HB355

Z07EKK-1

By Representative Yarbrough (N & P)

RFD: Local Legislation

First Read: 21-Mar-24

A BILL

TO BE ENTITLED

AN ACT

Relating to Lawrence County; to provide for the formation of fire districts by the county commission and municipalities; to provide by voter approval for the funding of fire districts by fire protection fees with collection by the revenue commissioner; to further provide for election procedures; and to repeal Act 92-409 of the 1992 Regular Session (Acts 1992, p. 838), now appearing as Part 2, Article 14, Chapter 40 of Title 45, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act applies only to Lawrence County.

Section 2. For the purposes of this act, the following words have the following meanings:

(1) BUSINESS. Any occupation or enterprise that requires purchase of a business license, regardless of whether the occupation or enterprise is the sole occupant of a structure or shares the structure with at least one other occupation, enterprise, or a dwelling.

(2) DISTRICT BOARD. A board of directors of a fire district as authorized by the county commission or a municipal governing body pursuant to Chapter 89, Title 11, Code of

Alabama 1975.

(3) DWELLING. A structure that is inhabited for at least a part of a calendar year as a residence by at least one individual regardless of whether it is also used for a nonresidential purpose, including all of the following:

a. A structure assessed for the purpose of ad valorem taxation as a Class III single-family, owner-occupied residential property.

b. A unit in a condominium, duplex, or apartment building.

c. A manufactured home, mobile home, or house trailer.

(4) INCORPORATED AREA. Any area within Lawrence County which is within the corporate limits of a municipality.

(5) LEVY. Any introduction of a fire protection fee or the increase of an existing fire protection fee.

(6) MUNICIPAL GOVERNING BODY. The governing body of a municipality as defined in Section 11-89-1, Code of Alabama 1975.

(7) UNINCORPORATED AREA. Any area within Lawrence County which is outside the corporate limits of a municipality.

Section 3. (a) Any volunteer fire department that serves an area within Lawrence County may apply to incorporate as a fire district pursuant to Chapter 89, Title 11, Code of Alabama 1975.

(b) The application shall be filed with the county commission if the proposed fire district is for an unincorporated area or with the municipal governing body and

the county commission if the proposed fire district includes incorporated and unincorporated areas.

(c) A fire district authorized by the county commission, or the county commission and a municipal governing body if applicable, may upon incorporation provide for its governance under bylaws best suited to the needs of the fire district.

Section 4. (a) Fire protection may be funded by a fee collected from a business or dwelling located in any fire district.

(b) A fire protection fee may not be assessed on any of the following:

(1) A school, church, hospital, or senior care facility.

(2) A building used for fire protection or emergency rescue service.

(3) A building or structure used primarily for agricultural purposes.

(4) A structure or any part of a structure occupied by a political subdivision of the State of Alabama.

(5) Any structure owned and used exclusively by any fraternal veterans organization, community service organization, or fraternal lodge as provided in Section 40-9-1, Code of Alabama 1975.

(6) Any structure owned or used by the Alabama National Guard.

(7) The dwelling of any individual who is 65 years of age or older having a net annual taxable income of twelve

thousand dollars ($12,000) or less as shown on that individual's latest United States income tax return or, if the individual is not required to file a United States income tax return, as shown by an affidavit attesting that the net annual taxable income for the preceding tax year was twelve thousand dollars ($12,000) or less.

(c)(1) Fire protection fee revenue shall only be spent on the expenses of providing fire protection and related emergency services within the district in which the fee is collected, including training, salaries, supplies, administration, buildings, capital improvements, equipment, insurance, and professional services.

(2) Fire protection fee revenue may not be spent for food and drink, social activities, or fundraising.

Section 5. (a) A municipal governing body shall determine, in consultation with the district board, the amount of any fire protection fee to be levied in that municipality's incorporated area of a fire district and approve the proposed fee by ordinance without an election.

(b)(1) A fire protection fee for an unincorporated area may not be levied unless the fee has been approved for collection by the county revenue commissioner by a majority of the votes cast by the qualified electors residing in the unincorporated area of a fire district according to the following steps:

a. A district board shall determine the proposed amount of a fire protection fee for an unincorporated area of a fire district subject to approval by the county commission.

b. Immediately upon approval of the proposed amount by the county commission, the county commission shall pass a resolution requesting that the judge of probate call an election on one of the following questions:

1. "Do you favor the assessment of a fee in the amount of $__ a month, to be collected annually with property tax payments by the county revenue commissioner for the purpose of funding fire protection services in this fire district?

Yes__ No__."

2. "Do you favor raising the existing fee from the current amount of $__ a month to the amount of $__ a month, to be collected annually with property tax payments by the county revenue commissioner for the purpose of funding fire protection in this fire district?

Yes__ No__."

c. When the county commission has filed the resolution with the office of the judge of probate, the judge of probate shall order an election on the question to be held in the fire district not less than 60 nor more than 360 days from the date of submission of the request. The judge of probate may order that the vote be taken in conjunction with the next scheduled statewide or countywide election.

d. The county commission shall pay all expenses of the election held in the fire district unless the election is held in conjunction with a statewide or countywide election, in which case the district board shall pay all expenses of the election not otherwise reimbursed by a governmental agency.

e. The district board shall be responsible for

publishing the notice of the election, which shall specify the amount of the fire protection fee proposed to be levied. No later than 30 days before the election, the notice shall be published by posting it on the website of the county, at the office of the county commission, and prominently on or within at least three public or commercial buildings located within the unincorporated area of the fire district which are frequented by the public.

(2) If a majority of qualified electors in the unincorporated area of a fire district approve the levy of the fire protection fee, another election on levy of a fire protection fee may not be held within five years of the election. If a majority of the qualified electors in the unincorporated area of a fire district disapprove the levy of the fire protection fee, another election on levy of the fire protection fee may not be held within two years of the election.

(c) Any fire protection fee levied pursuant to this section shall be collected by the revenue commissioner of the county.

(1) The fire protection fee as levied shall be assessed on the basis of a year beginning October 1 and ending September 30, with a new assessed rate starting on the October 1 immediately following approval by the municipal governing body or the qualified electors.

(2) The fire protection fee shall be assessed at the same rate for a business and a dwelling.

(3) The fire protection fee shall be collected at the

same time each year as ad valorem taxes.

(4) The revenue commissioner of the county shall dispense the fire protection fee revenue to the fire district on terms as agreed upon by the revenue commissioner and the district board.

(5) The district board may provide that when a person has been delinquent for more than 60 days in paying the annual fire protection fee due, the person shall be liable for, in addition to the fire protection fee, a reasonable late fee subject to the approval of the county commission or the municipal governing body and any costs and attorney fees incurred by the fire district in collecting the fire protection fee.

Section 6. (a) This act does not supersede any valid act relating to fire service fees in the county.

(b) If a fire protection fee has not been levied for any unincorporated area pursuant to section 5, any district board may fix, revise, and collect a reasonable fee for fire protection as provided under Chapter 89, Title 11, Code of Alabama 1975.

Section 7. No fire district shall have the power to exercise eminent domain.

Section 8. A fire district shall have primary responsibility in its area as defined pursuant to Chapter 89, Title 11, Code of Alabama 1975, for all fire and related emergency incidents that are not the primary responsibility of law enforcement authorities.

Section 9. Any individual serving as chief of a fire

district created pursuant to this act, at the request of the state Fire Marshal, shall provide support and assistance in carrying out the duties imposed by Article 1, Chapter 19, Title 36, Code of Alabama 1975.

Section 10. Act 92-409 of the 1992 Regular Session (Acts 1992, p. 838), now appearing as Part 2, Article 14, Chapter 40 of Title 45, Code of Alabama of 1975, providing for the levy of a fire protection services and emergency medical care fee, is repealed.

Section 11. This act shall become effective on October 1, 2024.