

# OFFICE OF THE ATTORNEY GENERAL

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Honorable Freda P. Roberts  
Revenue Commissioner  
Mobile County  
P.O. Drawer 1169  
Mobile, AL 36633-1169

Counties - Forest and Forestry -  
Forest Lands Tax - Funds

A general law dealing with a specific subject is not to be construed as repealing a local law dealing with the same subject.

Mobile County may collect a total of twenty cents (\$.20) per acre of forest land owned for protection against forest fires.

The tax collector of Mobile County is the recipient of funds collected under Act 82-311.

The Alabama Forestry Commission is the recipient of funds collected under Act 89-652.

The County Commission of Mobile County may remove the financial charge provided by Act 82-311 if determined after public hearings that the charge is no longer needed.

Dear Mrs. Roberts:

This opinion is issued in response to your request for an opinion from the Attorney General.

QUESTION I

Does Act 89-652 automatically repeal Act 82-311?

FACTS AND ANALYSIS

Act 82-311, Acts of Alabama 1982, page 418, authorizes the Mobile County Commission to provide protection against forest fires within the county and to assess the whole or a part of the cost of such protection against forest lands in the county. Section 2(a) of the Act allows the county to assess a fee to be paid by the owners of forest land located in Mobile County of not more than ten cents per acre.

Act 89-652, Acts of Alabama 1989, page 1292, levies a state finance charge, fee, or assessment on forest lands for forest fire protection and prevention. Section 6(b) of the Act levies a fee of ten cents per acre against each owner or lessee of forest land owned.

The question of whether enactment of a general law repeals preexisting local law depends upon the legislature's intent, as determined from language used in general law. Buskey v. Mobile County Board of Registrar, 501 So.2d 447 (1986). As a general rule, general laws dealing with a specific subject are not to be construed as repealing a special or local law dealing with the same subject. City of Mobile v. Marx and Company, 75 F.2d 569 (1935).

CONCLUSION

Enactment of Act 89-652 does not automatically repeal local Act 82-311.

QUESTION II

If the answer to Question I is no, do we collect ten cents per acre according to Act 82-311 and ten cents an acre according to Act 89-652 for a total of twenty cents per acre?

FACTS AND ANALYSIS

The charge, fee or assessment levied in Act 89-652 must first be approved by a majority of owners or lessees of forest land voting in a referendum to determine whether the assessment should be levied. If the referendum does not pass, another referendum may be called by the Alabama Forestry Commission after the expiration of two years.

Act 89-652, §10 provides:

Any county may, by local legislation, increase the amount of the finance charge, fee or assessment provided for in this act, but is hereby prohibited from decreasing said amount.

#### CONCLUSION

In response to Question II, Mobile County may collect a total of twenty cents per acre forest land owned.

#### QUESTION III

What agency is the recipient of the funds collected under Act 82-311?

#### FACTS AND ANALYSIS

Section 4 of Act 82-311 provides as follows:

The tax herein imposed shall be due and payable to the Tax Collector of Mobile County and shall, when collected, be paid to the Treasurer of Mobile County.

#### CONCLUSION

The Tax Collector of Mobile County is the recipient of funds collected under Act 82-311 and all funds collected are paid to the treasury of Mobile County.

#### QUESTION IV

What agency is the recipient of funds collected under Act 89-652?

#### FACTS AND ANALYSIS

Section 4 of Act 89-652 provides:

The proceeds generated in each county shall be earmarked for use in the respective county where raised to provide for forest protection and similar forestry services within the county.

Section 5 of Act 89-652 provides:

That the charge, fee, or assessment will be levied and collected in the same manner as ad valorem taxes are levied and collected. And all revenues and money collected under the provisions of this Act shall be distributed by the office of the county tax

collector or the person charged with the collection of taxes, to the commission.

CONCLUSION

The Alabama Forestry Commission is the recipient of funds collected under Act 89-652, and all funds collected will then be earmarked for use in the respective county where the funds were raised.

QUESTION V

If Act 82-311 is not automatically repealed by Act 89-652, pursuant to Act 82-311, §5, can the county commission remove the tax by resolution without legislative action?

FACTS AND ANALYSIS

Section 5 of Act 82-311 provides:

That the County Commission of Mobile County is authorized to remove such financial charge or tax after said county commission has determined that the financial charge or tax is no longer needed. The county commission shall hold public hearings to determine whether or not the financial charge or tax are still needed.

CONCLUSION

The County Commission of Mobile County may remove the financial charge provided by Act 82-311 after holding public hearings to determine whether or not the charge is still needed.

I hope that this sufficiently answers your questions. If our office can be of any further assistance, please do not hesitate to contact me.

Sincerely,

JIMMY EVANS  
Attorney General

By-

  
JAMES R. SOLOMON, JR.  
Chief, Opinions Division