

1 HB582
2 136085-10
3 By Representatives Rich and Long (N & P)
4 RFD: Local Legislation
5 First Read: 09-APR-13

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ENROLLED, An Act,

Relating to Marshall County; to provide that the Marshall County Commission, under certain conditions, may establish volunteer fire districts for the purpose of preventing fires or for fire protection or for recognized scopes of practice of fire departments; to provide for the manner in which a district may be formed; to authorize a referendum in each fire district to provide funding for the district through a fire protection service fee on each occupied residence, dwelling, or business; to provide for certain exemptions for the service fee; to provide for the collection and distribution of the funds derived from the service fee; to provide for the expending and accounting of funds; to provide for the treatment of funds upon dissolution or abandonment of a volunteer fire district; and to provide that the county shall be immune from certain liability.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall apply only to Marshall County.

Section 2. The Legislature declares that volunteer fire districts which receive funds pursuant to this act are organizations which are public in nature as they protect the health, safety, and welfare of the citizens of the county.

1 Section 3. The Marshall County Commission may
2 establish one or more volunteer fire districts within the
3 geographic boundaries of the county. No land lying within the
4 boundaries of a municipality at the time a district is formed
5 shall be included in a district unless the municipality adopts
6 a resolution to be included in a district. Nothing in this act
7 shall be construed to limit or impede the rights or ability of
8 a municipality to provide fire protection within its corporate
9 limits or its police jurisdiction.

10 Section 4. (a) The Marshall County Commission shall
11 request the Marshall County Association of Fire Departments
12 and Rescue Squads to develop a plan that defines the
13 requirements of a district, monitors its performance and
14 adherence to requirements, and provides for dissolution of the
15 volunteer fire district.

16 (b) Existing volunteer fire departments with their
17 respective geographic service coverage area as defined by
18 Marshall County E911 on the effective date of this act may be
19 established as a fire district pursuant to this act. The
20 department shall be certified by the Alabama Forestry
21 Commission, Section 9-3-17, Code of Alabama 1975, and an
22 existing member of the Marshall County Association of Fire
23 Departments and Rescue Squads. The requesting volunteer fire
24 department shall submit a request to the Marshall County
25 Association of Fire Departments and Rescue Squads

1 (Association) which shall review and verify the request
2 information pursuant to the Association's qualification plan
3 and then submit a recommendation to the Marshall County
4 Commission for the final decision of approval for a fire
5 district.

6 (c) New volunteer fire districts may be formed in
7 accordance with requirements defined by Section 9-3-17, Code
8 of Alabama 1975; the Marshall County Association of Fire
9 Departments and Rescue Squads plan provided for pursuant to
10 this act and Act 87-522 and Act 89-485; and approval by the
11 county commission.

12 Section 5. (a) After the county commission
13 establishes a fire district, the qualified electors of that
14 district may file a petition, signed by at least five percent
15 of the qualified electors in the fire district who voted in
16 the last general election, with the office of the judge of
17 probate who shall then order a referendum to be held in the
18 fire district on the question of establishing a fire
19 protection service fee for the fire district. The provisions
20 of Section 9 shall apply to all elections provided by this
21 act.

22 (b) The petition shall contain the name and
23 description of the fire district area and shall request the
24 judge of probate to call an election on the following
25 question:

1 "Do you favor the assessment of a fire service fee
2 in the amount of \$_____ (dollars) a month for the purpose of
3 funding fire protection services in this volunteer fire
4 district? Yes ___ No ___ "

5 (c) The fee shall not exceed ten dollars (\$10) a
6 month.

7 Section 6. (a) If a majority of the votes cast at
8 the election are affirmative votes, the fire service fee on
9 each residence, dwelling, and business within the geographic
10 boundaries of the fire district shall become effective on the
11 first day of the next month following approval and shall be
12 paid within one year following approval. For the purpose of
13 this act, a "dwelling" shall be defined as any building,
14 structure, or other improvement to real property used or
15 expected to be used as a dwelling or residence for one or more
16 human beings, including specifically and without limiting the
17 generality of the foregoing, (1) a building, structure, or
18 improvement assessed for purposes of state and county ad
19 valorem taxation, as Class III single-family owner-occupied
20 residential property, (2) a duplex or an apartment building,
21 and (3) any mobile home or house trailer. A building,
22 structure, or other improvement shall be classified as a
23 dwelling for the purposes of this act notwithstanding:

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

1 protection service fee with respect thereto is or is to be
2 levied; or

3 (ii) 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.

6 (b) The fire protection service fee shall not be
7 construed as a tax on property. The fees shall be levied for
8 the purpose of funding fire protection services to dwellings
9 and businesses under this act.

10 (c) The fire protection fee for a district may not
11 be increased for a period of five years after approval of the
12 initial fire protection service fee. Any increase in the
13 amount of the fee shall not be effective until after the
14 approval at a referendum election held for the purpose of
15 increasing the fee.

16 (d) If a majority of the votes cast at the election
17 are negative, another election for setting the amount of the
18 fire protection fee shall not be held for two years from the
19 time of the prior election.

20 Section 7. Any person who meets the requirements of
21 Section 40-9-19 and Section 40-9-21, Code of Alabama 1975, as
22 last amended, for the Over 65/Disability Special Homestead
23 Exemption shall be exempt from paying the fire protection
24 service fee.

1 Section 8. (a) The fire protection service fee shall
2 be collected, administered, and enforced as closely as
3 possible at the same time, in the same manner, and under the
4 same requirements and laws as are the ad valorem taxes of the
5 state. In the case of mobile homes, the fee shall be
6 collected, administered, and enforced as closely as possible
7 at the same time, in the same manner, and under the same
8 requirements and laws as the annual registration fee for
9 manufactured homes provided in Section 40-12-255 of the Code
10 of Alabama 1975. The proceeds of the collected fees, minus an
11 administration fee not to exceed five percent, shall be paid
12 to the respective volunteer fire districts.

13 (b) Funds paid to the volunteer fire districts shall
14 only be expended for fire protection and emergency services
15 purposes to include the purchase of vehicles and equipment,
16 daily operations, training, supplies, and insurances. Each
17 fire district receiving funds shall maintain financial records
18 in accordance with the Financial and Compliance Guidelines for
19 Volunteer Fire Departments, August 2009, of the state
20 Department of Examiners of Public Accounts.

21 (c) By September 15th of each year, the volunteer
22 fire district receiving fire protection service fees shall
23 file a financial statement with the county commission
24 detailing the receipt and expenditure of all funds generated
25 by this act during the previous 12-month period. The filing

1 shall also account for all unspent funds and whether the
2 unspent funds have been obligated. The county commission shall
3 supply the accounting forms to each eligible fire district.

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

9 (b) When a petition for the holding of an election
10 is filed with the judge of probate not less than 30 days and
11 not more than 90 days prior to some other election to be held
12 in the territory in which the election is sought by the
13 petition, the judge of probate shall order the election sought
14 by the petition to be held the same day as the other election
15 held. The county governing body shall pay for the necessary
16 expenses of advertising and conducting the election out of the
17 general funds of the county.

18 (c) If the petition is not filed at a time that will
19 permit the election sought thereby to be held at the same time
20 some other election is held, as herein provided, the judge of
21 probate shall order the election sought by petition to be held
22 on a day not less than 30 days nor more than 90 days from the
23 date on which the judge of probate enters the order with the
24 costs of the election assumed by the fire district requesting
25 the special election.

1 (d) The judge of probate shall give notice of any
2 election held under Section 5 by publishing for three weeks,
3 at least once a week, on the same day of each week, in a
4 newspaper of general circulation in the territory where the
5 election is to be held, a notice that on the day fixed for the
6 election, the location of the election, and the questions to
7 be voted on shall be submitted to the electors of the
8 territory.

9 Section 10. Upon dissolution or abandonment of any
10 eligible volunteer fire district, any remaining funds derived
11 from this act or any assets purchased with the funds derived
12 from this act, after all indebtedness has been satisfied,
13 shall be transferred to the Marshall County Association of
14 Fire Departments and Rescue Squads. The funds and assets shall
15 be reallocated to remaining volunteer fire districts that
16 provide fire protection services for the dissolved or
17 abandoned area. In the event there are no remaining volunteer
18 fire districts, the funds or assets shall be distributed to
19 remaining volunteer fire departments in the county. Upon
20 dissolution or abandonment of the fire district, the
21 collection of fire protection service fees shall cease unless
22 a new district is formed within 30 days to replace the
23 dissolved or abandoned district.

24 Section 11. A fire district shall be exempt from all
25 taxes levied by any county, municipality, or other political

1 subdivision of the state, including but not limited to,
2 license, utility, and excise taxes imposed in respect of the
3 privilege of engaging in any of the activities of the
4 district. The district shall be exempt from any fees, taxes,
5 or costs related to its incorporation, or recording of any
6 document in the office of the judge of probate in the county.

7 Section 12. The personnel of volunteer fire
8 districts provided for in this act shall not be considered as
9 employees, servants, or agents of the county and the members
10 of the county commission and the employees of the county shall
11 not be liable in either their official capacity or in private
12 capacity for the actions of the personnel of the volunteer
13 fire districts.

14 Section 13. The provisions of this act are
15 supplemental and shall not be construed to repeal any law not
16 in conflict with this act. The county commission of Marshall
17 County shall retain the right to set district lines except as
18 provided in this act.

19 Section 14. This act shall become effective
20 immediately upon its passage and approval by the Governor, or
21 upon otherwise becoming law.

