

1 HB582  
2 136085-8  
3 By Representatives Rich and Long (N & P)  
4 RFD: Local Legislation  
5 First Read: 09-APR-13

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9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
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13 Relating to Marshall County; to provide that the  
14 Marshall County Commission, under certain conditions, may  
15 establish volunteer fire districts for the purpose of  
16 preventing fires or for fire protection or for recognized  
17 scopes of practice of fire departments; to provide for the  
18 manner in which a district may be formed; to authorize a  
19 referendum in each fire district to provide funding for the  
20 district through a fire protection service fee on each  
21 occupied residence, dwelling, or business; to provide for  
22 certain exemptions for the service fee; to provide for the  
23 collection and distribution of the funds derived from the  
24 service fee; to provide for the expending and accounting of  
25 funds; to provide for the treatment of funds upon dissolution  
26 or abandonment of a volunteer fire district; and to provide  
27 that the county shall be immune from certain liability.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

17 Section 4. (a) The Marshall County Commission shall  
18 request the Marshall County Association of Fire Departments  
19 and Rescue Squads to develop a plan that defines the  
20 requirements of a district, monitors its performance and  
21 adherence to requirements, and provides for dissolution of the  
22 volunteer fire district.

23 (b) Existing volunteer fire departments with their  
24 respective geographic service coverage area as defined by  
25 Marshall County E911 on the effective date of this act may be  
26 established as a fire district pursuant to this act. The  
27 department shall be certified by the Alabama Forestry

1 Commission, Section 9-3-17, Code of Alabama 1975, and an  
2 existing member of the Marshall County Association of Fire  
3 Departments and Rescue Squads. The requesting volunteer fire  
4 department shall submit a request to the Marshall County  
5 Association of Fire Departments and Rescue Squads  
6 (Association) which shall review and verify the request  
7 information pursuant to the Association's qualification plan  
8 and then submit a recommendation to the Marshall County  
9 Commission for the final decision of approval for a fire  
10 district.

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

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

1 (b) The petition shall contain the name and  
2 description of the fire district area and shall request the  
3 judge of probate to call an election on the following  
4 question:

5 "Do you favor the assessment of a fire service fee  
6 in the amount of \$\_\_\_\_\_ (dollars) a month for the purpose of  
7 funding fire protection services in this volunteer fire  
8 district? Yes \_\_\_ No \_\_\_ "

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

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

1           (i) That it is wholly or partially vacant or  
2 uninhabited at any time during the year for which a fire  
3 protection service fee with respect thereto is or is to be  
4 levied; or

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

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

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

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

22           Section 7. Any person who meets the requirements of  
23 Section 40-9-19 and Section 40-9-21, Code of Alabama 1975, as  
24 last amended, for the Over 65/Disability Special Homestead  
25 Exemption shall be exempt from paying the fire protection  
26 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  
26 shall also account for all unspent funds and whether the

1 unspent funds have been obligated. The county commission shall  
2 supply the accounting forms to each eligible fire district.

3 Section 9. (a) The provision 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 the elections for fire district funding.

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

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

25 (d) The judge of probate shall give notice of any  
26 election held under Section 5 by publishing for three weeks,  
27 at least once a week, on the same day of each week, in a



1 newspaper of general circulation in the territory where the  
2 election is to be held, a notice that on the day fixed for the  
3 election, the location of the election, and the questions to  
4 be voted on shall be submitted to the electors of the  
5 territory.

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

21 Section 11. A fire district shall be exempt from all  
22 taxes levied by any county, municipality, or other political  
23 subdivision of the state, including but not limited to,  
24 license, utility, and excise taxes imposed in respect of the  
25 privilege of engaging in any of the activities of the  
26 district. The district shall be exempt from any fees, taxes,

1 or costs related to its incorporation, or recording of any  
2 document in the office of the judge of probate in the county.

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

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

15 Section 14. This act shall become effective  
16 immediately upon its passage and approval by the Governor, or  
17 upon otherwise becoming law.