

1 HB681  
2 148718-8  
3 By Representatives Tuggle and Mask (N & P)  
4 RFD: Local Legislation  
5 First Read: 30-APR-13

2  
3  
4  
5  
6  
7  
8  
9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
12

13 Relating to Elmore and Tallapoosa Counties; to  
14 authorize the formation of the South Lake Martin Fire District  
15 for fire protection and emergency medical services near Lake  
16 Martin in order to provide support to the Willow Point/Ourtown  
17 Fire District and the Windermere Fire District and provide  
18 enhanced services in these districts; and to authorize the  
19 assessment of a family and home protection fee for the purpose  
20 of funding the district.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. This act shall be operative in the Lake  
23 Martin area in Elmore and Tallapoosa Counties.

24 Section 2. For the purposes of this act, the  
25 following words shall have the following meanings:

26 (1) DISTRICT. A district to be known as the South  
27 Lake Martin Fire District created pursuant to this act for

1 establishing and maintaining a system for fighting and  
2 preventing fires and a system for the operation of emergency  
3 medical services.

4 (2) PROPOSED AREA. As used in Section 14, an area of  
5 land composed of the following tracts located in Elmore and  
6 Tallapoosa Counties, the legal description as set out herein:

7 TRACT 1: The Willow Point / Ourtown Fire District  
8 The Willow Point/Ourtown Fire District which  
9 includes the following property located in Elmore and  
10 Tallapoosa County, Alabama.

11 All that part of the SW 1/4 of the NW 1/4, the SW  
12 1/4, and the South 1/2 of the South 1/2 of the SW 1/4 of the  
13 SE 1/4 of Section 31, T-22-N, R-21-E, Tallapoosa County,  
14 Alabama.

15 All that part of the East 1/2 of Section 12 T-21-N,  
16 R-20-E located east of Oakachoy Creek and all above the full  
17 pool elevation of Lake Martin in Tallapoosa County, Alabama.

18 All of Section 6, Section 7, the west half and the  
19 SE 1/4 of Section 8, the NE 1/4 and the South 1/2 of Section  
20 13 located all above the full pool elevation of Lake Martin,  
21 the South half of Section 14 lying on the South side of Wicker  
22 Point Road, the South half of Section 15 lying on the South  
23 side of Wicker Point Road and Willow Point Cutoff Road, the  
24 South half and the NW 1/4 of Section 16, all of Section 17 and  
25 18 located on the east side of Oakachoy Creek and all above  
26 the full pool elevation of Lake Martin, the NE 1/4 of Section  
27 19, and all of Sections 20 - 28, and the East half of Section

1 29, all above the full pool of Lake Martin located in T-21-N,  
2 R-21-E, Tallapoosa County, Alabama.

3 All that part of the North half of Section 36 all  
4 above the full pool elevation of Lake Martin, the North 1/2 of  
5 the North 1/2 of Sections 34 and 35 all above the full pool  
6 elevation of Lake Martin, that portion of the West 1/2 of the  
7 South 1/2 of the North 1/2 of Section 34 lying North and West  
8 of the full pool of Lake Martin, all in T-21-N, R-21-E,  
9 Tallapoosa County, Alabama.

10 All that part of the West half of Section 18, the  
11 West half of Section 19, the West half of Section 30, and the  
12 NW 1/4 of Section 31 all lying west of the Tallapoosa River  
13 and all above the full pool elevation of Lake Martin, all in  
14 T-21-N, R-22-E, Tallapoosa County, Alabama.

15 All that part of the North half of Section 33 all  
16 above the full pool elevation of Lake Martin, T-21-N, R-21-E,  
17 Elmore County, Alabama.

18 TRACT 2: The Windermere Fire District

19 The Windermere Fire District which includes the  
20 following property located in Elmore and Tallapoosa County,  
21 Alabama.

22 All that part of the South 1/2 of Section 34 and 35,  
23 and the South 1/2 of the North 1/2 of Section 34 and 35, all  
24 above the full pool of Lake Martin, the South 1/2 of Section  
25 36, all in T-21-N, R-21-E, Tallapoosa County, Alabama.

26 All that part of the South 1/2 of Section 31, the SW  
27 1/4 of Section 32 lying west of the Tallapoosa River and all

1 above the full pool of Lake Martin, T-21-N, R-22-E, Tallapoosa  
2 County, Alabama.

3 All that part of the East 1/2 of the East 1/2 of  
4 Section 3 lying on the East side all above the full pool of  
5 Lake Martin, Sections 1 and 2, the NE 1/4 of Section 10,  
6 Section 11, 12, 13, the NE 1/4 of Section 14, and the North  
7 1/2 of the North 1/2 and the NE 1/4 of Section 24 all above  
8 the full pool elevation of Lake Martin, T-20-N, R-21-E, Elmore  
9 County, Alabama.

10 All that part of the West 1/2 of Section 5, Section  
11 6, Section 7, Section 18 and the NW 1/4 of Section 19 all  
12 lying along the west side of the Tallapoosa River all above  
13 the full pool elevation of Lake Martin, T-20-N, R-22-E, Elmore  
14 County, Alabama.

15 Less and Except:

16 Any land in the foregoing description that lies  
17 beneath waters of Lake Martin at the full pool elevation.

18 (3) QUALIFIED PROPERTY OWNERS. Persons, firms,  
19 corporations, or other legal entities who own property located  
20 in the proposed area and whose legal ownership is evidenced by  
21 a properly recorded deed in the office of judge of probate in  
22 the county in which the property is located.

23 Section 3. A district for fighting and preventing  
24 fires and providing emergency medical services, to be known as  
25 the South Lake Martin Fire District, may be established in  
26 Elmore and Tallapoosa Counties in the proposed area in the  
27 manner hereinafter provided. The South Lake Martin Fire

1 District shall provide support for the Willow Point/Ourtown  
2 Fire District and the Windermere Fire District and provide  
3 enhanced services in these districts.

4 Section 4. (a) Upon a petition being filed in the  
5 offices of the Judges of Probate of Elmore and Tallapoosa  
6 Counties, the judges of probate of both counties, acting  
7 jointly, shall order an election to be held in the proposed  
8 district on the question, or questions, on which the petition  
9 requests an election.

10 (b) The petition shall be signed by 50 qualified  
11 property owners which shall include owners of all parcels of  
12 property comprising 25 percent or greater, whether considered  
13 as single contiguous parcels or combinations of parcels, owned  
14 by a single person, firm, corporation, or other legal entity,  
15 of the acreage located within the boundaries of the proposed  
16 district.

17 (c) When filed in the offices of the Judges of  
18 Probate of Elmore and Tallapoosa Counties, each petition in  
19 each county shall be accompanied by a filing fee in the amount  
20 of two thousand five hundred dollars (\$2,500) to be applied to  
21 defray the costs of compiling a list of qualified voters.

22 (d) Qualified voters shall be those natural persons  
23 who are qualified property owners identified as such in the  
24 most recent tax assessment rolls in the proposed area.

25 (e) The petition shall contain the description of  
26 the area proposed to be established as a district, shall state  
27 the name of the proposed district, and shall request the

1 Judges of Probate of Elmore and Tallapoosa Counties to call an  
2 election on the following question: Shall there be created for  
3 the area a district for fire protection and emergency medical  
4 services?

5 (f) The petition for election on the establishment  
6 of the district may be accompanied by a petition for a  
7 referendum on the question of levying a proposed service  
8 charge, in the form of an assessed Family and Home Protection  
9 fee to be assessed on the basis and in the manner as provided  
10 in the petition, signed by the required number of qualified  
11 property owners residing within the proposed district. A  
12 petition for an election on the establishment of a district  
13 shall be deemed to be accompanied by a petition for an  
14 election on the question of levying a proposed service charge,  
15 in the form of an assessed Family and Home Protection fee, if  
16 the request for the election on the proposed district and the  
17 request for an election on the proposed service charge, in the  
18 form of a Family and Home Protection fee, are combined in a  
19 single petition.

20 Section 5. When a petition for the holding of an  
21 election is filed with the judges of probate, the judges of  
22 probate, acting jointly, shall order the election sought by  
23 the petition to be held on a day not less than 30 days nor  
24 more than 40 calendar days from the date on which the judges  
25 of probate enter the order. An election pertaining to the  
26 establishment of a district or portion thereof may not be held  
27 more often than once every year.

1           Section 6. The provisions of the election laws  
2 governing equipment at polling places, furnishing of supplies,  
3 appointment of election officers and canvassing returns at a  
4 general election shall apply to any election held pursuant to  
5 this act.

6           Section 7. The judges of probate shall give notice  
7 of an election held under this act by publishing for three  
8 weeks, at least once a week, on the same day of each week, in  
9 a newspaper of general circulation in the territory where the  
10 election is to be held. The notice shall state the day when  
11 the election will be held and the question to be submitted to  
12 the electors of the district.

13           Section 8. (a) When an election is held on the  
14 question of the establishment of a district, the County  
15 Commissions of Elmore and Tallapoosa Counties shall equally  
16 pay for the necessary expense of advertising and conducting  
17 the election out of the general funds of the counties. If the  
18 district is established, the district shall reimburse the  
19 counties for the expenses incurred by the counties with  
20 respect to the election.

21           (b) After a district has been established, the  
22 district shall pay the expense of any election held in the  
23 district.

24           Section 9. No district shall be created unless it is  
25 approved by the majority of votes cast by the qualified voters  
26 in the proposed district, provided that no person may vote  
27 more than once in the election. At any election on the



1 establishment of a district, the question of the establishment  
2 of the district shall be submitted separately. Upon the  
3 officers canvassing the returns of the election certifying  
4 that the creation of the district was approved by the majority  
5 of the votes of qualified voters cast at the election, the  
6 proposed district shall be created and constitute a public  
7 corporation. The Judges of Probate of Elmore and Tallapoosa  
8 Counties shall jointly certify the results of the election to  
9 the Secretary of State.

10 Section 10. (a) The affairs and business of the  
11 district shall be managed by a board of directors consisting  
12 of seven members who shall be appointed in the following  
13 manner:

14 (1) The county commissioner or commissioners in  
15 Elmore County in whose county commission district or districts  
16 the fire district created by this act is located shall  
17 collectively appoint one member who shall be a qualified  
18 property owner.

19 (2) The county commissioner or commissioners in  
20 Tallapoosa County in whose county commission district or  
21 districts the fire district created by this act is located  
22 shall collectively appoint one member who shall be a qualified  
23 property owner.

24 (3) The members of the Elmore County legislative  
25 delegation in whose representative district or districts any  
26 fire district created by this act is located shall

1 collectively appoint one member who shall be a qualified  
2 property owner.

3 (4) The members of the Tallapoosa County legislative  
4 delegation in whose representative district or districts any  
5 fire district created by this act is located shall  
6 collectively appoint one member who shall be a qualified  
7 property owner.

8 (5) The Fire Chief of the Windermere Fire District  
9 shall serve in his or her official capacity as a member of the  
10 commission.

11 (6) The Board of Directors of the Willow  
12 Point/Ourtown Fire District shall appoint an active member of  
13 the Willow Point/Ourtown Fire District to serve as a member of  
14 the commission.

15 The six members of the board as provided for above  
16 shall select a seventh member who shall be a qualified  
17 property owner as defined under subsection (d) of Section 4.

18 (b) If a vacancy occurs on the board, the appointing  
19 authority of such member shall appoint a member that meets the  
20 qualifications set out in this section for membership on the  
21 board to serve for the unexpired term.

22 (c) The board of directors shall elect annually from  
23 its own number a chair, a secretary, and a treasurer.

24 (d) The members of the board of directors shall not  
25 be entitled to any compensation for their services, but they  
26 shall be entitled to reimbursement for all reasonable expenses  
27 incurred by them in the performance of their duties.

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

6           (1) To sue and be sued.

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

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

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

16           (5) To pledge all or any part of its revenues, or  
17 mortgages, or otherwise encumber, all or any part of its  
18 property for the purpose of securing the payment of the  
19 principal of and interest on any of its obligations.

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

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

25           (8) To levy and collect service charges as provided  
26 in this act, subject to limitations provided in this act.

1           (9) To negotiate and enter into contracts for fire  
2 protection and emergency medical services with any  
3 municipality, volunteer fire department, or any other entity.

4           (10) To employ agents, servants, and attorneys.

5           (11) To perform all of the foregoing acts and to do  
6 any and all of the foregoing things under, through, or by  
7 means of its own officers, agents, and employees, or by  
8 contracts with any person, company, corporation, federal  
9 agency, or municipality.

10           (b) Notwithstanding any existing law, rule, or legal  
11 provision to the contrary, a municipality may enter into a  
12 contract or agreement with the fire district created pursuant  
13 to this act for the provision of fire or emergency services,  
14 or both, to the fire district.

15           (c) The property and income of the district, all  
16 bonds issued by the district, the income from the bonds,  
17 conveyances by or to the district, and leases, mortgages, and  
18 deeds of trust by or to the district shall be exempt from all  
19 taxation in the State of Alabama, including specifically the  
20 tax imposed by Section 40-21-82, Code of Alabama 1975. The  
21 district shall be exempt from all taxes levied by any county,  
22 municipality, or other political subdivision of the state,  
23 including, but without limitation to, license and excise taxes  
24 imposed in respect of the privilege of engaging in any of the  
25 activities that a district may engage in. The district shall  
26 not be obligated to pay or allow any fees, taxes, or costs to  
27 the judges of probate with respect to its incorporation, the

1 amendment of its certificate of incorporation, or the  
2 recording of a document. This section shall be retroactive and  
3 shall apply from the date the district was first established.

4 Section 12. (a) No service charge may be assessed  
5 unless the service charge is approved at a referendum election  
6 of the qualified voters in the district, provided that no  
7 person may vote more than once in the election.

8 (b) Any service charge assessed shall be collected  
9 by the revenue commissioner of the county where the property  
10 is located and distributed to the board of the district for  
11 fire protection and emergency medical services and for the  
12 administration of the district.

13 (c) The expenses of establishing and maintaining the  
14 district shall be paid for by the proceeds of the service  
15 charge, which shall be assessed and collected from qualified  
16 property owners within the district. The revenues collected  
17 from each district, less any costs of collection, shall be  
18 used for fire protection and emergency medical services in the  
19 district. The service charge shall be a personal obligation of  
20 the owner of the property served by the district and shall be  
21 due at the same time as the property tax payment.

22 (d) To secure the collection of the service charge,  
23 there shall be a lien against the property in favor of the  
24 district, which lien shall be enforceable by the sale thereof  
25 in the same manner in which foreclosure of a municipal  
26 assessment for public improvement is authorized. Each district  
27 that collects any service charge pursuant to this act shall be

1 bonded for an amount sufficient to cover three times the total  
2 revenue to be collected pursuant to the service charge on an  
3 annual basis.

4 (e) A volunteer fire department or fire and  
5 emergency medical services district that exists within the  
6 district established pursuant to this act may remain in  
7 operation and shall be a subdistrict of the district. The  
8 subdistrict shall submit a budget to the district, which shall  
9 allocate portions of the revenue from the service charge to  
10 the subdistrict. Each subdistrict shall be entitled to an  
11 allocation of no less than forty-five thousand dollars  
12 (\$45,000) per calendar year.

13 Section 13. (a) The petition for the election on the  
14 question of a service charge, which may accompany the petition  
15 for the election on the establishment of the proposed  
16 district, as provided in Section 4, shall be signed by owners  
17 of all parcels of property comprising 25 percent or greater,  
18 whether considered as single contiguous parcels or  
19 combinations of parcels owned by a single person, firm,  
20 corporation, or other legal entity, of the acreage located  
21 within the boundaries of the proposed district and shall state  
22 specifically the charge proposed to be assessed including the  
23 basis and manner to be assessed. The petition may request that  
24 an election be held on more than one proposed charge.

25 (b) No service charge shall be increased or  
26 decreased unless the same has been first approved by a

1 majority of the votes cast by the qualified voters in the  
2 district at an election held under this act.

3 (c) An election on the question of a service charge  
4 increase or decrease may not be held unless the board of  
5 directors of a district submits to the judges of probate of  
6 both counties a petition for the election as hereinafter  
7 provided, which petition must be signed by owners of all  
8 parcels of property comprising 25 percent or greater, whether  
9 considered as single contiguous parcels or combinations of  
10 parcels, owned by a single person, firm, corporation, or other  
11 legal entity, of the acreage located within the boundaries of  
12 the proposed district.

13 (d) The petition shall state specifically the  
14 proposed charge which shall be assessed and may request that  
15 an election be held on more than one proposed charge. Upon the  
16 petition, which petition must be signed by owners of all  
17 parcels of property comprising 25 percent or greater, whether  
18 considered as single contiguous parcels or combinations of  
19 parcels, owned by a single person, firm, corporation, or other  
20 legal entity, of the acreage located within the boundaries of  
21 the proposed district being filed with the judges of probate,  
22 the judges of probate, acting jointly, shall order an election  
23 to be held within the same time provided for by Section 5.  
24 Notice of the election shall be given as provided for by  
25 Section 7.

26 Section 14. (a) The district may be abolished in the  
27 manner provided for in this section; however, the district

1 shall not be abolished or diminished when it has any  
2 indebtedness.

3 (b) Upon the petition for abolition of the district  
4 being filed with the judges of probate, the judges of probate  
5 of both counties, acting jointly, shall order an election on  
6 the abolition of the district to be held in the district  
7 within the time provided for by Section 4. The qualified  
8 property owners residing within the district shall be entitled  
9 to vote in the election. The petition shall be signed by at  
10 least 300 qualified property owners of the district. It shall  
11 contain a recital that the district is not indebted and it  
12 shall request the judges of probate to order an election on  
13 whether the district shall be abolished. Upon the officers  
14 canvassing the returns of the votes and determining that  
15 abolition of the district was approved by a majority of the  
16 votes cast at the election, the district shall be abolished.

17 Section 15. The provisions of this act are  
18 severable. If any part of this act is declared invalid or  
19 unconstitutional, that declaration shall not affect the part  
20 which remains.

21 Section 16. All laws or parts of laws which conflict  
22 with this act are repealed.

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