

1 SB485
2 115821-2
3 By Senator Smith (N & P)
4 RFD: Local Legislation No. 1
5 First Read: 02-MAR-10

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4 With Notice and Proof

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6 ENGROSSED

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9 A BILL
10 TO BE ENTITLED
11 AN ACT

12
13 Relating to Geneva County; to provide for the
14 establishment of fire districts for the purpose of preventing
15 fires or for fire protection or for recognized scopes of
16 practice of fire departments; providing for the manner in
17 which the district may be created for any area; providing for
18 the petition for a proposed district and the election thereon;
19 providing for payment of the costs of elections; providing
20 that no district shall be created unless the creation thereof
21 has been approved by the majority of votes cast at an
22 election; providing that if the creation of the proposed
23 district is approved by the majority of votes cast at an
24 election, the proposed district shall be created and shall
25 constitute a public corporation; providing for the management
26 and operation of each district; providing for the election of
27 a fire district board, except the initial board made up of the

1 existing board of the directors of each volunteer fire
2 department, each being a public corporation; providing for the
3 terms of office of the members of the board; providing for the
4 officers' compensation, expense allowance, and duties of the
5 members of the board; defining the rights, power, and
6 authority of the district; authorizing any district to pledge
7 all or any part of its revenues, or to mortgage or otherwise
8 encumber all or any part of its property for the purpose of
9 securing the payment of the principal of and interest on any
10 of its obligations; authorizing any such district to levy and
11 collect service charges or fees subject to certain
12 limitations; and providing for the dissolution of any
13 district.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. This act shall apply only to Geneva
16 County.

17 Section 2. The following words and terms shall have
18 the following meanings:

19 (1) BOARD. The board of directors of a district
20 established pursuant to this act.

21 (2) COUNTY. Geneva County.

22 (3) DISTRICT. The district created under this act
23 for establishing and maintaining a system for fighting or
24 preventing fires and performing recognized scopes of practice
25 of emergency services.

26 Section 3. Any area situated entirely within the
27 county may be established as a district for fighting fires

1 pursuant to this act. No land lying within the boundaries of a
2 municipality at the time a district is formed shall be
3 included in the district unless the municipality adopts a
4 resolution to be included in the district. Nothing in this act
5 shall be construed to limit or impede the right or ability of
6 a municipality to provide fire protection within its corporate
7 limits or its police jurisdiction.

8 Section 4. (a) Upon any petition being filed in the
9 office of the judge of probate, he or she shall order an
10 election to be held in the proposed district on the question
11 or questions on which the petition requests an election. The
12 petition shall be signed by at least 100 qualified electors
13 residing within the boundaries of the proposed district.

14 (b) The petition shall contain a map and description
15 of the area which is proposed to be established as a district
16 under this act and the petition shall request the judge of
17 probate to call an election on the following question: "Shall
18 there be created for the area a district for fighting fires?
19 Yes () No ()"

20 (c) The petition shall state the name of the
21 proposed district. The board of a district may change the name
22 of a district by filing in the office of the judge of probate
23 a copy of the resolution changing the name thereof, which copy
24 shall be certified by the president of the board.

25 (d) The petition for election on the establishment
26 of a district may be accompanied by a petition for an election
27 on the question of levying a proposed service charge or fee

1 which last named petition shall be signed by at least 100
2 qualified electors residing within the proposed district. A
3 petition for an election on the establishment of a district
4 shall be deemed to be accompanied by a petition for an
5 election on the question of levying a proposed service charge
6 or fee and a petition for an election on the question of the
7 proposed composition of the board, if the request for the
8 election on the proposed district, the request for the
9 election proposed service charge or fee, and the request for
10 an election on the proposed composition of the board are
11 combined in a single petition.

12 Section 5. (a) When a petition for the holding of
13 any election is filed with the judge of probate not less than
14 30 days and not more than 90 days prior to some other election
15 to be held in the territory in which an election is sought by
16 the petition, the judge of probate shall order the election
17 sought by the petition to be held the same day as the other
18 election is held.

19 (b) If the petition is not filed at a time that will
20 permit the election sought thereby to be held at the time some
21 other election is held, as herein provided, the judge of
22 probate shall order the election sought by the petition to be
23 held on a day not less than 30 days nor more than 60 days from
24 the date on which the judge of probate enters the order with
25 the costs assumed by the district requesting the special
26 election.

1 (c) The provisions of this section shall apply to
2 all elections provided for by this act.

3 Section 6. The provisions of the election laws
4 governing the registration of voters, equipment at polling
5 places, furnishing of supplies, appointment of election
6 officers, voting, and canvassing returns at a general election
7 shall apply to any election for a fire district.

8 Section 7. The judge of probate shall give notice of
9 any election held under Section 4 or Section 13 by publishing
10 for three weeks at least once a week, on the same day of each
11 week, in a newspaper of general circulation in the territory
12 where the election is to be held, a notice that on the day
13 fixed for the election the questions to be voted on shall be
14 submitted to the electors of the territory.

15 Section 8. Where an election is held on the question
16 of the establishment of a district, the governing body of the
17 county shall pay for the necessary expenses of advertising and
18 conducting the election out of the general funds of the
19 county. The district shall pay the expense of any special
20 election held on behalf of the district.

21 Section 9. No district shall be created unless the
22 creation thereof is approved by the majority of votes cast at
23 the election at which the proposed creation is submitted. Upon
24 the officers canvassing the returns of the election certifying
25 that the creation of the district was approved by the majority
26 of the votes cast at the election, the proposed district shall
27 be created and shall constitute a public corporation.

1 Section 10. (a) The affairs and business of each
2 district shall be managed by a board of directors composed of
3 seven members. The initial members shall consist of seven
4 members from the existing board of directors of the volunteer
5 fire department serving the district. No person shall serve on
6 the board unless the person is a qualified elector and resides
7 in the district and is over the age of 21. Members of the
8 board of directors of a district shall serve a term of four
9 years; provided, however, that the initial terms shall be as
10 follows: Of the seven members first elected, two shall be
11 elected for a term of one year, two shall be elected for a
12 term of two years, and three shall be elected for a term of
13 four years. Their successors shall be elected from among those
14 candidates who are nominated from the floor at the annual
15 meeting of the district. The members of the board of the
16 district shall be elected at the annual meeting by secret
17 ballot of the district from among persons nominated. Any
18 person who is a qualified elector and a resident of the
19 district may vote on the election of the board of directors of
20 a district.

21 (b) A vacancy on the board shall be filled at the
22 next annual meeting for the unexpired term in the same manner
23 as herein required. The board may appoint a qualified elector
24 from the district in which the vacancy occurs who will serve
25 until the next annual meeting.

26 (c) The board shall elect annually from its own
27 number a president, secretary, and a treasurer. The members of

1 the board shall not be entitled to any compensation for their
2 services, but they shall be entitled to reimbursement for all
3 expenses incurred by them in the performance of their duties.

4 Section 11. (a) The district shall constitute a
5 public corporation, which shall have the power to do any and
6 all acts or things necessary and convenient for carrying out
7 the purposes for which it is created including, but not
8 limited to, all of the following:

9 (1) To sue or be sued.

10 (2) To have a seal and alter the same at pleasure.

11 (3) To acquire, hold, and dispose of property, real
12 and personal, tangible and intangible, or interests therein
13 and to pay therefor in cash or credit, and to secure and
14 procure payment of all or any part of the purchase price
15 thereof on such terms and conditions as the board shall
16 determine.

17 (4) To acquire, own, operate, maintain, and improve
18 a system or systems.

19 (5) To pledge all or any part of its revenues,
20 mortgage, or otherwise encumber, all or any part of its
21 property for the purpose of securing the payment of the
22 principal of and interest on any of its obligations.

23 (6) To sell, lease, mortgage, or otherwise encumber
24 or dispose of all or any part of its property, as hereinafter
25 provided.

26 (7) To contract debts, borrow money, and to issue or
27 assume the payment of obligations.

1 (8) To levy and collect service charges or fees, as
2 herein provided, subject to the limitations prescribed in this
3 act.

4 (9) To provide refunds of overpaid service charges
5 and fees previously collected by the district and to otherwise
6 correct errors made in assessment or collection of service
7 charges and fees.

8 (10) To terminate the assessment and collection of
9 service charges and fees upon the withdrawal of a property
10 owner from the district as provided herein.

11 (11) To employ agents, servants, and attorneys.

12 (12) To enter into mutual assistance agreements and
13 response and coverage agreements with municipalities and other
14 governmental and public entities.

15 (13) To perform any and all of the foregoing acts
16 and to do any and all foregoing things under, through, or by
17 means of its own officers, agents, and employees, or by
18 contracts with any person, federal agency, or municipality.

19 (b) This act shall constitute the articles of
20 incorporation of the public corporation; however, the board
21 shall adopt bylaws for the governance of the district.

22 Section 12. (a) The expenses of establishing and
23 maintaining a district shall be paid for by the proceeds of a
24 fire protection fee which shall be levied and collected in an
25 amount sufficient to pay the expense. One percent of the fee
26 shall be appropriated to fund the Geneva County office of the
27 Alabama Forestry Commission. One percent of the fee shall be

1 appropriated to the Geneva County Volunteer Firefighters
2 Association. The fee shall be levied at a uniform rate rate
3 upon each dwelling and commercial building served by the
4 system. The term "commercial building" shall not apply to any
5 utility distribution or transmission poles or towers or
6 utility substations. The fee shall be collected, administered,
7 and enforced at the same time, in the same manner, and under
8 the same requirements and laws as are the ad valorem taxes of
9 the state. The property owner would be provided the same
10 rights in this situation as he or she would have in an ad
11 valorem tax situation.

12 (b) The board may provide that upon a person being
13 in default for more than 60 days in paying any service charge
14 or fee due, the person shall be liable to pay, in addition to
15 the service charge or fee, a reasonable late fee and any
16 reasonable attorney's fees incurred by the district in its
17 efforts to enforce payment of the service charge or fee
18 whether suit is filed or not.

19 (c) For the purposes of this act, a "dwelling" shall
20 be defined as any building, structure, or other improvement to
21 real property used or expected to be used as a dwelling or
22 residence for one or more human beings, including, but not
23 limited to:

24 (1) Any building, structure, or improvement
25 assessed, for the purposes of state and county ad valorem
26 taxation, as Class III single-family owner-occupied
27 residential property.

1 (2) A duplex or an apartment building.

2 (3) Residential property used to generate rental
3 income.

4 (4) Any manufactured home or house trailer used or
5 expected to be used as a dwelling or residence for one or more
6 human beings.

7 A building, structure, or other improvement shall be
8 classified as a "dwelling" for purposes of this act
9 notwithstanding the following:

10 (1) That it is wholly or partially vacant or
11 uninhabited at any time during the year for which a fire
12 protection and emergency medical service fee with respect
13 thereto is to be levied.

14 (2) That it is also used or expected to be used
15 simultaneously for a purpose, whether or not commercial in
16 nature, other than as a dwelling or residence as aforesaid.

17 (d) For the purposes of this act, a "commercial
18 building" shall be defined as any building, structure, or
19 other improvement to real property used or expected to be used
20 for commercial or business purposes including rental property.
21 The term "commercial building" shall not apply to any school,
22 church, senior citizens facility, or utility distribution or
23 transmission poles or towers, utility substations, or any
24 building used primarily for fire or emergency services, and
25 shall not apply to any building or structure used primarily
26 for agricultural production purposes by the owner or an
27 employee of an agricultural business or concern.

1 Section 13. (a) No service charge or fee shall be
2 levied unless the same has first been approved by the majority
3 of the votes cast at an election held hereunder by the
4 qualified electors residing within the district, or within the
5 proposed district.

6 (b) An election on the question levying a service
7 charge or fee in a proposed district may be held at the same
8 time that the election is held on the creation of the
9 district; provided that the petition for the election on the
10 question of the service charge or fee accompanies the petition
11 for the election on the establishment of the proposed district
12 as provided herein. An election on the question of a service
13 charge or fee may be held upon the board of the district
14 submitting to the judge of probate a petition for an election
15 as provided. The board shall file in the office of the judge
16 of probate a petition that he or she call an election in the
17 district on the question of whether the service charge or fee
18 proposed should be levied. No election shall be required to
19 refund overpaid service charges or fees to correct errors in
20 the assessment thereof or to terminate the assessment and
21 collection thereof upon withdrawal of a property owner from a
22 district as provided herein, all of which shall be effectuated
23 by written authorization of the president of the board.

24 (c) The petition shall state specially the charge or
25 fee for which it is proposed to be levied. The petition may
26 request that an election be held on more than one proposed
27 charge or fee. Upon the petition being filed with the probate

1 judge, he or she shall order an election to be held within the
2 time provided for by this act.

3 Section 14. (a) Any district created hereunder may
4 be abolished in the manner provided for by this section;
5 provided, however, that no district shall be abolished when it
6 has any indebtedness. All assets and equipment shall go to the
7 Geneva County Volunteer Firefighters Association.

8 (b) Upon the petition for abolition of a district,
9 conforming to the requirements set forth below, being filed
10 with the judge of probate, he or she shall order an election
11 on abolition of the district within the time provided, at
12 which the qualified electors residing within the district
13 shall be entitled to vote. The petition shall be signed by at
14 least 100 qualified electors of the district. It shall contain
15 a recital that the district is not indebted and it shall
16 request the judge of probate to order an election on whether
17 the district shall be abolished. Upon the officers canvassing
18 the returns of the election certifying that abolition of the
19 district was approved by a majority of the votes cast at the
20 election, the district shall be abolished.

21 Section 15. All laws or parts of laws which conflict
22 with this act are repealed.

23 Section 16. This act shall become effective
24 immediately following its passage and approval by the
25 Governor, or its otherwise becoming law.

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3 Senate

4 Read for the first time and referred to the Senate
5 committee on Local Legislation No. 1 02-MAR-10

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7 Read for the second time and placed on the calen-
8 dar 04-MAR-10

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10 Read for the third time and passed as amended ... 06-APR-10

11 Yeas 23
12 Nays 0

13 McDowell Lee
14 Secretary
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