AMENDED

May 20, 2010

**S. 901**

Introduced by Senators McConnell, Elliott and Courson

S. Printed 5/20/10--H.

Read the first time February 4, 2010.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1-3-500, SO AS TO PROVIDE THAT WHEN THE GOVERNOR LEAVES THE STATE, HE MUST NOTIFY THE LIEUTENANT GOVERNOR, WHETHER OR NOT THE POWER OF THE GOVERNOR’S OFFICE IS TRANSFERRED TO THE LIEUTENANT GOVERNOR; AND BY ADDING SECTION 1‑3‑630, SO AS TO DEFINE “EMERGENCY”, “FULL AUTHORITY”, AND “TEMPORARY ABSENCE” IN ORDER TO CLARIFY WHEN A LIEUTENANT GOVERNOR HAS THE FULL AUTHORITY TO ACT IN AN EMERGENCY IN THE EVENT OF THE TEMPORARY ABSENCE OF THE GOVERNOR FROM THE STATE.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. The 1976 Code is amended by adding:

“Section 1-3-500. Whenever the Governor leaves the State, he must notify the Lieutenant Governor. This section applies whether or not the power of the Governor’s office is transferred to the Lieutenant Governor.”

SECTION 2. Chapter 3, Title 1 of the 1976 Code is amended by adding:

“Section 1‑3‑630. (A) For purposes of this section:

(1) ‘Emergency’ means:

(a) an unlawful assemblage, violence or threats of violence, or a public health emergency, as defined in Section 44‑4‑130, that warrants a gubernatorial proclamation of emergency as provided in Section 1‑3‑420; or

(b) an attack, as defined in Section 1‑9‑20(d); or

(c) a potentially destructive and life-threatening major flood, storm, nuclear accident, or other natural or man-made calamity affecting the health, welfare, and safety of the lives and property of the people of the State;

(2) ‘Full authority’ means the ability to exercise the Governor’s powers, responsibilities, obligations, and authorities in regard to the emergency, except veto power, as provided by general law and in the State Constitution without assuming the office of the Governor.

(3) ‘Temporary absence’ means that:

(a) the Governor is outside the boundaries of the State; and

(b) within a twelve-hour period, either by communicating in person or by telecommunications device, the Governor is not available or is unable to respond to:

(i) his staff, or

(ii) the Director of the South Carolina Law Enforcement Division or his designee.

(B) As provided in Article IV, Section 11 of the South Carolina Constitution, in the event of the temporary absence of the Governor from the State, the Lieutenant Governor has full authority to act in an emergency. For this purpose, the Lieutenant Governor is vested with the necessary authority to conduct the affairs of the Office of the Governor that are necessary in regard to the emergency that may be lost or abandoned during the temporary absence of the Governor.

(C) Prior to assuming full authority to act in an emergency, the Lieutenant Governor must verify with the Governor’s staff and the Director of the South Carolina Law Enforcement Division or his designee that the Governor has not been in communication for a period of twelve or more hours and that attempts to contact the Governor have not received a response or indication of the Governor’s whereabouts or availability.

(D) After receiving this verification, the Lieutenant Governor must immediately file with the Office of the Secretary of State a proclamation declaring his full authority to act in the emergency. The proclamation is effective upon issuance and remains in full force and effect as provided by general law and the State Constitution.

(E) The powers that the Lieutenant Governor may exercise pursuant to Article IV, Section 11 of the South Carolina Constitution and this section in regard to the emergency in the temporary absence of the Governor cannot be restricted prior to the departure of the Governor from this State. The discretion of the Lieutenant Governor includes all of the gubernatorial powers relating to the emergency which the Governor himself would possess were he present, limited by the terms of the constitutional provision itself, which require only that those powers may be exercised by the Lieutenant Governor during the temporary absence of the Governor and that those powers also must be of an emergency nature.”

SECTION 3. This act shall take effect upon approval by the Governor.

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