

1 SB337  
2 181484-2  
3 By Senator McClendon (N & P)  
4 RFD: Local Legislation  
5 First Read: 04-APR-17

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9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
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13 Relating to St. Clair County; to authorize the  
14 establishment of the Davis Lake Volunteer Fire Department as a  
15 fire district for the purpose of preventing fires and for fire  
16 protection; providing for the manner in which the district may  
17 be created for any area; providing for the petition for a  
18 proposed district and the election thereon; providing for  
19 payment of the costs of elections; providing that no district  
20 shall be created unless the creation thereof has been approved  
21 by the majority of votes cast at an election; providing that  
22 if the creation of the proposed district is approved by the  
23 majority of votes cast at an election, the proposed district  
24 shall be created and shall constitute a public corporation;  
25 providing for the management and operation of the district;  
26 providing for the election of a fire district board, except  
27 the initial board made up of the existing board of the

1 directors of the volunteer fire department; providing for the  
2 duties of the members of the board; defining the rights,  
3 power, and authority of the district; authorizing any district  
4 to pledge all or any part of its revenues, or to mortgage or  
5 otherwise encumber all or any part of its property for the  
6 purpose of securing the payment of the principal of and  
7 interest on any of its obligations; authorizing any such  
8 district to levy and collect a service charge or fee subject  
9 to this act; and providing for the dissolution of any  
10 district.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. This act shall apply only in St. Clair  
13 County.

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

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

18 (2) COUNTY. St. Clair County.

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

23 Section 3. The Davis Lake Volunteer Fire Department  
24 may be established as a district for fighting fires pursuant  
25 to this act.

26 Section 4. (a) Upon any petition being filed in the  
27 office of the judge of probate, he or she shall order an

1 election to be held in the proposed district on the question  
2 or questions on which the petition requests an election. The  
3 petition shall be signed by at least 50 qualified electors  
4 residing within the boundaries of the proposed district.

5 (b) The petition shall state the name of the  
6 proposed district. The board of a district may change the name  
7 of a district by filing in the office of the judge of probate  
8 a copy of the resolution changing the name thereof, which copy  
9 shall be certified by the president of the board.

10 (c) The petition for election on the establishment  
11 of a district may be accompanied by a petition for an election  
12 on the question of levying a proposed service charge or fee  
13 which last named petition shall be signed by at least 50  
14 qualified electors residing within the proposed district. A  
15 petition for an election on the establishment of a district  
16 shall be deemed to be accompanied by a petition for an  
17 election on the question of levying a proposed service charge  
18 or fee and a petition for an election on the question of the  
19 proposed composition of the board, if the request for the  
20 election on the proposed district, the request for the  
21 election proposed service charge or fee, and the request for  
22 an election on the proposed composition of the board are  
23 combined in a single petition.

24 Section 5. (a) When a petition for the holding of  
25 any election is filed with the judge of probate not less than  
26 30 days and not more than 90 days prior to some other election  
27 to be held in the territory in which an election is sought by

1 the petition, the judge of probate shall order the election  
2 sought by the petition to be held the same day as the other  
3 election is held.

4 (b) If the petition is not filed at a time that will  
5 permit the election sought thereby to be held at the time some  
6 other election is held, as herein provided, the judge of  
7 probate shall order the election sought by the petition to be  
8 held on a day not less than 30 days nor more than 60 days from  
9 the date on which the judge of probate enters the order with  
10 the costs assumed by the district requesting the special  
11 election.

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

14 Section 6. The provisions of the election laws  
15 governing the registration of voters, equipment at polling  
16 places, furnishing of supplies, appointment of election  
17 officers, voting, and canvassing returns at a general election  
18 shall apply to any election for a fire district.

19 Section 7. The judge of probate shall give notice of  
20 any election held under this act by publishing for three weeks  
21 at least once a week, on the same day of each week, in a  
22 newspaper of general circulation in the territory where the  
23 election is to be held, a notice that on the day fixed for the  
24 election the questions to be voted on shall be submitted to  
25 the electors of the territory.

26 Section 8. Where an election is held on the question  
27 of the establishment of a district in conjunction with another

1 election, the governing body of the county shall pay for the  
2 necessary expenses of advertising and conducting the election  
3 out of the general funds of the county. The district shall pay  
4 the expense of any special election held on behalf of the  
5 district.

6 Section 9. No district shall be created unless the  
7 creation thereof is approved by the majority of votes cast at  
8 the election at which the proposed creation is submitted. Only  
9 residents of the district who are qualified electors may vote  
10 in an election. Upon the officers canvassing the returns of  
11 the election certifying that the creation of the district was  
12 approved by the majority of the votes cast at the election,  
13 the proposed district shall be created and shall constitute a  
14 public corporation.

15 Section 10. (a) The affairs and business of each  
16 district shall be managed by a board of directors established  
17 as provided in the bylaws of the district. The initial members  
18 shall consist of seven members from the existing board of  
19 directors of the volunteer fire department serving the  
20 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) Upon approval at an election as  
23 provided in this act, the expenses of establishing and  
24 maintaining a district shall be paid for by the proceeds of a  
25 fire protection fee which shall be levied and collected in an  
26 amount not to exceed one hundred fifty dollars (\$150) on each  
27 residence and commercial building in the district. The fee



1 shall be levied at a uniform flat rate upon each residence.  
2 The fee shall be collected at the same time and in the same  
3 manner as are the ad valorem taxes of the state. Any fee that  
4 is unpaid shall constitute a lien on property.

5 (b) The board may provide that upon a person being  
6 in default for more than 60 days in paying any service charge  
7 or fee due, the person shall be liable to pay, in addition to  
8 the service charge or fee, a reasonable late fee and any  
9 reasonable attorney's fees incurred by the district in its  
10 efforts to enforce payment of the service charge or fee  
11 whether suit is filed or not.

12 (c) For the purposes of this act, a "residence"  
13 shall be defined as any building, structure, or other  
14 improvement to real property used or expected to be used as a  
15 dwelling or residence for one or more human beings, including,  
16 but not limited to:

17 (1) Any building, structure, or improvement  
18 assessed, for the purposes of state and county ad valorem  
19 taxation, as Class III single-family owner-occupied  
20 residential property.

21 (2) A duplex or an apartment building.

22 (3) Residential property used to generate rental  
23 income.

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

1 (d) A building, structure, or other improvement  
2 shall be classified as a "dwelling" for purposes of this act  
3 notwithstanding the following:

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

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

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

22 Section 13. (a) No service charge or fee shall be  
23 levied unless the same has first been approved by the majority  
24 of the votes cast at an election held hereunder by the  
25 qualified electors residing within the district, or within the  
26 proposed district.

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

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

25           Section 14. (a) Funds from any service charge or fee  
26 paid to the district shall only be expended for fire

1 protection services, including training, supplies, and  
2 equipment.

3 (b) In addition to subsection (a), funds may be  
4 expended to purchase insurance, including liability insurance,  
5 to insure coverage of acts or omissions which are directly  
6 related to the functions of the district.

7 (c) The funds may not be expended for food, social  
8 activities, or fund-raising activities.

9 (d) After receiving the funds, the eligible district  
10 shall keep accurate records to verify that the funds were  
11 properly expended. The records of the district concerning the  
12 receipt and expenditure of funds shall be audited annually and  
13 a copy of the audit shall be filed with the St. Clair County  
14 Commission.

15 Section 15. (a) The district created hereunder may  
16 be abolished in the manner provided for by this section;  
17 provided, however, that no district shall be abolished when it  
18 has any indebtedness. All assets and equipment shall go to the  
19 St. Clair County Volunteer Firefighters Association.

20 (b) Upon the petition for abolition of a district,  
21 conforming to the requirements set forth below, being filed  
22 with the judge of probate, he or she shall order an election  
23 on abolition of the district within the time provided, at  
24 which the qualified electors residing within the district  
25 shall be entitled to vote. The petition shall be signed by at  
26 least 50 qualified electors of the district. It shall contain  
27 a recital that the district is not indebted and it shall

1 request the judge of probate to order an election on whether  
2 the district shall be abolished. Upon the officers canvassing  
3 the returns of the election certifying that abolition of the  
4 district was approved by a majority of the votes cast at the  
5 election, the district shall be abolished.

6 Section 16. All laws or parts of laws which conflict  
7 with this act are repealed.

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