INTRODUCED

May 7, 2014

**H. 5225**

Introduced by Reps. Lowe, K.R. Crawford, Williams and Lucas

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Read the first time May 7, 2014.

**A** **BILL**

TO AMEND CHAPTER 23, TITLE 4, CODE OF LAWS OF 1976, RELATING TO JOINT COUNTY FIRE DISTRICTS BY ADDING ARTICLE 10 SO AS TO ESTABLISH THE WEST FLORENCE FIRE DISTRICT TO BE COMPOSED OF AREAS IN FLORENCE AND DARLINGTON COUNTIES, TO PROVIDE FOR A GOVERNING COMMISSION FOR THE DISTRICT AND ITS DUTIES, POWERS, AND FUNCTIONS, AND TO PROVIDE PENALTIES FOR CERTAIN VIOLATIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 23, Title 4 of the 1976 Code is amended by adding:

“Article 10

West Florence Fire District in Florence and Darlington Counties

Section 4‑23‑1000. The General Assembly finds that a certain portion of Darlington County primarily consisting of Interstate 95 from the Florence County line northward to Exit 169 in Darlington County is presently served by fire departments in Florence County because no fire department in Darlington County provides service to this area. This therefore presents concerns for the safety and well‑being of citizens residing and traveling in this area in addition to placing additional burdens on fire personnel in Florence County which are called on to provide fire service in this area. The General Assembly has therefore determined to create a joint county fire district in the same manner other joint county fire districts have been established pursuant to this chapter, consisting of areas in two counties, to solve this problem, and to provide fire service to all areas of the district on the most economically feasible basis possible.

Section 4‑23‑1005. There is created in Florence and Darlington counties the West Florence Fire District (district). It consists of areas of Florence and Darlington counties as follows:

(1) the unincorporated areas of the present West Florence Fire Subdistrict of the Florence County Fire District as established by Act 1817 of 1972;

(2) the area of Darlington County reflected in the rights of way for Interstate 95 beginning at the boundary line of Florence County and Darlington County and extending northward into Darlington County for approximately three miles to Exit 169. Additionally, areas described by the following Tax Map Sheet numbers in Darlington County also are included in the area of the district:

(a) TMS 218‑14‑01‑013;

(b) TMS 219‑03‑01‑001; and

(c) TMS 219‑03‑01‑002.

Section 4‑23‑1010. (A) The district must be governed by a commission to be known as the West Florence Fire District Commission (commission). The commission shall consist of five resident electors of the district who shall be elected by the qualified electors of the district.

(B) The five commissioners shall be elected in a nonpartisan special election to be conducted on the first Tuesday following the first Monday in September 2014, and thereafter in nonpartisan elections to be conducted at the same time as the general election every two or four years thereafter beginning in 2016, in a manner required by this article and other applicable provisions of law.

(C) The election shall be conducted by the Florence and Darlington County Election Commissions. The commissions shall give notice by publication sixty days prior to the election and a second notice two weeks after the first notice, in one or more newspapers with general circulation in the district. Filing for election to the commission opens on July 1, 2014 at noon to run for a period of fifteen days until noon on July 15, 2014. The election commissions in both counties shall certify the candidates receiving the highest number of votes as the election commissioners of the district as provided by this section. In order to stagger the terms, the terms of the three commissioners who receive the highest number of votes in 2014 shall serve initial terms of four years each and the two commissioners receiving the next highest number of votes in 2014, shall serve initial terms of two years each. At the expiration of these initial terms which shall expire at the time the commissioners elected in either 2016 or 2018 qualify and take office, all commissioners shall be elected for terms of four years. The results of the elections shall be determined in accordance with the nonpartisan plurality method provided in Section 5‑15‑61.

(D) Any vacancy occurring by reason of death, resignation, or otherwise must be filled by the Senators and members of the House of Representatives representing any portion of the district for the remainder of the unexpired term or until the next scheduled election if the remainder of the unexpired term runs past this date. Commissioners shall take office on the Monday following their election. Upon any commissioner moving out of the area of the district, his position shall become vacant.

(E) Any resident qualified elector of the district may be a candidate for the position of commissioner by filing with the election commission of the county in which he resides at least thirty days prior to the election.

(F) After taking office in 2014, the commissioners shall meet within ten days of their election to organize, select officers and determine the tax millage levy for 2014. The commission shall elect from among its membership a chairman, vice chairman and such other officers as they consider necessary.

Section 4‑23‑1015. (A) There is committed to the district the functions of constructing, operating, maintaining, improving, and extending a fire protection and fire control district. To that end the commission is empowered as follows:

(1) have perpetual succession;

(2) sue and be sued;

(3) adopt, use, and alter a corporate seal;

(4) make bylaws for the management and regulations of its affairs;

(5) acquire, purchase, hold, use, lease, mortgage, sell, transfer, and dispose of any property, real, personal, or mixed, or any interest therein, and to acquire easements or other property rights necessary for the operation of its stated functions;

(6) enter into contracts for the purchase of water and for maintenance of water pipes, hydrants, valves, and all equipment necessary to provide water for protection against and control of fire;

(7) appoint officers, agents, employees, and servants, prescribe their duties, fix their compensation, and determine if and to what extent they must be bonded for the faithful performance of their duties;

(8) make contracts for construction, engineering, and other services;

(9) purchase that firefighting equipment as the commission deems necessary for controlling fires and furnishing fire protection in the district;

(10) select the sites or places within the area where the firefighting equipment must be kept;

(11) provide personnel, voluntary or otherwise, necessary to man this equipment;

(12) provide and supervise the training of any volunteers used in manning this equipment with the end that the equipment must be fully utilized for the protection and control of fire within the district;

(13) be responsible for the upkeep, maintenance, and repairs of the trucks and other firefighting equipment and to make regular inspection of all equipment and operations;

(14) promulgate those regulations as it considers necessary and proper to ensure that the equipment is utilized for the best advantage of the area;

(15) construct, if necessary, buildings to house the equipment provided for herein;

(16) borrow in anticipation of taxes on those terms and for such a period as the governing body of Florence and Darlington counties considers most beneficial. The indebtedness must be evidenced by a note or notes issued by the members of the commission and the county treasurers of Florence and Darlington counties. The full faith, credit, and taxing power of the commission is hereby irrevocably pledged for the payment of the indebtedness; provided, that in no event shall the credit of Florence and Darlington counties be obligated for any indebtedness of the commission; and

(17) do all other acts necessary or convenient to carry out any function or power granted to the district.

(B) The commission is vested with the power to raise funds for discharging the duties vested in it by levying a tax for the benefit of the district. The commission shall notify the auditors and treasurers of Florence and Darlington counties of any desired tax not to exceed thirteen mills for the year 2014. Thereafter, the authorized millage levy for any year shall be at the discretion of the commission, subject to all applicable provisions of law. The millage levy shall be uniform throughout the district, and they shall assess and collect the tax as requested and the treasurers shall hold the funds and disburse them as directed by the commission. All such taxes shall constitute a lien upon the property against which the same are levied, on a parity with the lien of county taxes, and the provisions of law relating to penalties for the nonpayment or tardy payment of county taxes, and the provisions relating to sale of property for delinquent county taxes shall apply to taxes levied pursuant to this article.

(C) Notwithstanding the provisions of Section 6‑1‑320, the commission is authorized to impose a millage levy after 2014 it considers appropriate and necessary for the operation of the district above that permitted by Section 6‑1‑320 upon a favorable vote of the registered electors of the district in a referendum called for this purpose by the commission.

Section 4‑23‑1020. The property of and income of the district is exempt from all taxes levied by the State, county, or any municipality, division, subdivision, or agency thereof direct or indirect.

Section 4‑23‑1025. (A) So long as the district is indebted to any person on any bonds, notes, or other obligations issued pursuant to the authority of this article, the provisions of this article and the powers granted to the district and the commission may not be in any way diminished or restricted, and the provisions of this article are considered a part of the contract between the district and the holders of these obligations.

(B) The real and personal property of the present West Florence Fire Subdistrict of the Florence County Fire District now titled in the subdistrict’s name shall be transferred to the new West Florence Fire District created by this article. However, the district must assume a portion of the current indebtedness of the Florence County Fire District, if any, to be determined by agreement of the Florence County Fire District, the West Florence Fire District Commission, and the governing body of Florence County. The real property on Hoffmeyer Road in the county which the governing body of Florence County has acquired to construct a new fire station for the West Florence Fire Subdistrict also must be transferred to the new district established by this article with the consideration for it to be determined by agreement between the district commission and the governing body of Florence County.

Section 4‑23‑1030. The rates charged for services furnished by any revenue‑producing facility of the district, as constructed, improved, enlarged or extended, shall not be subject to supervision or regulation of any state bureau, board, commission or other like instrumentality or agency of it.

Section 4‑23‑1035. The district commission is authorized and empowered to issue general obligation bonds of the district in the manner provided in Article 11 of this chapter.

Section 4‑23‑1040. Upon the establishment of the district, notwithstanding any other provisions of law, no other millage levy or uniform service fee may be imposed in the district by any other political subdivision or entity for the provision of fire services.

Section 4‑23‑1045. The district commission, upon agreement with another fire department or district not located in the service area of the district, may permit the other department or district to provide fire services in certain parts of the district if this is considered to be a more cost‑effective solution to the provision of fire services in that particular location, and alternatively also may agree to provide fire services in parts of Florence or Darlington counties outside the service area of the district if this is considered to be a more cost‑effective solution to the provision of fire services in that particular location.

Section 4‑23‑1050. The fire chief or equivalent official of the truck company to which the equipment is assigned shall have complete supervision over its usage and operation, and it is his responsibility to ensure that the equipment is readily available for use at all times.

Section 4‑23‑1055. Vehicles of the fire departments and vehicles of individual members of the fire departments in this district are designated and are considered emergency vehicles while traveling to fires.

Section 4‑23‑1060. It is unlawful in the fire district to park within five hundred feet of a place where fire apparatus or an emergency vehicle is stopped in answer to an emergency and no person shall cause any highway, road, either public or private, in the area of fire apparatus or emergency vehicles to be blocked by his vehicle in such a manner that fire apparatus or emergency vehicles will be hindered from reaching the scene of the emergency. It is also unlawful to drive a vehicle over any unprotected hose of a fire department without the consent of the fire department official in command on any street, road, or private driveway when the hose is being used for firefighting. A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than ten dollars nor more than one hundred dollars.

Section 4‑23‑1065. All members of a truck company of the fire district, employees, or volunteers may direct and control traffic at the scene of any fire in the area of the district and enforce the laws of this State relating to the following of fire apparatus, the crossing of a fire hose, and interfering with firemen in the discharge of their duties in connection with a fire in the same manner as provided for the enforcement of these laws by law enforcement officers.

Section 4‑23‑1070. It is unlawful for any person to wilfully destroy or damage any facility of the district, or equipment used in the operation of a facility, to interfere with a member of a fire department in the discharge of his duties in the district or to interfere with any fire apparatus used by the fire department in the district. Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than thirty dollars nor more than one hundred dollars or be imprisoned not exceeding thirty days.”

SECTION 2. This act takes effect upon approval by the Governor.

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