

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

1 SB485

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With Notice and Proof

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6 ENROLLED, An Act,

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Relating to Geneva County; to provide for the

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establishment of fire districts for the purpose of preventing

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fires or for fire protection or for recognized scopes of

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practice of fire departments; providing for the manner in

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which the district may be created for any area; providing for

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the petition for a proposed district and the election thereon;

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providing for payment of the costs of elections; providing

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that no district shall be created unless the creation thereof

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has been approved by the majority of votes cast at an

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election; providing that if the creation of the proposed

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district is approved by the majority of votes cast at an

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election, the proposed district shall be created and shall

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constitute a public corporation; providing for the management

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and operation of each district; providing for the election of

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a fire district board, except the initial board made up of the

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existing board of the directors of each volunteer fire

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department, each being a public corporation; providing for the

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terms of office of the members of the board; providing for the

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officers' compensation, expense allowance, and duties of the

1 members of the board; defining the rights, power, and
2 authority of the district; authorizing any district to pledge
3 all or any part of its revenues, or to mortgage or otherwise
4 encumber all or any part of its property for the purpose of
5 securing the payment of the principal of and interest on any
6 of its obligations; authorizing any such district to levy and
7 collect service charges or fees subject to certain
8 limitations; and providing for the dissolution of any
9 district.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. This act shall apply only to Geneva
12 County.

13 Section 2. The following words and terms shall have
14 the following meanings:

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

17 (2) COUNTY. Geneva County.

18 (3) DISTRICT. The district created under this act
19 for establishing and maintaining a system for fighting or
20 preventing fires and performing recognized scopes of practice
21 of emergency services.

22 Section 3. Any area situated entirely within the
23 county may be established as a district for fighting fires
24 pursuant to this act. No land lying within the boundaries of a
25 municipality at the time a district is formed shall be

1 included in the district unless the municipality adopts a
2 resolution to be included in the district. Nothing in this act
3 shall be construed to limit or impede the right or ability of
4 a municipality to provide fire protection within its corporate
5 limits or its police jurisdiction.

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

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

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

23 (d) The petition for election on the establishment
24 of a district may be accompanied by a petition for an election
25 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

1 the costs assumed by the district requesting the special
2 election.

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

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

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

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

23 Section 9. No district shall be created unless the
24 creation thereof is approved by the majority of votes cast at
25 the election at which the proposed creation is submitted. Upon

1 the officers canvassing the returns of the election certifying
2 that the creation of the district was approved by the majority
3 of the votes cast at the election, the proposed district shall
4 be created and shall constitute a public corporation.

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

1 (b) A vacancy on the board shall be filled at the
2 next annual meeting for the unexpired term in the same manner
3 as herein required. The board may appoint a qualified elector
4 from the district in which the vacancy occurs who will serve
5 until the next annual meeting.

6 (c) The board shall elect annually from its own
7 number a president, secretary, and a treasurer. The members of
8 the board shall not be entitled to any compensation for their
9 services, but they shall be entitled to reimbursement for all
10 expenses incurred by them in the performance of their duties.

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

16 (1) To sue or be sued.

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

18 (3) To acquire, hold, and dispose of property, real
19 and personal, tangible and intangible, or interests therein
20 and to pay therefor in cash or credit, and to secure and
21 procure payment of all or any part of the purchase price
22 thereof on such terms and conditions as the board shall
23 determine.

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

1 (5) To pledge all or any part of its revenues,
2 mortgage, or otherwise encumber, all or any part of its
3 property for the purpose of securing the payment of the
4 principal of and interest on any of its obligations.

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

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

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

13 (9) To provide refunds of overpaid service charges
14 and fees previously collected by the district and to otherwise
15 correct errors made in assessment or collection of service
16 charges and fees.

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

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

21 (12) To enter into mutual assistance agreements and
22 response and coverage agreements with municipalities and other
23 governmental and public entities.

24 (13) To perform any and all of the foregoing acts
25 and to do any and all foregoing things under, through, or by

1 means of its own officers, agents, and employees, or by
2 contracts with any person, federal agency, or municipality.

3 (b) This act shall constitute the articles of
4 incorporation of the public corporation; however, the board
5 shall adopt bylaws for the governance of the district.

6 Section 12. (a) The expenses of establishing and
7 maintaining a district shall be paid for by the proceeds of a
8 fire protection fee which shall be levied and collected in an
9 amount sufficient to pay the expense. One percent of the fee
10 shall be appropriated to fund the Geneva County office of the
11 Alabama Forestry Commission. One percent of the fee shall be
12 appropriated to the Geneva County Volunteer Firefighters
13 Association. The fee shall be levied at a uniform rate
14 upon each dwelling and commercial building served by the
15 system. The term "commercial building" shall not apply to any
16 utility distribution or transmission poles or towers or
17 utility substations. The fee shall be collected, administered,
18 and enforced at the same time, in the same manner, and under
19 the same requirements and laws as are the ad valorem taxes of
20 the state. The property owner would be provided the same
21 rights in this situation as he or she would have in an ad
22 valorem tax situation.

23 (b) The board may provide that upon a person being
24 in default for more than 60 days in paying any service charge
25 or fee due, the person shall be liable to pay, in addition to

1 the service charge or fee, a reasonable late fee and any
2 reasonable attorney's fees incurred by the district in its
3 efforts to enforce payment of the service charge or fee
4 whether suit is filed or not.

5 (c) For the purposes of this act, a "dwelling" shall
6 be defined as any building, structure, or other improvement to
7 real property used or expected to be used as a dwelling or
8 residence for one or more human beings, including, but not
9 limited to:

10 (1) Any building, structure, or improvement
11 assessed, for the purposes of state and county ad valorem
12 taxation, as Class III single-family owner-occupied
13 residential property.

14 (2) A duplex or an apartment building.

15 (3) Residential property used to generate rental
16 income.

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

20 A building, structure, or other improvement shall be
21 classified as a "dwelling" for purposes of this act
22 notwithstanding the following:

23 (1) That it is wholly or partially vacant or
24 uninhabited at any time during the year for which a fire

1 protection and emergency medical service fee with respect
2 thereto is to be levied.

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

6 (d) For the purposes of this act, a "commercial
7 building" shall be defined as any building, structure, or
8 other improvement to real property used or expected to be used
9 for commercial or business purposes including rental property.
10 The term "commercial building" shall not apply to any school,
11 church, senior citizens facility, or utility distribution or
12 transmission poles or towers, utility substations, or any
13 building used primarily for fire or emergency services, and
14 shall not apply to any building or structure used primarily
15 for agricultural production purposes by the owner or an
16 employee of an agricultural business or concern.

17 Section 13. (a) No service charge or fee shall be
18 levied unless the same has first been approved by the majority
19 of the votes cast at an election held hereunder by the
20 qualified electors residing within the district, or within the
21 proposed district.

22 (b) An election on the question levying a service
23 charge or fee in a proposed district may be held at the same
24 time that the election is held on the creation of the
25 district; provided that the petition for the election on the

1 question of the service charge or fee accompanies the petition
2 for the election on the establishment of the proposed district
3 as provided herein. An election on the question of a service
4 charge or fee may be held upon the board of the district
5 submitting to the judge of probate a petition for an election
6 as provided. The board shall file in the office of the judge
7 of probate a petition that he or she call an election in the
8 district on the question of whether the service charge or fee
9 proposed should be levied. No election shall be required to
10 refund overpaid service charges or fees to correct errors in
11 the assessment thereof or to terminate the assessment and
12 collection thereof upon withdrawal of a property owner from a
13 district as provided herein, all of which shall be effectuated
14 by written authorization of the president of the board.

15 (c) The petition shall state specially the charge or
16 fee for which it is proposed to be levied. The petition may
17 request that an election be held on more than one proposed
18 charge or fee. Upon the petition being filed with the probate
19 judge, he or she shall order an election to be held within the
20 time provided for by this act.

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

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

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

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

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB485
Senate 06-APR-10
I hereby certify that the within Act originated in and passed
the Senate, as amended.

McDowell Lee
Secretary

House of Representatives
Passed: 14-APR-10

By: Senator Smith