GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 445

Senate State and Local Government Committee Substitute Adopted 6/20/17

Short Title: Brunswick Fire Protection Fees. (Local)

Sponsors:

Referred to:

March 23, 2017

A BILL TO BE ENTITLED

AN ACT TO MODIFY BRUNSWICK COUNTY'S FIRE PROTECTION FEES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 1999-323, as amended by S.L. 2001-74 and Section 2 of S.L. 2007-335, reads as rewritten:

"**Section 1.** Fee-supported fire districts.

"**Section 1.(a)** Request for Fee-Supported District. – A county may create a fee-supported fire district for insurance grading purposes if it receives one of the following:

(1) A written request to create the district signed by at least two-thirds of the members of the board of directors of a fire department that contracts with the county to provide fire protection within an area of the county.

(2) A petition requesting creation of a district signed by fifteen percent (15%) of the resident freeholders living in an area in the county. The petition must describe the area to be designated as the district.

"**Section 1.(b)** Creation of Fee-Supported District. – Upon receipt of a request as provided in subsection (a), the county may adopt a resolution establishing a fee-supported fire district and imposing annual fees for the provision of fire protection services within the district. The fee may be established or changed only after the county board of commissioners has received the recommendations of the committee for that district, established under subsection (b1) of this section. The district may not include any area that is within (i) a tax-supported fire district established under Article 3A of Chapter 69 of the General Statutes; (ii) a county service district established under Article 16 of Chapter 153A of the General Statutes for fire protection purposes; or (iii) another fee-supported fire district. The district may not include any area that is within the corporate limits of a municipality unless the governing body of the municipality agrees to the inclusion. However, it is not necessary to obtain the consent of a municipality if the municipality has not levied a tax, performed any official act, nor held any elections within a period of 10 years preceding the adoption of the resolution including the area within the district.

"**Section 1.(b1)** Committee for District. – Each district shall have a committee to allow local control over the fee-setting process. In each district that does not include any territory in a participating municipality, the committee shall consist of five members as follows: The Fire Chief, the member of the board of county commissioners in whose electoral district more than fifty percent (50%) of the land area of the district lies, a community member chosen by the Fire Department Board of Directors, a community member chosen by the board of county commissioners, and the Fire ~~Marshal.~~Marshal or other official as designated by the County Manager. In each district that does include any territory in a participating municipality, the

committee shall consist of members as follows: The Fire Chief, the mayor of each participating municipality in the district, the member of the board of county commissioners in whose electoral district more than fifty percent (50%) of the land area of the district lies, a community member chosen by the Fire Department Board of Directors, a community member chosen by the board of county commissioners, and the Fire ~~Marshal.~~Marshal or other official as designated by the County Manager. In either type of district, the Fire Marshal or the other official designated by the County Manager shall chair the committee, but may vote only to break a tie. The committee shall conduct an inquiry into the amount of funds required by the district to meet its needs, and shall make findings on the issue. The committee will communicate these findings to the board of county commissioners and recommend a fee. The board of county commissioners will then set the fee. The same process shall be used for changes to the fee once established.

"**Section 1.(c)** Fees. – The fees imposed by the county may not exceed the cost of providing fire protection services within the district and may be imposed on owners of all real property that benefits from the availability of fire protection and on owners of all manufactured or mobile homes that benefit from the availability of fire protection. For the purpose of this section, the term 'fire protection' includes furnishing emergency medical, rescue, and ambulance services to protect persons in the district from injury or death. The county shall establish a schedule of fees for different classes of property and the fee for each class of property shall be proportional to the estimated cost of providing fire protection services to that class of property. The schedule of fees shall include the following classes of property and the fee on each class of property shall not exceed the following maximums:

(1) A single-family dwelling or manufactured or mobile home, and appurtenant structures, plus up to five acres of surrounding land. The fee on this class of property may not exceed:

a. ~~Fifty dollars ($50.00)~~One hundred dollars ($100.00) per site per year for homes 1,000 square feet of heated floor area or less.

b. ~~One hundred dollars ($100.00)~~Two hundred dollars ($200.00) per site per year for homes greater than 1,000 square feet of heated floor area but less than 2,000 square feet of heated floor area.

c. ~~Two hundred dollars ($200.00)~~Four hundred dollars ($400.00) per site per year for homes 2,000 square feet or greater of floor area but not greater than 3,000 square feet of heated floor area.

d. ~~Three hundred dollars ($300.00)~~Six hundred dollars ($600.00) per site per year for homes greater than 3,000 square feet of floor area but not greater than 4,000 square feet of heated floor area.

e. ~~Four hundred dollars ($400.00)~~Eight hundred dollars ($800.00) per site per year for homes greater than 4,000 square feet of floor area but not greater than 5,000 square feet of heated floor area.

f. ~~Five hundred dollars ($500.00)~~One thousand dollars ($1,000) per site per year for homes greater than 5,000 square feet of floor area but not greater than 6,000 square feet of heated floor area.

g. ~~Six hundred dollars ($600.00)~~One thousand two hundred dollars ($1,200) per site per year for homes greater than 6,000 square feet of floor area but not greater than 7,000 square feet of heated floor area.

h. ~~Seven hundred dollars ($700.00)~~One thousand four hundred dollars ($1,400) per site per year for homes greater than 7,000 square feet of floor area but not greater than 8,000 square feet of heated floor area.

i. ~~Eight hundred dollars ($800.00)~~One thousand six hundred dollars ($1,600) per site per year for homes greater than 8,000 square feet of heated floor area.

(2) Unimproved land other than the five acres of land classified as part of a single-family dwelling or manufactured or mobile home. The county may establish a maximum fee for unimproved land as follows:

a. Up to five acres, ~~ten dollars ($10.00).~~twenty dollars ($20.00).

b. Five acres or more but less than 25 acres, ~~twenty dollars ($20.00).~~forty dollars ($40.00).

c. 25 acres or more but less than 50 acres, ~~fifty dollars ($50.00).~~one hundred dollars ($100.00).

d. 50 acres or more but less than 100 acres, ~~one hundred dollars ($100.00).~~two hundred dollars ($200.00).

e. 100 acres or more but less than 200 acres, ~~one hundred fifty dollars ($150.00).~~three hundred dollars ($300.00).

f. 200 acres or more but less than 300 acres, ~~two hundred dollars ($200.00).~~four hundred dollars ($400.00).

g. 300 acres or more but less than 400 acres, ~~three hundred dollars ($300.00).~~six hundred dollars ($600.00).

h. 400 acres or more but less than 500 acres, ~~four hundred dollars ($400.00).~~eight hundred dollars ($800.00).

i. 500 acres or more, ~~five hundred dollars ($500.00).~~one thousand dollars ($1,000).

(3) An animal production or horticultural operation. The fee on this class of property may not exceed ~~ten dollars ($10.00)~~twenty dollars ($20.00) per site per year.

(4) A commercial facility other than an animal production or horticultural operation. The fee on this class of property may not exceed for a commercial facility:

a. Less than 5,000 square feet, ~~two hundred dollars ($200.00).~~four hundred dollars ($400.00).

b. 5,000 square feet but less than 10,000 square feet, ~~four hundred dollars ($400.00).~~eight hundred dollars ($800.00).

c. 10,000 square feet but less than 20,000 square feet, ~~eight hundred dollars ($800.00).~~one thousand six hundred dollars ($1,600).

d. 20,000 square feet but less than 30,000 square feet, ~~one thousand dollars ($1,000).~~two thousand dollars ($2,000).

d1. 30,000 square feet but less than 40,000 square feet, ~~one thousand five hundred dollars ($1,500).~~three thousand dollars ($3,000).

d2. 40,000 square feet but less than 50,000 square feet, ~~two thousand dollars ($2,000).~~four thousand dollars ($4,000).

e. 50,000 square feet but less than 60,000 square feet, ~~three thousand dollars ($3,000).~~six thousand dollars ($6,000).

e1. 60,000 square feet but less than 70,000 square feet, ~~four thousand dollars ($4,000).~~eight thousand dollars ($8,000).

e2. 70,000 square feet but less than 80,000 square feet, ~~five thousand dollars ($5,000).~~ten thousand dollars ($10,000).

e3. 80,000 square feet but less than 90,000 square feet, ~~six thousand dollars ($6,000).~~twelve thousand dollars ($12,000).

e4. 90,000 square feet but less than 100,000 square feet, ~~seven thousand dollars ($7,000).~~fourteen thousand dollars ($14,000).

f. 100,000 square feet or over, ~~eight thousand dollars ($8,000).~~sixteen thousand dollars ($16,000).

(5) A multiple-family dwelling. Each unit in a multiple-family dwelling shall be treated as a single-family dwelling under subdivision (1) of this subsection.

(6) Any other class of property selected by the county. The fee on these classes of property may not exceed ~~one hundred dollars ($100.00)~~two hundred dollars ($200.00) per year.

(7) Outbuildings and special structures that fail to fall into any category above will be classified based on the most appropriate category determined by the specific use of the type of structure.

For properties located beyond six road miles from the closest fire station of their district that have a fire insurance rating of 10, the fee shall be seventy-five percent (75%) of the amount otherwise applicable under the above fee schedules.

"**Section 1.(d)** Billing of Fees. – The county may include a fee imposed under this section on the property tax bill for the real property, or the manufactured or mobile home, on which the fee is imposed.

"**Section 1.(e)** Use of Fees. – The county shall credit the fees collected within the district to a separate fund to be used only to furnish fire protection in the district. The board of commissioners shall administer the fund to provide fire protection by one or more of the following methods:

(1) Contracting with any municipality, any incorporated nonprofit volunteer or community fire department, or the Department of Environment and Natural Resources.

(2) Furnishing fire protection itself if it maintains an organized fire department.

(3) Establishing a fire department in the district.

"**Section 1.(f)** Audit of Fire Department. – If the county contracts with a fire department to provide fire protection services in a fee-supported fire district, the fire department shall prepare an annual budget based on anticipated revenues and shall submit the budget to the county for processing and approval through the county's regular budget procedure. The fire department shall contract for quarterly bookkeeping/accounting services from an independent accountant for each fiscal year July 1 through June 30. The independent accountant must be approved in advance by the County Finance Officer. The fire department is to submit all invoices, cash receipts, bank statements with canceled checks or facsimiles, check registers or stubs, and other financial source documents to the accountant within 15 days of the end of each fiscal quarter. The accountant is to provide a monthly bank reconciliation for each month of the quarter, an itemized schedule of all disbursements for the quarter, and an itemized schedule of cash receipts for the quarter, a quarterly financial report, and a year-to-date financial report directly to the County ~~Fire Marshal's office~~Manager within 45 days of the end of each fiscal quarter. Funding will not be disbursed until the financial report is accepted by the Finance Officer. The fire department agrees to contract for an independent financial audit conducted by a certified public accountant in accordance with generally accepted accounting principles, for each fiscal year July 1 through June 30 to be completed by October 31 after that fiscal year and submitted to the Brunswick County Emergency Services Department by November 10 following that fiscal year and will comply with federal and State laws and regulations related to financial and compliance audits. Towns will handle all financing and accounts that are spent for the town fire departments. The Town will follow all accounting principles and practices as required by the State of North Carolina. The Treasurer of any fee-supported department shall be bonded for at least one and one-half times the department's annual budget. The county may audit the fire department's financial records upon reasonable notice to the fire department. Any fees collected by the county to be disbursed to a fee-supported department will be withheld until all fiscal issues are resolved to the satisfaction of the County Finance Officer.

"**Section 1.(g)** Extension of Area of District. – The county may by resolution annex to any fee-supported fire district any territory that it could include in a new district under subsection (c) of this section, upon finding that:

(1) The area to be annexed is contiguous to the district, with at least one-eighth of the area's aggregate external boundary coincident with the existing boundary of the district; and

(2) The area to be annexed requires the services of the district.

The county may also by resolution annex to any fee-supported fire district any territory it could include in a new district under subsection (c) of this section if seventy-five percent (75%) of the real property owners in the territory to be annexed have petitioned the board of commissioners for annexation to the service district.

The area of any fee-supported fire district may be increased by including within the boundaries of the district any adjoining territory lying within a municipality if the territory is not already included in another fire protection district, and both the municipal governing body and the county commissioners of the county in which the district is located agree by resolution to the inclusion. However, it is not necessary to obtain the consent of a municipality if the municipality has not levied a tax, performed any official act, nor held any elections within a period of 10 years preceding the adoption of the resolution including the area within the district.

"**Section 1.(h)** Annexation of District. – When any portion of a fee-supported fire district has been annexed by a municipality furnishing fire protection to its citizens, and the municipality has not agreed to allow territory within it to be in the district, then the portion of the district annexed is no longer part of a fee-supported district. For the purposes of this section and regardless of the actual effective date of annexation, the date of annexation shall be considered to be a date in the month of June. When any portion of a fee-supported fire district is annexed by a municipality furnishing fire protection to its citizens, there is debt associated with the prior fee-supported district providing the fire protection to that area, an assumption of debt shall be paid to the fee-supported district at a rate of not less than one-half the fees that are collected from the annexed area for a period of not less than three years. This shall in no way limit or restrict a municipality from contracting with a fee-supported district to provide fire protection services nor shall it require a fee-supported district to provide fire protection services without an additional contract.

"**Section 1.(i)** Abolition of District. – Upon finding that there is no longer a need for a given fee-supported fire district, the board of commissioners may repeal the resolution establishing the district and thus abolish the district.

"**Section 1.(j)** Administrative Oversight. – Each nonmunicipal department shall bring any purchase in excess of ten thousand dollars ($10,000) for approval to a fire protection oversight board that is determined by the board of commissioners of the county and is chaired by the Emergency Services Director or his designee. Failure to adhere to the recommendations of the committee could lead to forfeiture of collected fees. All departments that receive funding from a fee-supported district shall participate in countywide strategic planning sessions conducted by the emergency services office no less than once a year.

"**Section 1.(k)** Collection Remedies. – A county may ~~foreclose fire fee liens~~ collect any delinquent fire fees, existing either before or after the effective date of this act, under any procedure provided by law for the ~~foreclosure~~ collection of property tax liens, including attachment, garnishment, and foreclosure, except that: (i) lien sales and lien sale certificates are not required, and (ii) foreclosure may be begun at any time after 30 days after the due date. The county is not entitled to a deficiency judgment in an action to foreclose a fire fee lien. The lien of fire fees is inferior to all prior and subsequent liens for State, local, and federal taxes, and superior to all other liens."

SECTION 2. This act applies to Brunswick County only.

1 **SECTION 3.** This act is effective when it becomes law.