

1 HB681
2 148718-11
3 By Representatives Tuggle and Mask (N & P)
4 RFD: Local Legislation
5 First Read: 30-APR-13

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ENROLLED, An Act,

Relating to Elmore and Tallapoosa Counties; to authorize the formation of the South Lake Martin Fire District for fire protection and emergency medical services near Lake Martin in order to provide support to the Willow Point/Ourtown Fire District and the Windermere Fire District and provide enhanced services in these districts; and to authorize the assessment of a family and home protection fee for the purpose of funding the district.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be operative in the Lake Martin area in Elmore and Tallapoosa Counties.

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

(1) DISTRICT. A district to be known as the South Lake Martin Fire District created pursuant to this act for establishing and maintaining a system for fighting and preventing fires and a system for the operation of emergency medical services.

(2) PROPOSED AREA. As used in Section 14, an area of land composed of the following tracts located in Elmore and Tallapoosa Counties, the legal description as set out herein:

TRACT 1: The Willow Point / Ourtown Fire District

1 The Willow Point/Ourtown Fire District which
2 includes the following property located in Elmore and
3 Tallapoosa County, Alabama.

4 All that part of the SW 1/4 of the NW 1/4, the SW
5 1/4, and the South 1/2 of the South 1/2 of the SW 1/4 of the
6 SE 1/4 of Section 31, T-22-N, R-21-E, Tallapoosa County,
7 Alabama.

8 All that part of the East 1/2 of Section 12 T-21-N,
9 R-20-E located east of Oakachoy Creek and all above the full
10 pool elevation of Lake Martin in Tallapoosa County, Alabama.

11 All of Section 6, Section 7, the west half and the
12 SE 1/4 of Section 8, the NE 1/4 and the South 1/2 of Section
13 13 located all above the full pool elevation of Lake Martin,
14 the South half of Section 14 lying on the South side of Wicker
15 Point Road, the South half of Section 15 lying on the South
16 side of Wicker Point Road and Willow Point Cutoff Road, the
17 South half and the NW 1/4 of Section 16, all of Section 17 and
18 18 located on the east side of Oakachoy Creek and all above
19 the full pool elevation of Lake Martin, the NE 1/4 of Section
20 19, and all of Sections 20 - 28, and the East half of Section
21 29, all above the full pool of Lake Martin located in T-21-N,
22 R-21-E, Tallapoosa County, Alabama.

23 All that part of the North half of Section 36 all
24 above the full pool elevation of Lake Martin, the North 1/2 of
25 the North 1/2 of Sections 34 and 35 all above the full pool

1 elevation of Lake Martin, that portion of the West 1/2 of the
 2 South 1/2 of the North 1/2 of Section 34 lying North and West
 3 of the full pool of Lake Martin, all in T-21-N, R-21-E,
 4 Tallapoosa County, Alabama.

5 All that part of the West half of Section 18, the
 6 West half of Section 19, the West half of Section 30, and the
 7 NW 1/4 of Section 31 all lying west of the Tallapoosa River
 8 and all above the full pool elevation of Lake Martin, all in
 9 T-21-N, R-22-E, Tallapoosa County, Alabama.

10 All that part of the North half of Section 33 all
 11 above the full pool elevation of Lake Martin, T-21-N, R-21-E,
 12 Elmore County, Alabama.

13 TRACT 2: The Windermere Fire District

14 The Windermere Fire District which includes the
 15 following property located in Elmore and Tallapoosa County,
 16 Alabama.

17 All that part of the South 1/2 of Section 34 and 35,
 18 and the South 1/2 of the North 1/2 of Section 34 and 35, all
 19 above the full pool of Lake Martin, the South 1/2 of Section
 20 36, all in T-21-N, R-21-E, Tallapoosa County, Alabama.

21 All that part of the South 1/2 of Section 31, the SW
 22 1/4 of Section 32 lying west of the Tallapoosa River and all
 23 above the full pool of Lake Martin, T-21-N, R-22-E, Tallapoosa
 24 County, Alabama.

1 All that part of the East 1/2 of the East 1/2 of
 2 Section 3 lying on the East side all above the full pool of
 3 Lake Martin, Sections 1 and 2, the NE 1/4 of Section 10,
 4 Section 11, 12, 13, the NE 1/4 of Section 14, and the North
 5 1/2 of the North 1/2 and the NE 1/4 of Section 24 all above
 6 the full pool elevation of Lake Martin, T-20-N, R-21-E, Elmore
 7 County, Alabama.

8 All that part of the West 1/2 of Section 5, Section
 9 6, Section 7, Section 18 and the NW 1/4 of Section 19 all
 10 lying along the west side of the Tallapoosa River all above
 11 the full pool elevation of Lake Martin, T-20-N, R-22-E, Elmore
 12 County, Alabama.

13 Less and Except:

14 Any land in the foregoing description that lies
 15 beneath waters of Lake Martin at the full pool elevation.

16 (3) QUALIFIED PROPERTY OWNERS. Persons, firms,
 17 corporations, or other legal entities who own property located
 18 in the proposed area and whose legal ownership is evidenced by
 19 a properly recorded deed in the office of judge of probate in
 20 the county in which the property is located.

21 Section 3. A district for fighting and preventing
 22 fires and providing emergency medical services, to be known as
 23 the South Lake Martin Fire District, may be established in
 24 Elmore and Tallapoosa Counties in the proposed area in the
 25 manner hereinafter provided. The South Lake Martin Fire

1 District shall provide support for the Willow Point/Ourtown
2 Fire District and the Windermere Fire District and provide
3 enhanced services in these districts.

4 Section 4. (a) Upon a petition being filed in the
5 offices of the Judges of Probate of Elmore and Tallapoosa
6 Counties, the judges of probate of both counties, acting
7 jointly, shall order an election to be held in the proposed
8 district on the question, or questions, on which the petition
9 requests an election.

10 (b) The petition shall be signed by 50 qualified
11 property owners which shall include owners of all parcels of
12 property comprising 25 percent or greater, whether considered
13 as single contiguous parcels or combinations of parcels, owned
14 by a single person, firm, corporation, or other legal entity,
15 of the acreage located within the boundaries of the proposed
16 district.

17 (c) When filed in the offices of the Judges of
18 Probate of Elmore and Tallapoosa Counties, each petition in
19 each county shall be accompanied by a filing fee in the amount
20 of two thousand five hundred dollars (\$2,500) to be applied to
21 defray the costs of compiling a list of qualified voters.

22 (d) Qualified voters shall be those natural persons
23 who are qualified property owners identified as such in the
24 most recent tax assessment rolls in the proposed area.

1 (e) The petition shall contain the description of
2 the area proposed to be established as a district, shall state
3 the name of the proposed district, and shall request the
4 Judges of Probate of Elmore and Tallapoosa Counties to call an
5 election on the following question: Shall there be created for
6 the area a district for fire protection and emergency medical
7 services?

8 (f) The petition for election on the establishment
9 of the district may be accompanied by a petition for a
10 referendum on the question of levying a proposed service
11 charge, in the form of an assessed Family and Home Protection
12 fee to be assessed on the basis and in the manner as provided
13 in the petition, signed by the required number of qualified
14 property owners residing within the proposed district. A
15 petition for an election on the establishment of a district
16 shall be deemed to be accompanied by a petition for an
17 election on the question of levying a proposed service charge,
18 in the form of an assessed Family and Home Protection fee, if
19 the request for the election on the proposed district and the
20 request for an election on the proposed service charge, in the
21 form of a Family and Home Protection fee, are combined in a
22 single petition.

23 Section 5. When a petition for the holding of an
24 election is filed with the judges of probate, the judges of
25 probate, acting jointly, shall order the election sought by

1 the petition to be held on a day not less than 30 days nor
2 more than 40 calendar days from the date on which the judges
3 of probate enter the order. An election pertaining to the
4 establishment of a district or portion thereof may not be held
5 more often than once every year.

6 Section 6. The provisions of the election laws
7 governing equipment at polling places, furnishing of supplies,
8 appointment of election officers and canvassing returns at a
9 general election shall apply to any election held pursuant to
10 this act.

11 Section 7. The judges of probate shall give notice
12 of an election held under this act by publishing for three
13 weeks, at least once a week, on the same day of each week, in
14 a newspaper of general circulation in the territory where the
15 election is to be held. The notice shall state the day when
16 the election will be held and the question to be submitted to
17 the electors of the district.

18 Section 8. (a) When an election is held on the
19 question of the establishment of a district, the County
20 Commissions of Elmore and Tallapoosa Counties shall equally
21 pay for the necessary expense of advertising and conducting
22 the election out of the general funds of the counties. If the
23 district is established, the district shall reimburse the
24 counties for the expenses incurred by the counties with
25 respect to the election.

1 (b) After a district has been established, the
2 district shall pay the expense of any election held in the
3 district.

4 Section 9. No district shall be created unless it is
5 approved by the majority of votes cast by the qualified voters
6 in the proposed district, provided that no person may vote
7 more than once in the election. At any election on the
8 establishment of a district, the question of the establishment
9 of the district shall be submitted separately. Upon the
10 officers canvassing the returns of the election certifying
11 that the creation of the district was approved by the majority
12 of the votes of qualified voters cast at the election, the
13 proposed district shall be created and constitute a public
14 corporation. The Judges of Probate of Elmore and Tallapoosa
15 Counties shall jointly certify the results of the election to
16 the Secretary of State.

17 Section 10. (a) The affairs and business of the
18 district shall be managed by a board of directors consisting
19 of seven members who shall be appointed in the following
20 manner:

21 (1) The county commissioner or commissioners in
22 Elmore County in whose county commission district or districts
23 the fire district created by this act is located shall
24 collectively appoint one member who shall be a qualified
25 property owner.

1 (2) The county commissioner or commissioners in
2 Tallapoosa County in whose county commission district or
3 districts the fire district created by this act is located
4 shall collectively appoint one member who shall be a qualified
5 property owner.

6 (3) The members of the Elmore County legislative
7 delegation in whose representative district or districts any
8 fire district created by this act is located shall
9 collectively appoint one member who shall be a qualified
10 property owner.

11 (4) The members of the Tallapoosa County legislative
12 delegation in whose representative district or districts any
13 fire district created by this act is located shall
14 collectively appoint one member who shall be a qualified
15 property owner.

16 (5) The Fire Chief of the Windermere Fire District
17 shall serve in his or her official capacity as a member of the
18 commission.

19 (6) The Board of Directors of the Willow
20 Point/Ourtown Fire District shall appoint an active member of
21 the Willow Point/Ourtown Fire District to serve as a member of
22 the commission.

23 The six members of the board as provided for above
24 shall select a seventh member who shall be a qualified
25 property owner as defined under subsection (d) of Section 4.

1 (b) If a vacancy occurs on the board, the appointing
2 authority of such member shall appoint a member that meets the
3 qualifications set out in this section for membership on the
4 board to serve for the unexpired term.

5 (c) The board of directors shall elect annually from
6 its own number a chair, a secretary, and a treasurer.

7 (d) The members of the board of directors shall not
8 be entitled to any compensation for their services, but they
9 shall be entitled to reimbursement for all reasonable expenses
10 incurred by them in the performance of their duties.

11 Section 11. (a) The district shall constitute a
12 public corporation, which shall have the power to do any and
13 all acts or things necessary and convenient for carrying out
14 the purposes for which it is created, including, but not
15 limited to, all of the following:

16 (1) To sue and be sued.

17 (2) To have a seal and alter the same at pleasure.

18 (3) To acquire, hold, and dispose of property, real
19 and personal, tangible and intangible, or interests therein
20 and to pay therefor in cash or on credit, and to secure and
21 procure payment of all or any part of the purchase price
22 thereof on the terms and conditions as the board shall
23 determine.

24 (4) To acquire, own, operate, maintain, and improve
25 a system or systems.

1 (5) To pledge all or any part of its revenues, or
2 mortgages, or otherwise encumber, all or any part of its
3 property for the purpose of securing the payment of the
4 principal of and interest on any of its obligations.

5 (6) To sell, lease, mortgage, or otherwise encumber
6 or dispose of all or any part of its property, as hereinafter
7 provided.

8 (7) To contract debts, borrow money, and to issue or
9 assume the payment of obligations.

10 (8) To levy and collect service charges as provided
11 in this act, subject to limitations provided in this act.

12 (9) To negotiate and enter into contracts for fire
13 protection and emergency medical services with any
14 municipality, volunteer fire department, or any other entity.

15 (10) To employ agents, servants, and attorneys.

16 (11) To perform all of the foregoing acts and to do
17 any and all of the foregoing things under, through, or by
18 means of its own officers, agents, and employees, or by
19 contracts with any person, company, corporation, federal
20 agency, or municipality.

21 (b) Notwithstanding any existing law, rule, or legal
22 provision to the contrary, a municipality may enter into a
23 contract or agreement with the fire district created pursuant
24 to this act for the provision of fire or emergency services,
25 or both, to the fire district.

1 (c) The property and income of the district, all
2 bonds issued by the district, the income from the bonds,
3 conveyances by or to the district, and leases, mortgages, and
4 deeds of trust by or to the district shall be exempt from all
5 taxation in the State of Alabama, including specifically the
6 tax imposed by Section 40-21-82, Code of Alabama 1975. The
7 district shall be exempt from all taxes levied by any county,
8 municipality, or other political subdivision of the state,
9 including, but without limitation to, license and excise taxes
10 imposed in respect of the privilege of engaging in any of the
11 activities that a district may engage in. The district shall
12 not be obligated to pay or allow any fees, taxes, or costs to
13 the judges of probate with respect to its incorporation, the
14 amendment of its certificate of incorporation, or the
15 recording of a document. This section shall be retroactive and
16 shall apply from the date the district was first established.

17 Section 12. (a) No service charge may be assessed
18 unless the service charge is approved at a referendum election
19 of the qualified voters in the district, provided that no
20 person may vote more than once in the election.

21 (b) Any service charge assessed shall be collected
22 by the revenue commissioner of the county where the property
23 is located and distributed to the board of the district for
24 fire protection and emergency medical services and for the
25 administration of the district.

1 (c) The expenses of establishing and maintaining the
2 district shall be paid for by the proceeds of the service
3 charge, which shall be assessed and collected from qualified
4 property owners within the district. The revenues collected
5 from each district, less any costs of collection, shall be
6 used for fire protection and emergency medical services in the
7 district. The service charge shall be a personal obligation of
8 the owner of the property served by the district and shall be
9 due at the same time as the property tax payment.

10 (d) To secure the collection of the service charge,
11 there shall be a lien against the property in favor of the
12 district, which lien shall be enforceable by the sale thereof
13 in the same manner in which foreclosure of a municipal
14 assessment for public improvement is authorized. Each district
15 that collects any service charge pursuant to this act shall be
16 bonded for an amount sufficient to cover three times the total
17 revenue to be collected pursuant to the service charge on an
18 annual basis.

19 (e) A volunteer fire department or fire and
20 emergency medical services district that exists within the
21 district established pursuant to this act may remain in
22 operation and shall be a subdistrict of the district. The
23 subdistrict shall submit a budget to the district, which shall
24 allocate portions of the revenue from the service charge to
25 the subdistrict. Each subdistrict shall be entitled to an

1 allocation of no less than forty-five thousand dollars
2 (\$45,000) per calendar year.

3 Section 13. (a) The petition for the election on the
4 question of a service charge, which may accompany the petition
5 for the election on the establishment of the proposed
6 district, as provided in Section 4, shall be signed by owners
7 of all parcels of property comprising 25 percent or greater,
8 whether considered as single contiguous parcels or
9 combinations of parcels owned by a single person, firm,
10 corporation, or other legal entity, of the acreage located
11 within the boundaries of the proposed district and shall state
12 specifically the charge proposed to be assessed including the
13 basis and manner to be assessed. The petition may request that
14 an election be held on more than one proposed charge.

15 (b) No service charge shall be increased or
16 decreased unless the same has been first approved by a
17 majority of the votes cast by the qualified voters in the
18 district at an election held under this act.

19 (c) An election on the question of a service charge
20 increase or decrease may not be held unless the board of
21 directors of a district submits to the judges of probate of
22 both counties a petition for the election as hereinafter
23 provided, which petition must be signed by owners of all
24 parcels of property comprising 25 percent or greater, whether
25 considered as single contiguous parcels or combinations of

1 parcels, owned by a single person, firm, corporation, or other
2 legal entity, of the acreage located within the boundaries of
3 the proposed district.

4 (d) The petition shall state specifically the
5 proposed charge which shall be assessed and may request that
6 an election be held on more than one proposed charge. Upon the
7 petition, which petition must be signed by owners of all
8 parcels of property comprising 25 percent or greater, whether
9 considered as single contiguous parcels or combinations of
10 parcels, owned by a single person, firm, corporation, or other
11 legal entity, of the acreage located within the boundaries of
12 the proposed district being filed with the judges of probate,
13 the judges of probate, acting jointly, shall order an election
14 to be held within the same time provided for by Section 5.
15 Notice of the election shall be given as provided for by
16 Section 7.

17 Section 14. (a) The district may be abolished in the
18 manner provided for in this section; however, the district
19 shall not be abolished or diminished when it has any
20 indebtedness.

21 (b) Upon the petition for abolition of the district
22 being filed with the judges of probate, the judges of probate
23 of both counties, acting jointly, shall order an election on
24 the abolition of the district to be held in the district
25 within the time provided for by Section 4. The qualified

1 property owners residing within the district shall be entitled
2 to vote in the election. The petition shall be signed by at
3 least 300 qualified property owners of the district. It shall
4 contain a recital that the district is not indebted and it
5 shall request the judges of probate to order an election on
6 whether the district shall be abolished. Upon the officers
7 canvassing the returns of the votes and determining that
8 abolition of the district was approved by a majority of the
9 votes cast at the election, the district shall be abolished.

10 Section 15. The provisions of this act are
11 severable. If any part of this act is declared invalid or
12 unconstitutional, that declaration shall not affect the part
13 which remains.

14 Section 16. ~~All laws or parts of laws which conflict~~
15 ~~with this act are repealed.~~ The provisions of this act are
16 supplemental and shall not be construed to repeal any law not
17 in direct conflict herewith. This act shall specifically not
18 affect Act 95-393 of the 1995 Regular Session (Acts 1995, p.
19 800), as amended, now appearing as Part 2, commencing at
20 Section 45-26-141, of Article 14 of Chapter 26, Title 45, Code
21 of Alabama 1975.

22 Section 17. This act shall become effective
23 immediately following its passage and approval by the
24 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 07-MAY-13.

Jeff Woodard
Clerk

Senate

20-MAY-13

Amended and Passed

House

20-MAY-13

Concurred in Sen-
ate Amendment