

1 HB4  
2 171042-1  
3 By Representative Forte (N & P)  
4 RFD: Local Legislation  
5 First Read: 03-AUG-15

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9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
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13 Relating to Russell County; to provide for the  
14 support of volunteer fire departments delivering fire  
15 protection services and emergency medical services; to levy a  
16 fire protection service fee on certain owners of residences  
17 and commercial buildings outside the corporate limits of the  
18 City of Phenix City; to provide for certain exemptions; to  
19 provide for the purposes and uses of funds generated by the  
20 fee; to provide for the collection of funds derived from the  
21 fee; to provide for the distribution of funds derived from the  
22 fee to eligible volunteer fire departments and to the Russell  
23 County Firefighters Association; to provide for the expending  
24 and accounting of the funds; to provide for the treatment of  
25 funds upon dissolution or abandonment of an eligible volunteer  
26 fire department; to provide that the county shall be immune  
27 from certain liability; and to provide for a referendum.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. This act shall apply to all portions of  
3 Russell County except that portion of Russell County which  
4 lies within the city limits of the City of Phenix City.

5 Section 2. The Legislature hereby declares that  
6 eligible volunteer fire departments and the Russell County  
7 Firefighters Association that receive funds pursuant to this  
8 act are nonprofit organizations which are public in nature, as  
9 they protect the health, safety, and welfare of the citizens  
10 of the county.

11 Section 3. For the purposes of this act, the  
12 following terms shall have the following meanings:

13 (1) COMMERCIAL BUILDING. Any building, unit,  
14 structure, or other improvement to real property used or  
15 expected to be used for commercial or business purposes,  
16 including rental or lease property. This term may not apply to  
17 any school, church, senior citizen facility, any local,  
18 county, state or federal government owned buildings, water  
19 authority owned buildings, or any building used primarily for  
20 volunteer fire services and may not apply to any building or  
21 structure used primarily for agricultural purposes or poultry  
22 production by the owner or an employee of an agricultural or  
23 poultry business or concern. The terms commercial building,  
24 commercial business, or residence shall not include any  
25 utility distribution or transmission poles or towers, or  
26 utility substations.

1 (2) ELIGIBLE VOLUNTEER FIRE DEPARTMENT. A certified  
2 nonprofit volunteer fire department located in Russell County  
3 that is certified under the Alabama Forestry Commission  
4 guidelines and is a member in good standing of the Russell  
5 County Firefighters Association.

6 (3) RESIDENCE. Any building, structure, or other  
7 improvement to real property used or expected to be used as a  
8 dwelling or residence for one or more human beings, including,  
9 but not limited to, any of the following:

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

13 b. Any mobile home or house trailer used or expected  
14 to be used as a dwelling or residence for one or more human  
15 beings.

16 c. Any unit in a duplex or apartment building.

17 d. Any residential property used to generate  
18 revenue.

19 e. Any building, structure, or other improvement  
20 that is wholly or partially vacant or uninhabited at any time  
21 during the year for which a fire protection service fee with  
22 respect thereto is to be levied.

23 f. Any building, structure, or other improvement  
24 that is used or expected to be used simultaneously for a  
25 purpose, whether or not commercial in nature, other than as a  
26 residence.

1                   Section 4. The purposes and uses of the funds  
2 generated by this act are to enable all participating eligible  
3 volunteer fire departments in Russell County to lower their  
4 ISO ratings and to provide fire protection services and  
5 emergency medical services to the citizens of the county. All  
6 eligible volunteer fire departments shall attain and maintain  
7 an ISO rating of 8/10 or below within two years of the  
8 effective date of this act. If a department fails to maintain  
9 the minimum ISO rating, then the Russell County Commission may  
10 consider consolidating that department into the remaining  
11 eligible departments and distribute its funds based on the  
12 eligible residences and commercial buildings to the acquiring  
13 departments.

14                   Section 5. (a) There is hereby levied on the owner  
15 of each residence in Russell County outside the corporate  
16 limits of the City of Phenix City, a fire protection service  
17 fee of fifty dollars (\$50) per year and on each commercial  
18 business at a specified location, a fire protection service  
19 fee of one hundred dollars (\$100) per year.

20                   (b) The fire protection service fee shall not be  
21 construed as a tax on property. The fee shall be levied for  
22 the purposes of funding fire protection services and emergency  
23 medical services under this act.

24                   (c) Any person age 65 or older exempted from paying  
25 property tax in Russell County in part or in whole shall also  
26 be exempted from paying the fee levied by this act.

1           (d) (1) Any person less than the age of 65 and having  
2           an annual adjusted gross income of twelve thousand dollars  
3           (\$12,000) or less, as shown on the latest United States income  
4           tax return of the person or of the person and his or her  
5           spouse, may apply for an exemption annually and shall be  
6           exempted from paying the fee levied by this act for the  
7           principal residence of the household, provided the person  
8           seeking to claim the exemption shall present proof of income  
9           to the county administrator no later than July 1 of any year  
10          in which the exemption is desired.

11           (2) In the event that a person or the person and his  
12          or her spouse are not required to file a United States income  
13          tax return, then an affidavit indicating that the annual gross  
14          income of the person or the person and his or her spouse for  
15          the preceding taxable year was twelve thousand dollars  
16          (\$12,000) or less shall be sufficient proof.

17           (3) The exemption under this subsection shall apply  
18          only so long as the annual gross income of the person or of  
19          the person and his or her spouse is twelve thousand dollars  
20          (\$12,000) or less and shall be requested each year in which  
21          the exemption is desired.

22           (e) The fee levied by this act shall be assessed  
23          unless application for exemption is submitted to the Russell  
24          County Commission, or its designee, and approved.

25           (f) Any person who knowingly provides false or  
26          misleading information in order to obtain an exemption under  
27          this section shall lose his or her household exemption.

1           Section 6. (a) The fire protection service fee shall  
2 be collected, administered, and enforced in the same manner,  
3 and under the same requirements and laws, as are the ad  
4 valorem taxes of this state. In the case of mobile homes, the  
5 fee shall be collected, administered, and enforced at the same  
6 time, in the same manner, and under the same requirements and  
7 laws as the annual registration fee for manufactured homes  
8 provided in Section 40-12-255 of the Code of Alabama 1975.

9           (b) The proceeds of the fee shall be paid into a  
10 special county fire services fund monthly. Within 30 days of  
11 payment into the special fund, the county commission shall  
12 transfer the funds to the Russell County Fire Fighters  
13 Association and within 20 days of receipt of the funds from  
14 the county commission, the Russell County Fire Fighters  
15 Association shall further distribute the funds to the eligible  
16 volunteer fire departments in the following manner:

17           (1) 32.5 percent of the fee shall be distributed  
18 among the eligible volunteer fire departments in the county in  
19 equal shares.

20           (2) 67.5 percent of the fee shall be distributed  
21 among the eligible volunteer fire departments based on the  
22 number of eligible residences and commercial buildings in  
23 their respective fire districts as defined by E-911 protective  
24 districts or other methods approved by majority vote of the  
25 Russell County Commission based on the number of eligible  
26 residences and commercial buildings located outside the  
27 corporate limits of Phenix City.

1           Section 7. (a) Funds paid to the eligible volunteer  
2 fire departments shall only be expended for fire protection  
3 services and emergency medical services, including training,  
4 supplies, and equipment.

5           (b) In addition to subsection (a), funds may be  
6 expended to purchase insurance, including liability insurance,  
7 to insure coverage of acts or omissions which are directly  
8 related to the functions of an eligible volunteer fire  
9 department which are committed by an eligible volunteer fire  
10 department and the personnel of an eligible volunteer fire  
11 department.

12           (c) The funds may not be expended for food, social  
13 activities, or fund-raising activities.

14           (d) After receiving the funds, the eligible  
15 volunteer fire departments shall keep accurate records to  
16 verify that the funds were properly expended.

17           (e) With regard to the administration of the fees  
18 levied by this act, the Russell County Commission shall  
19 exercise regulatory control and supervision over the fees and  
20 may adopt rules and regulations as needed to meet the  
21 requirements of this act, including an increase or decrease in  
22 the amount of the fire protection service fee needed to meet  
23 the requirements of this act.

24           (f) Should the Russell County Commission, in its  
25 sole discretion, find or determine that funds provided for by  
26 this act have been improperly expended by an eligible  
27 volunteer fire department, the department that has improperly



1 expended the funds shall reimburse and refund to the Russell  
2 County Commission all the funds found by the county commission  
3 to have been improperly expended and shall pay a penalty in  
4 the amount equal to 10 percent of all improperly expended  
5 funds. The returned improperly expended funds and any  
6 penalties shall be transferred from the Russell County  
7 Commission to the Russell County Fire Fighters Association for  
8 disbursement in equal amounts to the remaining eligible  
9 volunteer fire departments in Russell County.

10 (g) Any eligible volunteer fire department that  
11 fails to comply with this act, at the discretion of the  
12 Russell County Commission, may be deemed to have forfeited the  
13 funds generated by this act and shall be subject to the  
14 penalties provided in this section.

15 Section 8. (a) Upon dissolution or abandonment of  
16 any eligible volunteer fire department, any remaining funds  
17 derived from this act or any assets purchased with funds  
18 derived from this act, after all lawful indebtedness has been  
19 satisfied, shall be transferred to the county commission.

20 (b) If an eligible volunteer fire department is  
21 abandoned or dissolved, the county commission shall equally  
22 divide and transfer the funds to the remaining eligible  
23 volunteer fire departments in good standing with the Russell  
24 County Firefighters Association and the Alabama Forestry  
25 Commission.

26 Section 9. The personnel of eligible volunteer fire  
27 departments or the volunteer fire association provided for in

1 this act may not be considered employees, servants, or agents  
2 of the county, absent their own negligence, willfulness,  
3 wantonness, or intentional conduct, and the members of the  
4 county commission and the officers and employees of the county  
5 may not be liable in either their official capacity or in a  
6 private or individual capacity for the actions of the eligible  
7 volunteer fire departments, volunteer fire association, or  
8 their personnel.

9 Section 10. This act shall be inoperative and void  
10 unless it is approved by the Russell County Commission and  
11 shall have been approved by a majority of the qualified  
12 electors of Russell County, except for those qualified  
13 electors who reside in the city limits of the City of Phenix  
14 City, who vote thereon at a referendum held for that purpose  
15 and conducted as nearly as may be in the same way as elections  
16 on amendments to the Constitution, and shall be held on the  
17 same day as the next primary, general, or special countywide  
18 election following final passage of this act. Notice of the  
19 election shall be given by the Judge of Probate of Russell  
20 County, which notice shall be published in accordance with  
21 state law governing the publication of local bills of the  
22 Legislature. On the ballots to be used at the election, the  
23 proposition to be voted on shall be stated substantially as  
24 follows:

25  
26 "Do you favor the local law authorizing the levy of  
27 a fire protection service fee of fifty dollars (\$50) per year

1 on each residence and one hundred dollars (\$100) per year on  
2 each commercial business outside of the City of Phenix City,  
3 which shall be used to fund volunteer fire departments  
4 delivering fire protection services and emergency medical  
5 services outside of the City of Phenix City in Russell  
6 County?"

7 Yes \_\_\_\_\_ No \_\_\_\_\_ "

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9 If the majority of the votes cast at the election  
10 are affirmative votes, this act shall be in full force and  
11 effect immediately thereafter. If the majority of the votes  
12 cast are in the negative, the act shall have no further  
13 effect. The Judge of Probate of Russell County shall certify  
14 the results of the election to the Secretary of State. The  
15 cost of the election shall be paid out of the county general  
16 fund.

17 Section 11. This act shall become effective  
18 immediately following its passage and approval by the  
19 Governor, or its otherwise becoming law.