

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

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A BILL

10 TO BE ENTITLED

11 AN ACT

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

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BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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Section 1. Sections 1, 4, 12, and 17 of Act 89-390
27 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

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

"Section 12. Use of Proceeds from Financial Charges.

The Treasurer shall establish or cause to be established in the County Treasury a District Fire Protection Fund for each District in which a Financial Charge is then being levied and collected, and shall maintain such District Fire Protection Fund, or cause it to be maintained, so long as such District exists and such Financial Charge is levied and collected therein. The proceeds derived for the levy and collection of a Financial Charge within any District and paid over to the Treasurer pursuant to the provisions of Section 9 hereof shall be deposited by him in the District Fire Protection Fund for such District. Moneys on deposit in each District Fire Protection Fund shall be kept separate and apart from other County revenues or funds and shall be used or disbursed, by or upon order of the Commission, solely to pay

"(a) expenses of providing fire protection, fire 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.