

1 SB11
2 167974-2
3 By Senator Beasley (N & P)
4 RFD: Local Legislation
5 First Read: 13-JUL-15

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A BILL
TO BE ENTITLED
AN ACT

Relating to Russell County; to provide for the support of volunteer fire departments delivering fire protection services and emergency medical services; to levy a fire protection service fee on certain owners of residences and commercial buildings outside the corporate limits of the City of Phenix City; to provide for certain exemptions; to provide for the purposes and uses of funds generated by the fee; to provide for the collection of funds derived from the fee; to provide for the distribution of funds derived from the fee to eligible volunteer fire departments and to the Russell County Firefighters Association; to provide for the expending and accounting of the funds; to provide for the treatment of funds upon dissolution or abandonment of an eligible volunteer fire department; to provide that the county shall be immune 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.

24 (2) ELIGIBLE VOLUNTEER FIRE DEPARTMENT. A certified
25 nonprofit volunteer fire department located in Russell County
26 that is certified under the Alabama Forestry Commission

1 guidelines and is a member in good standing of the Russell
2 County Firefighters Association.

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

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

10 b. Any mobile home or house trailer used or expected
11 to be used as a dwelling or residence for one or more human
12 beings.

13 c. Any duplex or apartment building.

14 d. Any residential property used to generate
15 revenue.

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

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

24 Section 4. The purposes and uses of the funds
25 generated by this act are to enable all participating eligible
26 volunteer fire departments in Russell County to lower their
27 ISO ratings and to provide fire protection services and

1 emergency medical services to the citizens of the county. All
2 eligible volunteer fire departments shall attain and maintain
3 an ISO rating of 8/10 or below within two years of the
4 effective date of this act. If a department fails to maintain
5 the minimum ISO rating, then the Russell County Commission may
6 consider consolidating that department into the remaining
7 eligible departments and distribute its funds based on the
8 eligible residences and commercial buildings to the acquiring
9 departments.

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

16 (b) The fire protection service fee shall not be
17 construed as a tax on property. The fee shall be levied for
18 the purposes of funding fire protection services and emergency
19 medical services under this act.

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

23 (d) (1) Any person less than the age of 65 and having
24 an annual adjusted gross income of twelve thousand dollars
25 (\$12,000) or less, as shown on the latest United States income
26 tax return of the person or of the person and his or her
27 spouse, may apply for an exemption annually and shall be

1 exempted from paying the fee levied by this act for the
2 principal residence of the household, provided the person
3 seeking to claim the exemption shall present proof of income
4 to the county administrator no later than July 1 of any year
5 in which the exemption is desired.

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

12 (3) The exemption under this subsection shall apply
13 only so long as the annual gross income of the person or of
14 the person and his or her spouse is twelve thousand dollars
15 (\$12,000) or less and shall be requested each year in which
16 the exemption is desired.

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

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

23 Section 6. (a) The fire protection service fee shall
24 be collected, administered, and enforced in the same manner,
25 and under the same requirements and laws, as are the ad
26 valorem taxes of this state. In the case of mobile homes, the
27 fee shall be collected, administered, and enforced at the same

1 time, in the same manner, and under the same requirements and
2 laws as the annual registration fee for manufactured homes
3 provided in Section 40-12-255 of the Code of Alabama 1975.

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

12 (1) 32.5 percent of the fee shall be distributed
13 among the eligible volunteer fire departments in the county in
14 equal shares.

15 (2) 67.5 percent of the fee shall be distributed
16 among the eligible volunteer fire departments based on the
17 number of eligible residences and commercial buildings in
18 their respective fire districts as defined by E-911 protective
19 districts or other methods approved by majority vote of the
20 Russell County Commission based on the number of eligible
21 residences and commercial buildings located outside the
22 corporate limits of Phenix City.

23 Section 7. (a) Funds paid to the eligible volunteer
24 fire departments shall only be expended for fire protection
25 services and emergency medical services, including training,
26 supplies, and equipment.

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

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

10 (d) After receiving the funds, the eligible
11 volunteer fire departments shall keep accurate records to
12 verify that the funds were properly expended.

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

20 (f) Should the Russell County Commission, in its
21 sole discretion, find or determine that funds provided for by
22 this act have been improperly expended by an eligible
23 volunteer fire department, the department that has improperly
24 expended the funds shall reimburse and refund to the Russell
25 County Commission all the funds found by the county commission
26 to have been improperly expended and shall pay a penalty in
27 the amount equal to 10 percent of all improperly expended

1 funds. The returned improperly expended funds and any
2 penalties shall be transferred from the Russell County
3 Commission to the Russell County Fire Fighters Association for
4 disbursement in equal amounts to the remaining eligible
5 volunteer fire departments in Russell County.

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

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

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

22 Section 9. The personnel of eligible volunteer fire
23 departments or the volunteer fire association provided for in
24 this act may not be considered employees, servants, or agents
25 of the county and the members of the county commission and the
26 officers and employees of the county may not be liable in
27 either their official capacity or in a private or individual

1 capacity for the actions of the eligible volunteer fire
2 departments, volunteer fire association, or their personnel.

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

19
20 "Do you favor the local law authorizing the levy of
21 a fire protection service fee of fifty dollars (\$50) per year
22 on each residence and one hundred dollars (\$100) per year on
23 each commercial business outside of the City of Phenix City,
24 which shall be used to fund volunteer fire departments
25 delivering fire protection services and emergency medical
26 services outside of the City of Phenix City in Russell
27 County?"

1 Yes_____ No_____ "
2

3 If the majority of the votes cast at the election
4 are affirmative votes, this act shall be in full force and
5 effect immediately thereafter. If the majority of the votes
6 cast are in the negative, the act shall have no further
7 effect. The Judge of Probate of Russell County shall certify
8 the results of the election to the Secretary of State. The
9 cost of the election shall be paid out of the county general
10 fund.

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