

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

1 SB193

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3  
4 With Notice and Proof

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6 ENROLLED, An Act,

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

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

21 "(2) COUNTY. St. Clair County.

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

1           "(4) FIRE PROTECTION SERVICE CHARGE or FEE. The  
2           annual fee to be paid by an owner of a structure not to exceed  
3           one hundred fifty (\$150) for a residence or commercial  
4           building. This fee does not include any late fees or penalties  
5           for late payment which may be assessed by the revenue  
6           commissioner of the county and exclusively used for the  
7           operation of the office of the revenue commissioner.

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

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

19          "(c) The board shall elect annually from its own  
20          number a president, secretary, and a treasurer. The board  
21          shall disseminate information concerning election of officers  
22          and board members to residents and businesses of the district.  
23          The board shall use newsletters, social media, and any other  
24          reasonable and effective means to inform the public. Notice of  
25          a meeting of the board shall be posted on an Internet website

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

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

12 "(1) To sue or be sued.

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

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

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

22 "(5) To pledge all or any part of its revenues,  
23 mortgage, or otherwise encumber, all or any part of its  
24 property for the purpose of securing the payment of the  
25 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

1 means of its own officers, agents, and employees, or by  
2 contracts with any person, federal agency, or municipality.

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

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

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

1 the payment of the fire protection service fee which shall be  
2 consistent with other late fees or penalties assessed for late  
3 ad valorem taxes.

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

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

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

14 "(3) Residential property used to generate rental  
15 income.

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

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

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

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

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

15           "Section 13. (a) No service charge or fee shall be  
16 levied unless the same has first been approved by the majority  
17 of the votes cast at an election held hereunder by the  
18 qualified electors residing within the district, or within the  
19 proposed district. No additional fee shall be assessed in  
20 addition to one hundred fifty dollars (\$150) per residence or  
21 commercial building. Any property owner may withdraw from the  
22 district if the property owner has fire protection services  
23 from another district or from a municipality as a result of  
24 annexation into the municipality. If a property owner in the  
25 district requests to withdraw from the district and the



1 withdrawal is not effectuated by the district, the property  
2 owner may appeal the withdrawal to a board of review composed  
3 of the local legislative delegation. Upon a majority vote of  
4 the board of review, a letter confirming the withdrawal shall  
5 be forwarded to the 911 agency and the revenue commissioner  
6 approving withdrawal from the district, which removal shall be  
7 effective immediately. No service charge or fee may be levied  
8 upon the withdrawal of a property owner from the district. No  
9 service charge or fee may be levied upon a property owner if  
10 he or she contracts with a different fire department.

11           "(b) An election on the question levying a service  
12 charge or fee in a proposed district may be held at the same  
13 time that the election is held on the creation of the  
14 district; provided that the petition for the election on the  
15 question of the service charge or fee accompanies the petition  
16 for the election on the establishment of the proposed district  
17 as provided herein. An election on the question of a service  
18 charge or fee may be held upon the board of the district  
19 submitting to the judge of probate a petition for an election  
20 as provided. The board shall file in the office of the judge  
21 of probate a petition that he or she call an election in the  
22 district on the question of whether the service charge or fee  
23 proposed should be levied. No election shall be required to  
24 refund overpaid service charges or fees to correct errors in  
25 the assessment thereof or to terminate the assessment and

1 collection thereof upon withdrawal of a property owner from a  
2 district as provided herein, all of which shall be effectuated  
3 ~~by written authorization of the president of the board~~  
4 automatically and immediately upon the effective date of the  
5 written withdrawal. In addition, any property annexed into a  
6 municipality shall be automatically and immediately withdrawn  
7 from the district and the property owner shall not be liable  
8 for any additional fees or costs.

9 "(c) ~~The petition shall state specially the charge~~  
10 ~~or fee for which it is proposed to be levied. The petition may~~  
11 ~~request that an election be held on more than one proposed~~  
12 ~~charge or fee. Upon the petition being filed with the probate~~  
13 ~~judge, he or she shall order an election to be held within the~~  
14 ~~time provided for by this act. After the effective date of the~~  
15 ~~act adding this language, the fire protection service charge~~  
16 ~~or fee on each residence or commercial building may not exceed~~  
17 ~~one hundred fifty dollars (\$150) per year.~~

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

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

1           "(c) The funds may not be expended for food, social  
2 activities or to pay any attorney's fees, or fund-raising  
3 activities.

4           "(d) After receiving the funds, the eligible  
5 district shall keep accurate records to verify that the funds  
6 were properly expended. The records of the district concerning  
7 the receipt and expenditure of funds shall be audited annually  
8 and a copy of the audit and bylaws of the district shall be  
9 filed with the St. Clair County Commission and copies shall be  
10 readily available at no charge to the public. A copy of the  
11 audit shall be posted on the website of the district within 30  
12 days after completion of the audit.

13           "Section 15. (a) The district created hereunder may  
14 be abolished in the manner provided for by this section;  
15 provided, however, that no district shall be abolished when it  
16 has any indebtedness. All assets and equipment shall go to the  
17 St. Clair County Volunteer Firefighters Association to be  
18 distributed to any fire department or departments that provide  
19 services to the area previously served by the defunct  
20 department.

21           "(b) Upon the petition for abolition of a district,  
22 conforming to the requirements set forth below, being filed  
23 with the judge of probate, he or she shall order an election  
24 on abolition of the district within the time provided, at  
25 which the qualified electors residing within the district

1 shall be entitled to vote. The petition shall be signed by at  
2 least 50 qualified electors of the district. It shall contain  
3 a recital that the district is not indebted and it shall  
4 request the judge of probate to order an election on whether  
5 the district shall be abolished. Upon the officers canvassing  
6 the returns of the election certifying that abolition of the  
7 district was approved by a majority of the votes cast at the  
8 election, the district shall be abolished."

9 Section 2. This act shall become effective  
10 immediately following its passage and approval by the  
11 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB193

Senate 05-MAY-20

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,  
Secretary.

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House of Representatives  
Passed: 07-MAY-20

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By: Senator McClendon