

1 SB451  
2 127582-2  
3 By Senators Whatley, Beasley and Dial (N & P)  
4 RFD: Local Legislation No. 1  
5 First Read: 26-APR-11

A BILL  
TO BE ENTITLED  
AN ACT

Relating to Lee County; to amend Sections 1, 4, 12, and 17 of Act 89-390 of the 1989 Regular Session (Acts 1989, p. 747), as amended by Act 2005-291 of the 2005 Regular Session (Acts 2005, p. 548), authorizing the county commission to establish fire fighting districts and providing for the levy of financial charge with respect to each unit of property under certain conditions, to further provide for definitions, to increase the maximum rate of the financial charge that may be levied in a district after approval at a referendum as provided in the act, to specify that the districts may provide emergency services and employ paid firefighters, and to further provide for ballots.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 1, 4, 12, and 17 of Act 89-390 of the 1989 Regular Session (Acts 1989, p. 747), as amended by

1 Act 2005-291 of the 2005 Regular Session (Acts 2005, p. 548)  
2 are amended to read as follows:

3 "Section 1. Definitions. The following words and  
4 phrases used in this Act, and others evidently intended as the  
5 equivalent thereof, shall, in the absence of clear implication  
6 herein otherwise, be given the following respective  
7 interpretations herein:

8 "Amendment No. 392." That certain amendment to the  
9 Constitution of Alabama of 1901, as amended, proposed by Act  
10 No. 80-313 enacted at the 1980 Regular Session of the  
11 Legislature.

12 "Authorizing Amendment." That certain amendment to  
13 the Constitution of Alabama of 1901, as amended, proposed by  
14 Act No. 88-479 enacted at the 1988 Regular Session of the  
15 Legislature.

16 "Code." The Code of Alabama 1975, as amended.

17 "Commission." The Lee County Commission or other  
18 governing body of the County.

19 "County." Lee County, Alabama.

20 "Commercial Building." Any building, structure or  
21 other improvement to real property (excluding, however, any  
22 Dwelling that

23 "(a) is subject to ad valorem taxation and has a  
24 Fair Market Value, according to the records of the Tax  
25 Assessor pertaining State and County ad valorem taxation for  
26 the fiscal or ad valorem tax year of the County with respect  
27 to which a Financial Charge is levied hereunder (or, if

1 appropriate in the case of any building, structure or other  
2 improvement subject, under the general laws of the State, to  
3 appraisal or assessment by the State department of revenue,  
4 according to the records of said State department of revenue),  
5 of not less than \$5,000, or (b) is exempt from property  
6 taxation (whether on an ad valorem basis or otherwise) or is  
7 otherwise not assessed (or subject to assessment) for State or  
8 County ad valorem taxation according to the records of the Tax  
9 Assessor (or, if appropriate, the State department of  
10 revenue), and has a market value or replacement cost  
11 (whichever is greater) of not less than \$5,000, including  
12 (without limiting the generality of the foregoing) any such  
13 building, structure or other improvement that is used or  
14 expected to be used for religious, educational or charitable  
15 purposes (such as, for example, a church, a school building or  
16 a hospital);

17 "it being understood, however, that any such  
18 building, structure or other improvement shall be classified  
19 as a "Commercial Building" for purposes of this Act  
20 notwithstanding

21 "(i) that it is vacant or unused at any time during  
22 the fiscal year for which a Financial Charge with respect  
23 thereto is or is to be levied, or

24 "(ii) that an Owner thereof may be the State, the  
25 County, a Municipality or any department, agency or  
26 instrumentality of any one or more thereof, any public  
27 corporation, district or authority, any nonprofit corporation

1 incorporated or organized under the laws of the State, or any  
2 other person whose property is, under the general laws of the  
3 State, exempt (in whole or in part) from ad valorem property  
4 taxation it being further understood, however, that the term  
5 "Commercial Building" shall not apply to any school, church,  
6 senior citizens facility, or utility distribution or  
7 transmission poles or towers, utility substations, or any  
8 building used primarily for fire or emergency services, and  
9 shall not apply to any building or structure used primarily  
10 for agricultural production purposes by the owner or an  
11 employee of an agricultural business or concern.

12 "District." A fire fighting district established  
13 pursuant to the provisions of Amendment No. 392 or any law  
14 providing for the implementation of the Authorizing Amendment  
15 or otherwise being in furtherance of the Authorizing Amendment  
16 and of Amendment No. 392.

17 "District Fire Protection Fund." A District Fire  
18 Protection Fund established and maintained in the County  
19 Treasury pursuant to the provisions of this Act.

20 "Dwelling." Any building, structure or other  
21 improvement to real property used or expected to be used as a  
22 dwelling or residence for one or more human beings, including  
23 specifically and without limiting the generality of the  
24 foregoing, (a) any such building, structure or improvement  
25 assessed, for purposes of State and County ad valorem  
26 taxation, as "Class III" single-family owner-occupied  
27 residential property, (b) a duplex, (c) every apartment

1 complex or an apartment building that is not part of an  
2 apartment complex, and (d) any mobile home or house trailer;  
3 it being understood, however, that any such building,  
4 structure or other improvement shall be classified as a  
5 "Dwelling" for purposes of this Act notwithstanding

6 "(i) that it is wholly or partially vacant or  
7 uninhabited at any time during the fiscal year for which a  
8 Financial Charge with respect thereto is or is to be levied,  
9 or

10 "(ii) that is also used or expected to be used  
11 simultaneously for a purpose (whether or not commercial in  
12 nature) other than as a dwelling or residence as aforesaid.

13 ""Fair Market Value." The fair and reasonable market  
14 value (or, if applicable, the current use value) of a  
15 Commercial Building or Dwelling (as the case may be), as such  
16 value is appraised by the Tax Assessor or the State department  
17 of revenue pursuant to applicable provisions of the Code,  
18 prior to the assessment thereof for purposes of State or  
19 County ad valorem taxation pursuant to Section 40-8-1 of the  
20 Code.

21 ""Financial Charge." A financial charge or  
22 assessment levied by the Commission in accordance with the  
23 provisions of the Authorizing Amendment and this Act.

24 ""Fire Protection Corporation." Any public  
25 corporation, district or authority that is

1           "(a) organized or incorporated under and pursuant to  
2 any law or laws of the State (or of any other state), whether  
3 heretofore or hereafter enacted, and

4           "(b) authorized [whether by statute, by its  
5 certificate or incorporation or similar corporate charter (as  
6 such may from time to time be amended), or otherwise] to  
7 provide or render fire protection, fire prevention and related  
8 services (regardless of whether such corporation, district or  
9 authority is also authorized to provide or render other  
10 services) and to make charges for the provision of such  
11 services, including (without limiting the generality of the  
12 foregoing) (i) any water, sewer and fire protection district  
13 organized or incorporated under and pursuant to the provisions  
14 of Chapter 89 of Title 11 of the Code (or predecessor  
15 statute), and (ii) any water, sewer and fire protection  
16 authority organized or incorporated under and pursuant to the  
17 provisions of Chapter 88 of Title 11 of the Code (or  
18 predecessor statute), but not including any Municipality (or  
19 any "District" as defined above in this Act).

20           ""Municipality." An incorporated city or town.

21           ""Owner." A person owning one or more Dwellings or  
22 Commercial Buildings.

23           ""Service Area." The geographic area or areas in  
24 which a Fire Protection Corporation is authorized [whether by  
25 statute, by its certificate of incorporation or similar  
26 corporate charter (as such may from time to time be amended),  
27 or otherwise] to provide or render fire protection, fire

1 prevention and related services, as such area or areas may  
2 from time to time exist.

3       ""State." The State of Alabama.

4       ""Tax Assessor." The Tax Assessor of the County.

5       ""Tax Collector." The Tax Collector of the County.

6       ""Treasurer." The County Treasurer of the County.

7       ""Unit of Property." Any Dwelling or Commercial  
8 Building, together with the real property on which it is  
9 situated or to which it is appurtenant.

10       ""Volunteer Fire Department." Any volunteer fire  
11 department with which the Commission may, pursuant to  
12 Amendment No. 392, enter into an agreement or agreements with  
13 respect to providing fire protection, fire prevention and  
14 related services and facilities within the County.

15       "The terms "herein," "hereby," "hereunder,"  
16 "hereof," and other equivalent words refer to this Act as an  
17 entirety and not solely to the particular section or portion  
18 hereof in which any such word is used. The definitions set  
19 forth herein shall be deemed applicable whether the words  
20 defined are used in the singular or plural. Whenever used  
21 herein any pronoun or pronouns shall be deemed to include both  
22 singular and plural and to cover all genders.

23       "Section 4. Authorization of Levy of Financial  
24 Charges. Subject to the provisions of Section 10 hereof  
25 (providing for the exemption of certain Dwellings from the  
26 levy of Financial Charges hereunder), the Commission is hereby  
27 authorized to levy, for each fiscal year of the County



1 commencing with such fiscal year beginning October 1, 1988,  
2 and in any District, a Financial Charge with respect to each  
3 Unit of Property located within the boundaries of such  
4 District as they may from time to time exist, at such rate  
5 (not exceeding, however, the maximum rate at the time  
6 authorized), and for such period of time, as the qualified  
7 electors of such District shall have approved in an election  
8 called and conducted in accordance with applicable provisions  
9 of this Act; provided, however, that no Financial Charge may  
10 in any event be levied hereunder with respect to any Unit of  
11 Property at a rate in excess of \$125.00 per fiscal year, which  
12 is adjusted every ten years after October 1, 2011 for  
13 inflation based on the Consumer Price Index table for all  
14 urban consumers, south urban region. The rate of any Financial  
15 Charge shall be uniform as to, each Unit of Property within  
16 the District in which such Financial Charge is to be levied  
17 and collected. The Commission shall levy each such Financial  
18 Charge not later than June 1 of each fiscal year of the County  
19 for which such Financial Charge is to be levied, but the  
20 Commission need not levy any such Financial Charge at the same  
21 time it levies County ad valorem or other taxes or any other  
22 Financial Charge; provided, however, that if the Commission  
23 shall fail in any fiscal year to levy any such Financial  
24 Charge, the levy thereof for the preceding fiscal year shall  
25 be continued unless the Commission is no longer authorized by  
26 law to levy such Financial Charge for such fiscal year or  
27 unless, on or before such June 1, the Commission adopts a

1 resolution indicating its intent (a) not to levy such  
2 Financial Charge for such fiscal year, or (b) to levy such  
3 Financial Charge for such fiscal year at a different rate; and  
4 provided further, that the Commission may, on or before July  
5 1, 1989, levy any Financial Charge with respect to the fiscal  
6 year of the County beginning October 1, 1988, if such  
7 Financial Charge has theretofore been approved as aforesaid by  
8 the qualified electors of the District in which such Financial  
9 Charge is to be levied.

10 "Section 12. Use of Proceeds from Financial Charges.  
11 The Treasurer shall establish or cause to be established in  
12 the County Treasury a District Fire Protection Fund for each  
13 District in which a Financial Charge is then being levied and  
14 collected, and shall maintain such District Fire Protection  
15 Fund, or cause it to be maintained, so long as such District  
16 exists and such Financial Charge is levied and collected  
17 therein. The proceeds derived for the levy and collection of a  
18 Financial Charge within any District and paid over to the  
19 Treasurer pursuant to the provisions of Section 9 hereof shall  
20 be deposited by him in the District Fire Protection Fund for  
21 such District. Moneys on deposit in each District Fire  
22 Protection Fund shall be kept separate and apart from other  
23 County revenues or funds and shall be used or disbursed, by or  
24 upon order of the Commission, solely to pay

25 "(a) expenses of providing fire protection, fire  
26 prevention and related services and facilities within the

1 District in which such Financial Charge is so levied and  
2 collected, including the employment of paid firefighters and

3 "(b) expenses of providing emergency medical  
4 services,

5 "(c) matching funds for federal grants,

6 "(d) expenses of levying and collecting the  
7 Financial Charge within such District, it being understood  
8 that for purposes of this Section 12 and applicable provisions  
9 of the Authorizing Amendment,

10 "(i) costs incurred in connection with conducting  
11 any election held in such District under or pursuant to the  
12 provisions of the Authorizing Amendment and this Act (or other  
13 applicable law or laws, if any) shall be deemed expenses of  
14 levying and collecting such Financial Charge,

15 "(ii) costs incurred in connection with the  
16 preparation, advertisement or enactment of this Act shall be  
17 deemed expenses of providing fire protection, fire prevention  
18 and related services or facilities within such District, and

19 "(iii) any such expenses or costs paid by the County  
20 in anticipation of reimbursement therefore out of the proceeds  
21 of such Financial Charge shall be deemed expenses of providing  
22 fire protection, fire prevention and related services and  
23 facilities or expenses of levying and collecting such  
24 Financial Charge (as the case may be), for which the County  
25 may be reimbursed out of said District Fire Protection Fund  
26 [provided, in the case of any such costs referred to in the  
27 preceding clause (ii), that the County may be reimbursed

1       therefore out of any District Fire Protection Funds then in  
2       existence and in amounts prorated among such Funds in such  
3       manner as the Commission may reasonably determine].

4               "Specifically, and without limiting the generality  
5       of the foregoing, the Commission may appropriate or disburse  
6       moneys on deposit in any District Fire Protection Fund to or  
7       for the benefit of any Volunteer Fire Department operating in  
8       the District for which such Fund has been established and  
9       maintained; and such Department shall use such moneys for  
10      payment of expenses incurred by it in providing fire  
11      protection, fire prevention and related services and  
12      facilities within such District, it being expressly  
13      understood, however, that nothing contained herein shall be  
14      construed to prohibit any Volunteer Fire Department whose  
15      expenses have been, are being or are to be paid wholly or  
16      partly with proceeds from any Financial Charge deposited in a  
17      District Fire Protection Fund from responding to calls for  
18      fire-fighting assistance in counties adjacent to the County or  
19      in Districts other than the District for which such Fund has  
20      been established and maintained. Any unappropriated and  
21      unexpended balance in a District Fire Protection Fund at the  
22      end of any fiscal year shall remain therein for appropriation  
23      and use during any fiscal year thereafter.

24              "The Commission may, to the extent permitted by  
25      Amendment No. 392, enter into an agreement or agreements with  
26      any Volunteer Fire Department with respect to the fire  
27      protection, fire prevention and related services and

1 facilities provided or to be provided by such Volunteer Fire  
2 Department within one or more Districts."

3 "Section 17. Ballots. When the County Commission  
4 calls for a special election as set forth in Section 13 of  
5 this act, the Commission shall also record in the minutes of  
6 the meeting for the special call the wording for the ballot.  
7 The wording shall not propose a rate or incrementing or rates  
8 which would exceed the maximum rate allowable under Section 4  
9 of this act. At a minimum the wording must include the  
10 authorized uses as outlined in Section 12 (a), (b), (c) and  
11 (d) of this act and the period of time such fee shall be in  
12 effect if approved. If the special election is for a renewal,  
13 the wording should state accordingly and the period of time  
14 the renewal shall be in effect if approved."

15 Section 2. This act shall become effective  
16 immediately following its passage and approval by the  
17 Governor, or its otherwise becoming law.