

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

1 SB451

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3  
4 With Notice and Proof

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6 ENROLLED, An Act,

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

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Sections 1, 4, 12, and 17 of Act 89-390  
21 of the 1989 Regular Session (Acts 1989, p. 747), as amended by  
22 Act 2005-291 of the 2005 Regular Session (Acts 2005, p. 548)  
23 are amended to read as follows:

24 "Section 1. Definitions. The following words and  
25 phrases used in this Act, and others evidently intended as the

equivalent thereof, shall, in the absence of clear implication herein otherwise, be given the following respective interpretations herein:

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

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

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

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

"County." Lee County, Alabama.

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

"(a) is subject to ad valorem taxation and has a Fair Market Value, according to the records of the Tax Assessor pertaining State and County ad valorem taxation for the fiscal or ad valorem tax year of the County with respect to which a Financial Charge is levied hereunder (or, if appropriate in the case of any building, structure or other improvement subject, under the general laws of the State, to

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

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

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

22 "(ii) that an Owner thereof may be the State, the  
23 County, a Municipality or any department, agency or  
24 instrumentality of any one or more thereof, any public  
25 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

1       taxation, as "Class III" single-family owner-occupied  
2       residential property, (b) a duplex, (c) every apartment  
3       complex or an apartment building that is not part of an  
4       apartment complex, and (d) any mobile home or house trailer;  
5       it being understood, however, that any such building,  
6       structure or other improvement shall be classified as a  
7       "Dwelling" for purposes of this Act notwithstanding

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

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

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

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

1           ""Fire Protection Corporation." Any public  
2 corporation, district or authority that is

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

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

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

23           ""Owner." A person owning one or more Dwellings or  
24 Commercial Buildings.

1           ""Service Area." The geographic area or areas in  
2           which a Fire Protection Corporation is authorized [whether by  
3           statute, by its certificate of incorporation or similar  
4           corporate charter (as such may from time to time be amended),  
5           or otherwise] to provide or render fire protection, fire  
6           prevention and related services, as such area or areas may  
7           from time to time exist.

8           ""State." The State of Alabama.

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

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

11          ""Treasurer." The County Treasurer of the County.

12          ""Unit of Property." Any Dwelling or Commercial  
13          Building, together with the real property on which it is  
14          situated or to which it is appurtenant.

15          ""Volunteer Fire Department." Any volunteer fire  
16          department with which the Commission may, pursuant to  
17          Amendment No. 392, enter into an agreement or agreements with  
18          respect to providing fire protection, fire prevention and  
19          related services and facilities within the County.

20          "The terms "herein," "hereby," "hereunder,"  
21          "hereof," and other equivalent words refer to this Act as an  
22          entirety and not solely to the particular section or portion  
23          hereof in which any such word is used. The definitions set  
24          forth herein shall be deemed applicable whether the words  
25          defined are used in the singular or plural. Whenever used



1       herein any pronoun or pronouns shall be deemed to include both  
2       singular and plural and to cover all genders.

3               "Section 4. Authorization of Levy of Financial  
4       Charges. Subject to the provisions of Section 10 hereof  
5       (providing for the exemption of certain Dwellings from the  
6       levy of Financial Charges hereunder), the Commission is hereby  
7       authorized to levy, for each fiscal year of the County  
8       commencing with such fiscal year beginning October 1, 1988,  
9       and in any District, a Financial Charge with respect to each  
10      Unit of Property located within the boundaries of such  
11      District as they may from time to time exist, at such rate  
12      (not exceeding, however, the maximum rate at the time  
13      authorized), and for such period of time, as the qualified  
14      electors of such District shall have approved in an election  
15      called and conducted in accordance with applicable provisions  
16      of this Act; provided, however, that no Financial Charge may  
17      in any event be levied hereunder with respect to any Unit of  
18      Property at a rate in excess of \$125.00 per fiscal year, which  
19      is adjusted every ten years after October 1, 2011 for  
20      inflation based on the Consumer Price Index table for all  
21      urban consumers, south urban region. The rate of any Financial  
22      Charge shall be uniform as to, each Unit of Property within  
23      the District in which such Financial Charge is to be levied  
24      and collected. The Commission shall levy each such Financial  
25      Charge not later than June 1 of each fiscal year of the County

1 for which such Financial Charge is to be levied, but the  
2 Commission need not levy any such Financial Charge at the same  
3 time it levies County ad valorem or other taxes or any other  
4 Financial Charge; provided, however, that if the Commission  
5 shall fail in any fiscal year to levy any such Financial  
6 Charge, the levy thereof for the preceding fiscal year shall  
7 be continued unless the Commission is no longer authorized by  
8 law to levy such Financial Charge for such fiscal year or  
9 unless, on or before such June 1, the Commission adopts a  
10 resolution indicating its intent (a) not to levy such  
11 Financial Charge for such fiscal year, or (b) to levy such  
12 Financial Charge for such fiscal year at a different rate; and  
13 provided further, that the Commission may, on or before July  
14 1, 1989, levy any Financial Charge with respect to the fiscal  
15 year of the County beginning October 1, 1988, if such  
16 Financial Charge has theretofore been approved as aforesaid by  
17 the qualified electors of the District in which such Financial  
18 Charge is to be levied.

19 "Section 12. Use of Proceeds from Financial Charges.  
20 The Treasurer shall establish or cause to be established in  
21 the County Treasury a District Fire Protection Fund for each  
22 District in which a Financial Charge is then being levied and  
23 collected, and shall maintain such District Fire Protection  
24 Fund, or cause it to be maintained, so long as such District  
25 exists and such Financial Charge is levied and collected

1       therein. The proceeds derived for the levy and collection of a  
2       Financial Charge within any District and paid over to the  
3       Treasurer pursuant to the provisions of Section 9 hereof shall  
4       be deposited by him in the District Fire Protection Fund for  
5       such District. Moneys on deposit in each District Fire  
6       Protection Fund shall be kept separate and apart from other  
7       County revenues or funds and shall be used or disbursed, by or  
8       upon order of the Commission, solely to pay

9               "(a) expenses of providing fire protection, fire  
10       prevention and related services and facilities within the  
11       District in which such Financial Charge is so levied and  
12       collected, including the employment of paid firefighters and

13               "(b) expenses of providing emergency medical  
14       services,

15               "(c) matching funds for federal grants,

16               "(d) expenses of levying and collecting the  
17       Financial Charge within such District, it being understood  
18       that for purposes of this Section 12 and applicable provisions  
19       of the Authorizing Amendment,

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

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

5           "(iii) any such expenses or costs paid by the County  
6 in anticipation of reimbursement therefore out of the proceeds  
7 of such Financial Charge shall be deemed expenses of providing  
8 fire protection, fire prevention and related services and  
9 facilities or expenses of levying and collecting such  
10 Financial Charge (as the case may be), for which the County  
11 may be reimbursed out of said District Fire Protection Fund  
12 [provided, in the case of any such costs referred to in the  
13 preceding clause (ii), that the County may be reimbursed  
14 therefore out of any District Fire Protection Funds then in  
15 existence and in amounts prorated among such Funds in such  
16 manner as the Commission may reasonably determine].

17           "Specifically, and without limiting the generality  
18 of the foregoing, the Commission may appropriate or disburse  
19 moneys on deposit in any District Fire Protection Fund to or  
20 for the benefit of any Volunteer Fire Department operating in  
21 the District for which such Fund has been established and  
22 maintained; and such Department shall use such moneys for  
23 payment of expenses incurred by it in providing fire  
24 protection, fire prevention and related services and  
25 facilities within such District, it being expressly

1 understood, however, that nothing contained herein shall be  
2 construed to prohibit any Volunteer Fire Department whose  
3 expenses have been, are being or are to be paid wholly or  
4 partly with proceeds from any Financial Charge deposited in a  
5 District Fire Protection Fund from responding to calls for  
6 fire-fighting assistance in counties adjacent to the County or  
7 in Districts other than the District for which such Fund has  
8 been established and maintained. Any unappropriated and  
9 unexpended balance in a District Fire Protection Fund at the  
10 end of any fiscal year shall remain therein for appropriation  
11 and use during any fiscal year thereafter.

12 "The Commission may, to the extent permitted by  
13 Amendment No. 392, enter into an agreement or agreements with  
14 any Volunteer Fire Department with respect to the fire  
15 protection, fire prevention and related services and  
16 facilities provided or to be provided by such Volunteer Fire  
17 Department within one or more Districts."

18 "Section 17. Ballots. When the County Commission  
19 calls for a special election as set forth in Section 13 of  
20 this act, the Commission shall also record in the minutes of  
21 the meeting for the special call the wording for the ballot.  
22 The wording shall not propose a rate or incrementing or rates  
23 which would exceed the maximum rate allowable under Section 4  
24 of this act. At a minimum the wording must include the  
25 authorized uses as outlined in Section 12 (a), (b), (c) and

1 (d) of this act and the period of time such fee shall be in  
2 effect if approved. If the special election is for a renewal,  
3 the wording should state accordingly and the period of time  
4 the renewal shall be in effect if approved."

5 Section 2. This act shall become effective  
6 immediately following its passage and approval by the  
7 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

SB451  
Senate 03-MAY-11  
I hereby certify that the within Act originated in and passed  
the Senate.

Patrick Harris  
Secretary

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House of Representatives  
Passed: 31-MAY-11

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By: Senator Whatley