

1 HB475
2 119647-2
3 By Representative Graham
4 RFD: Government Appropriations
5 First Read: 02-FEB-10

1 young nation, and especially for the area that would become
2 the State of Alabama, it is important for this state to
3 commemorate the historical activities and people of this era.

4 (2) At the onset of the War of 1812, the lands
5 comprising the future State of Alabama were a part of the
6 Mississippi territory, the Kingdom of Spain, and the Cherokee,
7 Chickasaw, Choctaw, and Creek Indian Nations. At the time of
8 the outbreak of the War of 1812, the Creek nation was on the
9 verge of civil conflict, which broke out in early 1813. When
10 the Creek National Council called on the United States for
11 assistance in fighting the Red Stick insurgents, the Creek
12 civil war quickly became an American-Creek war, and Red Stick
13 Creeks sought British assistance against their adversaries. In
14 the ensuing conflict, the United States and its Indian allies
15 won victories against Red Stick forces, conquered Spanish
16 territory, and twice defended the Alabama coastline against
17 British-led invasions.

18 (3) The Creek War and the War of 1812 were
19 distinguished by a number of significant battles. Battles,
20 campaigns, encampments, and expeditions took place in every
21 part of the state, with American armies from Georgia,
22 Tennessee, and the Mississippi territory converging on the
23 central part of the state. Naval activity also occurred in
24 Mobile Bay. These battles and troop movements exposed the
25 lands of the future State of Alabama to potential settlers.

1 (4) Among the most prominent battles were the Fort
2 Mims Massacre, an action by Red Stick insurgents that
3 galvanized American public opinion in support of a war against
4 the Creeks; the Battle of Horseshoe Bend, in which Andrew
5 Jackson's forces won a decisive victory against the Creeks,
6 thereby ending the Creek War and securing for Jackson the
7 status of national war hero and propelling him to fame; the
8 defeat of the British in their attempt to take Mobile Bay,
9 thereby delaying the British campaign to take New Orleans and
10 allowing time for American armies to prepare for defenses in
11 that city; and the final large-scale military action of the
12 War of 1812 that took place at Fort Bowyer, now called Fort
13 Morgan, more than a month after the Battle of New Orleans.

14 (5) As a result of the war, 22,000,000 acres were
15 ceded by the Creek Nation to the United States in the Treaty
16 of Fort Jackson. The majority of this land ultimately became
17 part of the Alabama territory and was later designated as the
18 State of Alabama. The subjugation of the Creek Indians
19 precipitated a land rush in the newly-ceded lands, leading to
20 the rapid expansion of settlement in Baldwin and Mobile
21 Counties and in the Tennessee Valley.

22 (6) Current Alabama counties which saw significant
23 action during the war years were: Autauga, Baldwin, Chambers,
24 Cherokee, Clarke, Clay, Coosa, Dallas, Elmore, Lee, Lowndes,
25 Macon, Madison, Marengo, Marshall, Mobile, Monroe, Montgomery,

1 Morgan, Perry, Randolph, Russell, St. Clair, Talladega,
2 Tallapoosa, Washington, and Wilcox.

3 (7) The importance of a bicentennial commemoration
4 has been recognized by other states and by the United States
5 Congress. Commemoration of the period offers an excellent
6 opportunity to enhance educational programs and engender
7 heritage tourism within Alabama. Therefore, it is in the
8 interest of the state to provide and support the appropriate
9 celebrations and commemorative activities to maximize public
10 education and appreciation of significant events in the
11 history of the period.

12 §41-9-1062.

13 For purposes of this article, the following words
14 shall have the following meanings:

15 (1) COMMEMORATION. A commemoration of the Creek War
16 and the War of 1812.

17 (2) COMMISSION. The Creek War and War of 1812
18 Bicentennial Commission.

19 (3) COUNTIES. The counties of Autauga, Baldwin,
20 Chambers, Cherokee, Clarke, Clay, Coosa, Dallas, Elmore, Lee,
21 Lowndes, Macon, Madison, Marengo, Marshall, Mobile, Monroe,
22 Montgomery, Morgan, Perry, Randolph, Russell, St. Clair,
23 Talladega, Tallapoosa, Washington, and Wilcox.

24 (4) QUALIFIED RESIDENT. Any resident of the State of
25 Alabama with an interest in, support for, and expertise
26 appropriate to the commemoration.

1 §41-9-1063.

2 (a) The commission shall be composed of 29 members
3 to be appointed by the following:

4 (1) Ten members shall be qualified residents
5 appointed by the commission after consideration of nominations
6 submitted by the county commissions of Autauga, Baldwin,
7 Clarke, Elmore, Macon, Madison, Mobile, Talladega, Tallapoosa,
8 and Washington Counties.

9 (2) Four members shall be qualified residents
10 appointed by the commission after consideration of nominations
11 submitted by the mayors of the City of Alexander City, the
12 City of Huntsville, the City of Mobile, and the City of
13 Montgomery.

14 (3) Two members shall be employees of and appointed
15 by the Alabama Historical Commission.

16 (4) One member shall be an employee of and appointed
17 by the Bureau of Tourism and Travel.

18 (5) One member shall be an employee of and appointed
19 by the Alabama Department of Archives and History.

20 (6) One member shall be an employee of and appointed
21 by the Alabama Department of Indian Affairs.

22 (7) One member shall be an employee of, and
23 appointed by the Department of Conservation and Natural
24 Resources.

25 (8) One member shall be an employee of and appointed
26 by the Alabama Department of Education.

1 (9) One member shall be an employee of and appointed
2 by the Horseshoe Bend National Military Park.

3 (10) One member shall be appointed by the Alabama
4 Historical Commission.

5 (11) One member shall be appointed by the Poarch
6 Band of Creek Indians.

7 (12) One member shall be appointed by the Alabama
8 Archaeological Society.

9 (13) One member shall be appointed by the Alabama
10 Association of Historians.

11 (14) One member shall be appointed by the Historic
12 Chattahoochee Commission.

13 (15) One member shall be appointed by the Alabama
14 Black Heritage Council.

15 (16) One member shall be appointed by the Alabama
16 Humanities Foundation.

17 (b) Members of the commission shall be appointed to
18 reflect the racial, gender, geographic, urban/rural, and
19 economic diversity of the State of Alabama.

20 (c) The members of the commission shall be appointed
21 120 days after the effective date of this act. A person
22 appointed to the commission shall serve until written notice
23 is given to the chair by the appointing authority that the
24 appointment is no longer effective, or until the commission
25 determines that such appointment is no longer effective.

1 (d) Members shall be appointed for the life of the
2 commission.

3 (e) A vacancy on the commission shall not affect the
4 powers of the commission and shall be filled in the same
5 manner as the original appointment for any unexpired term.

6 (f) The commission shall act on an affirmative vote
7 of a majority of the members of the commission attending a
8 meeting of the commission for which notice was provided
9 pursuant to subsection (g). Members of the commission may
10 participate in any meeting of the commission by means of a
11 conference telephone or similar communications equipment by
12 means of which all persons participating at the meeting can
13 hear each other at the same time, and participation by such
14 means shall constitute presence in person at a meeting.

15 (g) Notice of the time, day, and place of all
16 meetings of the commission shall be given to all members of
17 the commission in person or by telephone, mail, e-mail, or
18 facsimile, by or at the direction of the chair or the vice
19 chair. If the notice is sent by mail, it shall be deposited in
20 the United States post office as first class mail or with a
21 private mail carrier for overnight delivery, postage prepaid
22 and addressed to the member at his or her address as it
23 appears on the records of the commission, at least five days
24 before the day of the meeting. If the notice is sent by any
25 other method or is delivered in person, the notice shall be
26 sent or delivered at least 48 hours before the meeting.

1 (h) The commission shall select a chair and a vice
2 chair from among the members of the commission.

3 (i) The commission shall hold an initial meeting
4 within 150 days after the effective date of this act.

5 (j) During the years 2010 and 2011, there shall be
6 no fewer than three meetings of the commission per year at the
7 call of the chair or a majority of the members of the
8 commission.

9 (k) During the years 2012 through 2015, there shall
10 be no fewer than two meetings of the commission per year at
11 the call of the chair or a majority of the members of the
12 commission.

13 §41-9-1064.

14 Subject to available funds, the commission shall do
15 all of the following:

16 (1) Plan, develop, execute, coordinate, and assist
17 in programs, observances, studies, and activities
18 commemorating the historic events associated with the Creek
19 War and War of 1812.

20 (2) Facilitate and encourage the commemoration
21 throughout the state.

22 (3) Lead in the establishment of a statewide
23 observance of the Creek War and War of 1812 by complementing,
24 cooperating with, and providing assistance to the programs and
25 activities of the various counties and organizations involved
26 in the commemoration.

1 (4) Encourage observances benefiting the diverse
2 population of the state by interacting with all of the natural
3 and cultural treasures of the state.

4 (5) In cooperation with the appropriate federal
5 agencies, and through archival and archaeological research,
6 the commission may work with the state archaeologist to update
7 and augment the inventory and assessments of the
8 archaeological and historic sites enumerated in the
9 state-developed and National Park Service American Battlefield
10 Protection Programs to also reflect historic sites that are
11 not associated with battles.

12 (6) Encourage and assist in the preparation of
13 printed books, electronic web pages, and associated
14 educational material.

15 (7) Encourage and welcome international involvement
16 in celebrations and observances and cooperate and coordinate
17 with the National War of 1812 Bicentennial Commission and
18 commissions in other states.

19 (8) Cooperate with and assist the Alabama Bureau of
20 Tourism and Travel in developing maps and other material to
21 encourage heritage-related tourism during the commemoration
22 period, with such cooperation extended to counties and
23 municipalities through chambers of commerce, convention and
24 visitors bureaus, and similar agencies.

25 (9) Seek out and encourage national and regional
26 groups to hold events and living history gatherings.

1 (10) Coordinate with appropriate private, municipal,
2 county, regional, and federal agencies including the National
3 Park Service and the federal Department of Defense.

4 (11) Encourage agencies and groups throughout the
5 state to organize and participate in the commemoration.

6 (12) Encourage civic, patriotic, historical,
7 educational, religious, economic, tourism, and other
8 organizations throughout the state to expand the understanding
9 and appreciation of the significance of the Creek War and War
10 of 1812.

11 (13) Coordinate with the States of Mississippi,
12 Georgia, Louisiana, Tennessee, North Carolina, South Carolina,
13 and Florida to exchange information, present beneficial joint
14 programs, encourage tourism, and educate students and the
15 public.

16 (14) Provide a calendar of events to the Departments
17 of Education and Tourism and Travel no later than six months
18 prior to the commemoration.

19 (15) Work with the Department of Archives and
20 History and state colleges and universities to design,
21 develop, and provide, during the designated commemoration
22 period for the purpose of promoting education and tourism, a
23 website that shall include a calendar of statewide
24 commemoration festivities, an explanation of events preceding
25 and associated with the Creek War and War of 1812 in Alabama,
26 and a selection of documents and maps from the period in order

1 to make the wealth of historical resources of the state easily
2 accessible to the general public and schools.

3 (16) Collaborate with the Department of Archives and
4 History to design, develop, and provide an exhibit or exhibits
5 to interpret the events of the period for the educational and
6 informational benefit of the citizens and tourists of Alabama.

7 (17) Collaborate with the State Archaeologist to
8 update and enhance the inventory of significant archaeological
9 sites and structures associated with the commemorative period
10 and, upon completion of the list, execute surveys necessary
11 for the identification and potential preservation of the
12 sites.

13 (18) Cooperate with the Department of Tourism and
14 Travel, state historians, regional and local agencies, and the
15 State Archaeologist to produce a Bicentennial Trail map to be
16 available for public distribution no later than January 1,
17 2012.

18 (19) Direct a state historian to compile for
19 distribution to appropriate state historic sites and Alabama
20 schools a pamphlet including the biographies of notable War of
21 1812-era Alabamians, including citizens, military figures,
22 political figures, Indian leaders, and namesakes for Alabama
23 counties.

24 (20) Ensure that commemorations provide a lasting
25 legacy and long-term public benefit leading to the protection
26 of the resources associated with the era.

1 (21) Cooperate and coordinate with other state and
2 national archives, museums, and repositories holding pertinent
3 Alabama-associated artifacts, images, and documents to secure
4 loans and exhibits of the materials in Alabama during the
5 commemoration period.

6 (22) Cooperate and coordinate with the Department of
7 Transportation to mark and interpret the Old Federal Road
8 route.

9 (23) Cooperate and coordinate with the Alabama
10 Humanities Foundation to establish a speakers' bureau of
11 experts and publicize the experts to communities across the
12 state.

13 (24) Cooperate with the Department of Education, the
14 Department of Archives and History, state colleges and
15 universities, and the Alabama Humanities Foundation to
16 encourage and support the development of teaching materials
17 and teacher workshops related to the Creek War and War of 1812
18 in Alabama.

19 (25) Prepare a strategic plan and annual performance
20 plans for any activity carried out by the commission.

21 (26) Solicit, accept, use, and dispose of gifts or
22 donations of money, services, and real and personal property
23 related to its mission.

24 (27) Appoint an advisory committee as the commission
25 deems necessary.

1 (28) Authorize any member or employee of the
2 commission to take any action the commission is authorized to
3 undertake.

4 (29) Use the United States mails in the same manner
5 and under the same conditions as other agencies of the state
6 government.

7 (30) Use the printing and other state resources in
8 the same manner and under the same conditions as other
9 agencies of the state government.

10 (31) Make grants to communities, nonprofit
11 commemorative commissions, educational institutions and
12 organizations, and research and scholarly organizations to
13 develop programs and products to assist in researching,
14 publishing, marketing, and distributing information relating
15 to the commemoration.

16 (32) Secure supplies, services, and property.

17 (33) Make or enter into contracts, leases, or other
18 legal agreements not to extend beyond the termination date of
19 the commission.

20 (34) Secure directly from a state agency such
21 information as the commission considers to be necessary to
22 carry out its mission and, upon request of the chair of the
23 commission, the head of the agency shall provide information
24 to the commission.

25 ~~(35) Have any other powers the commission deems~~
26 ~~necessary to commemorate the Creek War and War of 1812.~~

1 (35) Perform any other duty or take any other action
2 necessary for the accomplishment of the foregoing authorized
3 activities that is not otherwise prohibited by law.

4 (36) Receive and expend any funds, including state
5 funds which are appropriated to the commission.

6 (37) Employ state employees.

7 Notwithstanding the above powers, the commission
8 shall have no authority to obligate state funds or to require
9 any unit of state or local government to expend or obligate
10 funds. Any provision of this article that shall make any power
11 or duty of the commission subject to availability of funding,
12 the provision shall be intended to make the exercise of such
13 power or duty contingent on the commission having received
14 grants, donations, or contract funds sufficient for such
15 purpose.

16 §41-9-1065.

17 (a) No later than September 30, 2015, the commission
18 shall submit a report to the Department of Examiners of Public
19 Accounts that includes all of the following:

20 (1) A summary of the activities of the commission.

21 (2) A final accounting of any funds received or
22 expended by the commission.

23 (3) The final disposition of any historically
24 significant items or other items acquired by the commission.

25 (b) The commission shall terminate upon submission
26 of the final report pursuant to subsection (a).

1 (c) No later than the date of termination of the
2 commission, the commission shall transfer any documents,
3 materials, books, manuscripts, miscellaneous printed matter,
4 memorabilia, relics, and exhibits and any materials donated to
5 the commission that relate to the Creek War and War of 1812 to
6 the Alabama Department of Archives and History, which may
7 de-accession any of these materials that do not conform with
8 its mission. Following the termination of the commission, the
9 Alabama Department of Archives and History may continue any of
10 the initiatives and purposes of the commission. Items produced
11 for sale by the commission shall be transferred to the Alabama
12 Historical Commission and the Alabama Department of Archives
13 and History for use at its retail outlets.

14 (d) Any funds held by the commission on the date of
15 termination shall be deposited into the State General Fund.

16 §41-9-1066.

17 (a) Except as provided in subsection (b), all
18 members of the commission shall serve without compensation.

19 (b) A member of the commission who is an official or
20 employee of the State of Alabama shall serve without
21 compensation and shall receive his or her compensation for his
22 or her employment or official duties.

23 (c) Subject to available funds, a member of the
24 commission shall be allowed travel expenses within the
25 guidelines established by the State of Alabama for state
26 employees and officials.

1 (d) Subject to available funds, the chair of the
2 commission, without regard to Merit System laws and
3 regulations, may appoint and terminate an executive director
4 and such other additional personnel as shall be necessary to
5 enable the commission to perform the duties of the commission.
6 The employment of an executive director shall be subject to
7 confirmation by the commission. The chair of the commission
8 may fix the compensation of the executive director and other
9 personnel without regard to the provisions of the law relating
10 to classification of positions, general schedule pay rates,
11 and any provisions of the state Merit System, but only upon
12 the approval of the commission.

13 (e) At the request of the commission and subject to
14 available funds, the head of any state agency may assign, on a
15 reimbursable or nonreimbursable basis, any of the personnel of
16 such agency to the commission to assist the commission in
17 carrying out the duties of the commission under this article.
18 The assignment of an employee shall be without loss of Merit
19 System status or privilege. Any city and any county may assign
20 personnel on similar terms and conditions. Notwithstanding the
21 foregoing sentences of this subsection, the commission shall
22 receive administrative support from the Alabama Historical
23 Commission on a nonreimbursable basis.

24 (f) The commission may accept and use voluntary and
25 uncompensated services as the commission determines necessary.

1 (g) Nothing in this article shall be construed to
2 require any state appropriations.

3 §41-9-1067.

4 (a) The commission and all contracts made by it
5 shall be exempt from all laws of the State of Alabama
6 requiring competitive bids in connection with contracts,
7 including, without limitation, Chapter 16 of Title 41 of the
8 Code of Alabama 1975.

9 (b) The commission shall not be subject to Article 3
10 of Chapter 15 of Title 9 of the Code of Alabama 1975,
11 regardless of the prior ownership of any property or interest
12 therein to be disposed of in any fashion by the commission.

13 (c) The commission shall not be subject to the Open
14 Meetings Act codified at Chapter 25A of Title 36 of the Code
15 of Alabama 1975 nor to any public record requirements of the
16 state, including without limitation, Chapter 12 of Title 36
17 and Chapter 13 of Title 41 of the Code of Alabama 1975.

18 (d) The commission shall not be subject to the
19 Alabama Administrative Procedure Act codified at Chapter 22 of
20 Title 41 of the Code of Alabama 1975.

21 (e) Members of the commission shall not be subject
22 to Chapter 25 of Title 36 merely because of their service on
23 the commission or because of the reimbursement of travel
24 expenses provided in Section 41-9-1066(c) of this act.
25 However, compensated employees of the commission shall be
26 subject to Chapter 25 of Title 36 of the Code of Alabama 1975,

1 so long as they are not employed in maintenance, clerical,
2 secretarial, or other similar positions.

3 (f) The commission shall be exempt from all state
4 and local taxes and assessments.

5 (g) ~~Members~~ Absent negligence, wantonness,
6 recklessness, or deliberate misconduct, members and employees
7 of the commission shall be immune from civil liability and
8 shall not be liable for damages when performing their duties
9 under this article. The Attorney General shall represent
10 members of the commission and the employees of the commission
11 in litigation filed because of the performance of their duties
12 under this article.

13 (h) Subject to available funding, the commission
14 shall hire an independent certified public accounting firm to
15 examine its books and records and render a written audit
16 report annually.

17 (i) No part of the net earnings of the commission
18 remaining after payment of its expenses shall inure to the
19 benefit of any private entity or person.

20 (j) The commission, by resolution legally adopted to
21 conform to rules prescribed by the Board of Control of the
22 State of Alabama Employees' Retirement System, may elect to
23 have its employees become eligible to participate in the State
24 of Alabama Employees' Retirement System. The commission may
25 similarly agree that its employees shall be subject to state

1 insurance on the same basis as other state employees of the
2 Alabama Historical Commission.

3 (k) Notwithstanding any other provisions of this
4 act, the members of the commission, all employees, and any
5 contracts entered into by the commission shall reflect the
6 racial, gender, geographic, urban/rural, and economic
7 diversity of the state.

8 Section 2. If a court of competent jurisdiction
9 adjudges invalid or unconstitutional any clause, sentence,
10 paragraph, section, or part of this act, such judgment or
11 decree shall not affect, impair, invalidate, or nullify the
12 remainder of this act, but the effect of the decision shall be
13 confined to the clause, sentence, paragraph, section, or part
14 of this act adjudged to be invalid or unconstitutional.

15 Section 3. All laws or parts of laws which conflict
16 with this act are repealed.

17 Section 4. This act shall become effective
18 immediately following its passage and approval by the
19 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Government Ap-
propriations 02-FEB-10

Read for the second time and placed
on the calendar with 1 substitute
and 03-MAR-10

Read for the third time and passed
as amended 11-MAR-10

Yeas 100, Nays 0, Abstains 0

Greg Pappas
Clerk