

1 SB193
2 203496-3
3 By Senator McClendon (N & P)
4 RFD: Local Legislation
5 First Read: 18-FEB-20

A BILL
TO BE ENTITLED
AN ACT

Relating to St. Clair County; to amend Act 2017-265 of the 2017 Regular Session authorizing the establishment of the Davis Lake Volunteer Fire Department as a fire district for fire protection purposes; providing further for the levy and collection of fire protection service fees and for the operation of the district.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 2, 10, 11, 12, 13, 14, and 15 of Act 2017-265 of the 2017 Regular Session are amended to read as follows:

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

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

"(2) COUNTY. St. Clair County.

1 "(3) DISTRICT. The district created under this act
2 for establishing and maintaining a system for fighting or
3 preventing fires and performing recognized scopes of practice
4 of emergency services.

5 "(4) FIRE PROTECTION SERVICE CHARGE or FEE. The
6 annual fee to be paid by an owner of a structure not to exceed
7 seventy-five dollars (\$75) for a residence or commercial
8 building. This fee does not include any late fees or penalties
9 for late payment which may be assessed by the revenue
10 commissioner of the county and exclusively used for the
11 operation of the office of the revenue commissioner.

12 "Section 10. (a) The affairs and business of each
13 district shall be managed by a board of directors established
14 as provided in the bylaws of the district. The initial board
15 shall consist of seven members from the existing board of
16 directors of the volunteer fire department serving the
17 district.

18 "(b) A vacancy on the board shall be filled at the
19 next annual meeting for the unexpired term in the same manner
20 as herein required. The board may appoint a qualified elector
21 from the district in which the vacancy occurs who will serve
22 until the next annual meeting.

23 "(c) The board shall elect annually from its own
24 number a president, secretary, and a treasurer. The board
25 shall disseminate information concerning election of officers
26 and board members to residents and businesses of the district.
27 The board shall use newsletters, social media, and any other

1 reasonable and effective means to inform the public. Notice of
2 a meeting of the board shall be posted on an Internet website
3 maintained by the district not less than 30 days prior to the
4 meeting. Minutes of the board meeting shall be posted on the
5 website within 30 days after the meeting. The members of the
6 board shall not be entitled to any compensation for their
7 services, but they shall be entitled to reimbursement for all
8 expenses incurred by them in the performance of their duties.

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

14 "(1) To sue or be sued.

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

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

22 "(4) To acquire, own, operate, maintain, and improve
23 a system or systems.

24 "(5) To pledge all or any part of its revenues,
25 mortgage, or otherwise encumber, all or any part of its
26 property for the purpose of securing the payment of the
27 principal of and interest on any of its obligations.

1 "(6) To sell, lease, mortgage, or otherwise encumber
2 or dispose of all or any part of its property, as hereinafter
3 provided.

4 "(7) To contract debts, borrow money, and to issue
5 or assume the payment of obligations.

6 "(8) To levy and collect service charges or fees, as
7 herein provided, subject to the limitations prescribed in this
8 act. The fees shall not include any late fees assessed by the
9 board.

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

14 "(10) To immediately and automatically terminate the
15 assessment and collection of service charges and fees upon the
16 withdrawal of a property owner from the district as provided
17 herein and to inform the revenue commissioner and property
18 owner in writing that the termination has occurred.

19 "(11) To employ agents, servants, and attorneys.

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

23 "(13) To perform any and all of the foregoing acts
24 and to do any and all foregoing things under, through, or by
25 means of its own officers, agents, and employees, or by
26 contracts with any person, federal agency, or municipality.

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

4 "Section 12. (a) Upon approval at an election as
5 provided in this act, the expenses of establishing and
6 maintaining a district shall be paid for by the proceeds of a
7 fire protection service fee which shall be levied and
8 collected in an amount not to exceed ~~one hundred fifty dollars~~
9 ~~(\$150)~~ seventy-five dollars (\$75) on each residence and
10 commercial building in the district. The fee shall be levied
11 at a uniform flat rate upon each residence. The fee shall be
12 collected at the same time and in the same manner as are the
13 ad valorem taxes of the state. ~~Any fee that is unpaid shall~~
14 ~~constitute a lien on property.~~ Any exemption granted by the
15 revenue commissioner shall be consistent with the exemptions
16 from ad valorem tax.

17 "~~(b) The board may provide that upon a person being~~
18 ~~in default for more than 60 days in paying any service charge~~
19 ~~or fee due, the person shall be liable to pay, in addition to~~
20 ~~the service charge or fee, a reasonable late fee and any~~
21 ~~reasonable attorney's fees incurred by the district in its~~
22 ~~efforts to enforce payment of the service charge or fee~~
23 ~~whether suit is filed or not.~~ A reasonable late fee may be
24 assessed by the Revenue Commissioner of St. Clair County for
25 the payment of the fire protection service fee which shall be
26 consistent with other late fees or penalties assessed for late
27 ad valorem taxes.

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

6 "(1) Any building, structure, or improvement
7 assessed, for the purposes of state and county ad valorem
8 taxation, as Class III single-family owner-occupied
9 residential property.

10 "(2) A duplex or an apartment building.

11 "(3) Residential property used to generate rental
12 income.

13 "(4) Any manufactured home or house trailer used or
14 expected to be used as a dwelling or residence for one or more
15 human beings.

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

19 "(1) That it is wholly or partially vacant or
20 uninhabited at any time during the year for which a fire
21 protection and emergency medical service fee with respect
22 thereto is to be levied.

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

26 "(e) For the purposes of this act, a "commercial
27 building" shall be defined as any building, structure, or

1 other improvement to real property used or expected to be used
2 for commercial or business purposes including rental property.
3 The term "commercial building" shall not apply to any school,
4 church, senior citizens facility, or utility distribution or
5 transmission poles or towers, utility substations, or any
6 building used primarily for fire or emergency services, and
7 shall not apply to any building or structure used primarily
8 for agricultural production purposes by the owner or an
9 employee of an agricultural business or concern.

10 "Section 13. (a) No service charge or fee shall be
11 levied unless the same has first been approved by the majority
12 of the votes cast at an election held hereunder by the
13 qualified electors residing within the district, or within the
14 proposed district. No additional fee shall be assessed in
15 addition to seventy-five dollars (\$75) per residence or
16 commercial building. Any property owner may withdraw from the
17 district if the property owner has fire protection services
18 from another district or from a municipality as a result of
19 annexation into the municipality. If a property owner in the
20 district requests to withdraw from the district and the
21 withdrawal is not effectuated by the district, the property
22 owner may appeal the withdrawal to a board of review composed
23 of the local legislative delegation. Upon a majority vote of
24 the board of review, a letter confirming the withdrawal shall
25 be forwarded to the 911 agency and the revenue commissioner
26 approving withdrawal from the district, which removal shall be
27 effective immediately. No service charge or fee may be levied

1 upon the withdrawal of a property owner from the district. No
2 service charge or fee may be levied upon a property owner if
3 he or she contracts with a different fire department.

4 "(b) An election on the question levying a service
5 charge or fee in a proposed district may be held at the same
6 time that the election is held on the creation of the
7 district; provided that the petition for the election on the
8 question of the service charge or fee accompanies the petition
9 for the election on the establishment of the proposed district
10 as provided herein. An election on the question of a service
11 charge or fee may be held upon the board of the district
12 submitting to the judge of probate a petition for an election
13 as provided. The board shall file in the office of the judge
14 of probate a petition that he or she call an election in the
15 district on the question of whether the service charge or fee
16 proposed should be levied. No election shall be required to
17 refund overpaid service charges or fees to correct errors in
18 the assessment thereof or to terminate the assessment and
19 collection thereof upon withdrawal of a property owner from a
20 district as provided herein, all of which shall be effectuated
21 ~~by written authorization of the president of the board~~
22 automatically and immediately upon the effective date of the
23 written withdrawal. In addition, any property annexed into a
24 municipality shall be automatically and immediately withdrawn
25 from the district and the property owner shall not be liable
26 for any additional fees or costs.

1 ~~"(c) The petition shall state specially the charge~~
2 ~~or fee for which it is proposed to be levied. The petition may~~
3 ~~request that an election be held on more than one proposed~~
4 ~~charge or fee. Upon the petition being filed with the probate~~
5 ~~judge, he or she shall order an election to be held within the~~
6 ~~time provided for by this act. After the effective date of the~~
7 ~~act adding this language, the fire protection service charge~~
8 ~~or fee on each residence or commercial building shall be~~
9 ~~reduced to seventy-five dollars (\$75) per year.~~

10 "Section 14. (a) Funds from any service charge or
11 fee paid to the district shall only be expended for fire
12 protection services, including training, supplies, and
13 equipment.

14 "(b) In addition to subsection (a), funds may be
15 expended to purchase insurance, including liability insurance,
16 to insure coverage of acts or omissions which are directly
17 related to the functions of the district.

18 "(c) The funds may not be expended for food, social
19 activities, or fund-raising activities.

20 "(d) After receiving the funds, the eligible
21 district shall keep accurate records to verify that the funds
22 were properly expended. The records of the district concerning
23 the receipt and expenditure of funds shall be audited annually
24 and a copy of the audit and bylaws of the district shall be
25 filed with the St. Clair County Commission and copies shall be
26 readily available at no charge to the public. A copy of the

1 audit shall be posted on the website of the district within 30
2 days after completion of the audit.

3 "Section 15. (a) The district created hereunder may
4 be abolished in the manner provided for by this section;
5 provided, however, that no district shall be abolished when it
6 has any indebtedness. All assets and equipment shall go to the
7 St. Clair County Volunteer Firefighters Association to be
8 distributed to any fire department or departments that provide
9 services to the area previously served by the defunct
10 department.

11 "(b) Upon the petition for abolition of a district,
12 conforming to the requirements set forth below, being filed
13 with the judge of probate, he or she shall order an election
14 on abolition of the district within the time provided, at
15 which the qualified electors residing within the district
16 shall be entitled to vote. The petition shall be signed by at
17 least 50 qualified electors of the district. It shall contain
18 a recital that the district is not indebted and it shall
19 request the judge of probate to order an election on whether
20 the district shall be abolished. Upon the officers canvassing
21 the returns of the election certifying that abolition of the
22 district was approved by a majority of the votes cast at the
23 election, the district shall be abolished."

24 Section 2. This act shall become effective
25 immediately following its passage and approval by the
26 Governor, or its otherwise becoming law.