



2011-060

STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

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Honorable Fred Hamic  
Geneva County Probate Judge  
200 North Commerce Street  
Geneva, Alabama 36340

Fire Districts – Fire Protection Fee –  
Collections – Revenue Commissioners  
– Geneva County

The revenue commissioner in Geneva  
County is responsible for collecting  
the fire protection fee authorized by  
Act 2010-546.

Dear Judge Hamic:

This opinion of the Attorney General is issued in response to your  
request.

QUESTION

Is the revenue commissioner or the fire dis-  
trict responsible for collecting the fire protection  
fee levied under Act 2010-546?

FACTS AND ANALYSIS

Act 2010-546 of the 2010 Legislative Session is a local act, applica-  
ble to Geneva County, providing for the procedure for establishing fire  
districts. 2010 Ala. Acts No. 2010-546. Section 12(a) of the act states that  
a fire protection fee will be levied. 2010 Ala. Acts No. 2010-546, § 12(a).  
Section 12(a) and (b) further provides for the collection and enforcement of  
the fee as follows:

(a) . . . The fee shall be *collected, administered, and enforced* at the same time, in the same manner, and under the same requirements and laws as are the ad valorem taxes of the state. . . .

(b) The board may provide that upon a person being in default for more than 60 days in paying any service charge or fee due, the person shall be liable to pay, in addition to the service charge or fee, a reasonable late fee and any reasonable attorney's fees incurred by *the district in its efforts to enforce payment of the service charge or fee whether suit is filed or not.*

2010 Ala. Acts No. 2010-546, § 12 (emphasis added).

This Office has considered language virtually identical to section 12(a) in a local act applicable to Houston County providing that a fire protection service fee be "collected and administered." Opinion to Honorable Starla S. Moss, Houston County Revenue Commissioner, dated October 31, 2001, A.G. No. 2002-046. The Moss opinion concluded that because ad valorem taxes are collected and administered in Houston County by the revenue commissioner, the commissioner is responsible for collecting the fee. Likewise, ad valorem taxes are collected and administered in Geneva County by the revenue commissioner, except with respect to ad valorem taxes on motor vehicles, which are collected by the probate judge. 1978 Ala. Acts No. 651, 923; 1998 Ala. Acts No. 98-652, 1429.

You question the authority of the revenue commissioner to collect the fee in the light of the authority granted to the fire district in section 12(b). That language, however, is limited to the enforcement, as opposed to the collection, of the fee. In fact, both sections specifically provide for enforcement, the former on the same basis as for collection, and the latter by court action by the district. As a general rule of statutory construction, as between conflicting sections of the same act, the last in the order of arrangement will control. *Hand v. Stapleton*, 33 So. 689 (Ala. 1903). Accordingly, the revenue commissioner in Geneva County is required to collect the fee, but the district is required to recover the fee where there is nonpayment.

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CONCLUSION

The revenue commissioner in Geneva County is responsible for collecting the fire protection fee authorized by Act 2010-546.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Ward Beeson of my staff.

Sincerely,

LUTHER STRANGE  
Attorney General  
By:

  
BRENDA F. SMITH  
Chief, Opinions Division

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