed secretary shall have an
2 extensive law enforcement background and, by virtue of office,
3 is a state law enforcement officer with the immunity set forth
4 in Section 6-5-338, Code of Alabama 1975.

5 (c) The secretary is a member of the Governor's
6 Cabinet who shall advise the Governor on matters of public
7 safety.

8 (d) The secretary shall serve as the Homeland
9 Security Advisor for this state, assume all duties of the
10 Director of Homeland Security, including all functions of the
11 Alabama Fusion Center, and shall be responsible for
12 coordinating, designing, and implementing Alabama's program
13 for homeland security, including immigration enforcement. The
14 secretary shall be the principal point of contact between the
15 State of Alabama and the federal government with respect to
16 homeland security issues. Any reference in law to the
17 authority of the Director of Homeland Security shall be deemed
18 a reference to the Secretary of the Alabama State Law
19 Enforcement Agency. The secretary may delegate all or a
20 portion of the functions required by this section to the State
21 Bureau of Investigations.

22 Section 3. (a) The Secretary of the Alabama State
23 Law Enforcement Agency shall establish general policies for
24 the Department of Public Safety and the State Bureau of
25 Investigations.

26 (b) The secretary shall coordinate efforts within
27 the Alabama State Law Enforcement Agency and the entities

1 therein to promote the recruitment, selection, and training of
2 state law enforcement officers in the agency.

3 (c) (1) A Protective Services Unit is created in the
4 office of the secretary. The unit is vested with all functions
5 of the Dignitary Protection Services of the Department of
6 Public Safety, and a reference in any law to the Dignitary
7 Protection Services of the Department of Public Safety shall
8 be deemed a reference to the Protective Services Unit.

9 (2) The secretary shall appoint a chief of the unit.

10 (d) The secretary is vested with all functions of
11 the Alabama Department of Economic and Community Affairs
12 relating to law enforcement planning.

13 (e) Investigators employed on the effective date of
14 this section by the State Office of Prosecution Services as
15 computer forensics investigators/analysts in the Alabama
16 Computer Forensics Labs shall be transferred to the Alabama
17 Fusion Center and shall receive a rank and classification in
18 the state Merit System equivalent to their current employment
19 rank or years of service.

20 Section 4. (a) There is hereby created the Public
21 Safety Fund in the State Treasury. The fund consists of all
22 monies appropriated for support of the functions of the
23 Secretary of the Alabama State Law Enforcement Agency,
24 Department of Public Safety, and the State Bureau of
25 Investigations, including funds transferred to any of the
26 foregoing pursuant to Section 9. Any monies in the fund from a
27 source that restricts the use of the funds to a certain

1 purpose or that are appropriated for a particular purpose may
2 be expended only for that purpose.

3 (b) Subject to subsection (a), the Secretary of the
4 Alabama State Law Enforcement Agency may expend monies in the
5 Public Safety Fund for the support of the Secretary, the
6 Department of Public Safety, and the State Bureau of
7 Investigations.

8 Section 5. (a) The State Bureau of Investigations is
9 hereby created in the Alabama State Law Enforcement Agency.
10 The bureau shall succeed to and be vested with all powers of
11 the Alabama Bureau of Investigation. A reference in any law to
12 the Alabama Bureau of Investigation shall be deemed a
13 reference to the State Bureau of Investigations.

14 (b) The position of Director of the State Bureau of
15 Investigations is created. The director shall be appointed by
16 the Secretary of the Alabama State Law Enforcement Agency,
17 after consultation with the Governor, and shall hold office at
18 the pleasure of the secretary. The salary of the director
19 shall be set by the secretary, and shall not be subject to
20 Section 36-6-6, Code of Alabama 1975. A person appointed
21 director shall have an extensive law enforcement background
22 and, by virtue of office, is a state law enforcement officer
23 with the immunity set forth in Section 6-5-338, Code of
24 Alabama 1975.

25 (c) The bureau succeeds to and is vested with all
26 functions of the Alabama Criminal Justice Information Center.
27 A reference in any law to the Alabama Criminal Justice

1 Information Center shall be deemed a reference to a division
2 of the State Bureau of Investigations. The Alabama Criminal
3 Justice Information Center Commission shall continue to
4 function in an advisory capacity to the bureau regarding
5 functions previously performed by the Alabama Criminal Justice
6 Information Center.

7 (d) The bureau succeeds to and is vested with all
8 investigative functions of the following investigative and
9 enforcement units, and a reference in any law to these
10 investigation and enforcement units shall be deemed a
11 reference to the State Bureau of Investigations:

12 (1) The law enforcement unit of the Alabama
13 Alcoholic Beverage Control Board.

14 (2) The investigative unit of the Alabama Forestry
15 Commission.

16 (3) The investigative unit of the Department of
17 Agriculture and Industries.

18 (e) The Director of the State Bureau of
19 Investigations shall have overall supervision and management
20 of functions transferred to the bureau pursuant to this
21 section, subject to approval by the secretary, including the
22 power to change the working title of any position or to
23 reorganize or rename any of the divisions, units, or functions
24 specified in this section. Any change of working title shall
25 not alter the classification or compensation of any person in
26 the state Merit System.

1 Section 6. (a) (1) The Director of the Department of
2 Public Safety shall be appointed by the Secretary of the
3 Alabama State Law Enforcement Agency, after consultation with
4 the Governor, and shall hold office at the pleasure of the
5 secretary. The salary of the director shall be set by the
6 secretary, and shall not be subject to Section 36-6-6, Code of
7 Alabama 1975. A person appointed director shall have an
8 extensive law enforcement background and, by virtue of office,
9 is a state law enforcement officer with the immunity set forth
10 in Section 6-5-338, Code of Alabama 1975.

11 (2) The director shall have overall supervision and
12 management of functions transferred to the department pursuant
13 to this section, subject to the approval of the secretary,
14 including the power to change the working title of any
15 position or to reorganize or rename any of the divisions,
16 units, or functions specified in this section. Any change of
17 working title shall not alter the classification or
18 compensation of any person in the state Merit System.

19 (3) All functions performed by the department on
20 October 1, 2014, shall remain under the Department of Public
21 Safety unless reorganized by the secretary or otherwise
22 transferred pursuant to this act.

23 (b) (1) The Highway Patrol Division of the Department
24 of Public Safety succeeds to and is vested with all law
25 enforcement functions of the following enforcement units, and
26 a reference in any law to these enforcement units shall be

1 deemed a reference to the Highway Patrol Division of the
2 Department of Public Safety:

3 a. The law enforcement unit of the Public Service
4 Commission.

5 b. The revenue enforcement officers of the
6 Department of Revenue.

7 (2) The director shall appoint a chief of the
8 division.

9 (c) (1) The Marine Police Division is hereby created
10 within the Department of Public Safety. The director shall
11 appoint a chief of the division.

12 (2) The Marine Police Division of the Department of
13 Public Safety succeeds to and is vested with all functions of
14 the Marine Police Division of the Department of Conservation
15 and Natural Resources. A reference in any law to the Marine
16 Police Division of the Department of Conservation and Natural
17 Resources shall be deemed a reference to the Marine Police
18 Division of the Department of Public Safety.

19 Section 7. (a) For the purposes of this section, the
20 term "legacy agency" means an existing agency, department, or
21 division that is being reorganized or abolished under this
22 act.

23 (b) Unless otherwise provided in this act, all
24 positions created by this act shall be in the classified
25 service of the state Merit System.

26 (c) All persons employed on the effective date of
27 this act with a legacy agency and transferred to the Alabama

1 State Law Enforcement Agency, Department of Public Safety, or
2 State Bureau of Investigations shall maintain his or her
3 classification and benefits under the legacy agency. A person
4 employed by a legacy agency on the effective date of this act
5 shall not receive a decrease in salary, benefits, or seniority
6 or otherwise receive a decrease in classification as a result
7 of the transfer to the Alabama State Law Enforcement Agency,
8 Department of Public Safety, or State Bureau of
9 Investigations.

10 (d) Any future change in classification shall not
11 result in any change in benefits an employee previously had at
12 a legacy agency.

13 (e) An employee of a legacy agency transferred to
14 the Alabama State Law Enforcement Agency, Department of Public
15 Safety, or State Bureau of Investigations under this act shall
16 remain in his or her current classification unless appointed
17 to the appropriate classification within the newly created
18 department according to state Merit System procedures.

19 (f) Any employee hired in the Alabama State Law
20 Enforcement Agency after October 1, 2014, who is certified by
21 the Alabama Peace Officers' Standards and Training Commission
22 and performs law enforcement duties shall be considered a law
23 enforcement officer, as defined by Section 36-27-59(a) (3),
24 Code of Alabama 1975, but is not eligible for the benefits
25 specified in Section 36-26-35(d), Code of Alabama 1975.

26 Section 8. Any law enforcement officer employed by
27 the Alabama State Law Enforcement Agency shall be entitled to

1 the immunity set forth in Section 6-5-338, Code of Alabama
2 1975.

3 Section 9. All books, records, supplies, funds,
4 equipment, and personnel of the units, departments, divisions,
5 and other state entities merged with another state entity or
6 abolished and the functions of which are transferred to
7 another state agency by this act shall be transferred to the
8 succeeding department or state entity to the extent that the
9 books, records, supplies, funds, equipment, and personnel are
10 related to the functions transferred to the succeeding
11 department or entity.

12 Section 10. The Code Commissioner shall conform
13 references in the Code of Alabama 1975, to the units,
14 departments, divisions, and other state entities included in
15 this act to reflect the changes required by this act. Code
16 changes shall be made at a time determined to be appropriate
17 by the Code Commissioner.

18 Section 11. Sections 41-9-592 and 41-9-593, Code of
19 Alabama 1975, are amended to read as follows:

20 "§41-9-592.

21 "The commission shall be composed of two sections.

22 "The voting section will include: the Secretary of
23 the Alabama State Law Enforcement Agency, the Attorney
24 General, the Chairman of the Board of Pardons and Paroles, the
25 Commissioner of the Board of Corrections, the President of the
26 Alabama Sheriffs' Association, the Director of the Department
27 of Public Safety, the President of the Alabama Association of

1 Chiefs of Police, the Director of the Alabama Law Enforcement
2 Planning Agency, the President of the District Attorney's
3 Association, the President of the Circuit Clerks' Association,
4 the Chief Justice of the Alabama Supreme Court, the President
5 of the Alabama Association of Intermediate Court Judges, the
6 President of the Circuit Judges' Association, the Governor's
7 coordinator of Alabama Highway and Traffic Safety and the
8 Director of the Data Systems Management Division of the
9 Alabama Department of Finance.

10 "The advisory section will include: the presiding
11 officer of the Alabama Senate, the Speaker of the Alabama
12 House of Representatives, the President of the Association of
13 County Commissions of Alabama, the President of the Alabama
14 League of Municipalities, the Administrative Director of the
15 Courts and a citizen of the State of Alabama, to be appointed
16 by the Governor. The member shall have authority to select a
17 designee based upon qualifications and with a view of
18 continuity of representation and attendance at the commission
19 meetings.

20 "No person or individual shall continue to serve on
21 the commission when he no longer officially represents the
22 function or serves in the capacity enumerated in this section
23 as a member to which he was elected or appointed.

24 "§41-9-593.

25 "The commission shall, upon its first meeting, elect
26 from its membership a chairman and a vice-chairman who shall
27 serve for a period of one year. The vice-chairman shall act in

1 the place of the chairman in his absence or disability.
2 Commencing October 1, 2014, the Secretary of the Alabama State
3 Law Enforcement Agency shall serve as chairman of the
4 commission.

5 "The commission shall meet at such times as
6 designated by the commission or by the chairman at the state
7 capital or at other places as is deemed necessary or
8 convenient, but the chairman of the commission must call a
9 meeting four times a year at the state capital or main
10 location of the ACJIC in the months of January, April, July
11 and October. The chairman of the commission may also call a
12 special meeting of the commission at any time he deems it
13 advisable or necessary. A quorum shall be a simple majority of
14 the voting commission membership or their designees and all
15 matters coming before the commission shall be voted on by the
16 commission.

17 "The commission will keep or cause to be kept a
18 record of all transactions discussed or voted on by the
19 commission.

20 "Members of the commission and their designees shall
21 serve without compensation; except, that payment of their
22 expenses may be paid in accordance with the applicable state
23 travel regulations."

24 Section 12. All laws or parts of laws which conflict
25 with this act are repealed.

26 Section 13. Sections 1 and 2 of this act shall
27 become effective immediately following the passage and

1 approval of this act by the Governor, or its otherwise
2 becoming law. The remainder of this act shall become effective
3 on October 1, 2014, following the passage and approval of this
4 act by the Governor, or its otherwise becoming law.