

Section 4. In any case where the fees provided by this act are not paid, the district attorney of the county shall assist in the collection of the fees in the same manner as other court ordered monies and shall be entitled to the same fees.

Section 5. Any revenues derived from this act shall be in addition to any other funding for the operation of the sheriff's office and shall not reduce any funding from any other source.

Section 6. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 7. All laws or parts of laws which conflict with this act are repealed.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1997

Time: 2:20 P.M.

Act No. 97-665

S. 707 – Senator Poole

AN ACT

Relating to Tuscaloosa County, Alabama: to amend and reenact Act 86-656, 1986 First Special Session (Acts 1986, p. 39), as amended, establishing a fire district, pursuant to Amendment No. 358 to the Constitution of Alabama of 1901, for the purpose of preventing fires or for fire protection and certain other public service in Tuscaloosa County; providing for the manner such district may be created for any area; providing for the petition for any proposed district and the election thereon; providing that the expense of the conducting such election shall be paid by the county except that if the district is created the district shall reimburse the county; providing that after a district has been established the district shall pay the expense of any election held in the district or held in any area which it is proposed be added to the district; providing that no district shall be created unless the creation thereof has been approved by the majority of votes cast at an election; providing that if the creation of the proposed district is approved by the majority of votes cast at the election, the proposed district shall be created and shall constitute a public corporation; providing for the enlargement and contraction of the district; providing for the management and operation of each district; providing for the election of a fire district board, except the initial board made up of the existing board of the directors of each volunteer fire department, each being a public corporation; providing for the terms of office of the members of the board; providing for the officers compensation, expense allowance and duties of the members of the board; defining the rights, power, and authority of the district; authorizing any such district to pledge all or any parts of its revenues, or to mortgage or otherwise encumber all or any part of its property for the purpose of securing the payment of the principal of and interest on any of its obligations; authorizing any such district to

levy and collect service charges or fees subject to certain limitations; providing that such services charges or fees shall not be levied unless the same is first approved by a majority of the votes cast by the qualified electors residing within the district; providing for the dissolution of any such district; providing that the provisions of this act are severable; repealing all laws, or parts of laws, in the conflict with the act; and providing for the effective date of the act.

Be It Enacted by the Legislature of Alabama:

Section 1. The provisions of this act shall apply to Tuscaloosa County, Alabama.

Section 2. Definitions. The following words and terms are used in this act shall have the meanings ascribed to them, unless a contrary meaning is apparent from the context: "the act" shall mean this act; "the county" shall mean Tuscaloosa County, Alabama; "district for fighting fires" shall mean a district created under this act for establishing and maintaining a system for fighting or preventing fires; "board" shall mean the board of directors of a district established pursuant of this act.

Section 3. Any area situated entirely within the county may be established as a district for fighting fires pursuant to this act. No land lying within the boundaries of a municipality at the time a district is formed shall be included in the district unless the municipality adopts a resolution to be included in the district. Nothing in this act shall be construed to limit or impede a municipality's right or ability to provide fire protection within its corporate limits or its police jurisdiction.

Section 4. (a) Upon any petition being filed in the office of the probate judge of the county, he shall order an election to be held in the proposed district on the question, or questions, on which the petition requests an election. The petition shall be signed by at least 100 qualified electors residing within the boundaries of the proposed district.

(b) The petition shall contain a map and a description of the area which it is proposed be established as a district under the provisions of the act; and the petition shall request the probate judge to call an election on one or more of the following questions: "Shall there be created for the area a district for fighting fires? Yes . No ."

(c) The petition shall state the name of the proposed district. The board of a district may change the name of the district by filing in the office of the probate judge a copy of a resolution changing the name thereof, which copy shall be certified by the president of the board.

(d) The petition for election on the establishment of a district may be accompanied by a petition for an election on the question of

levying a proposed service charge or fee which last named petition shall be signed by at least 100 qualified electors residing within the proposed district. A petition for an election on the establishment of a district shall be deemed to be accompanied by a petition for an election on the question of levying a proposed service charge or fee and a petition for an election on the question of the proposed composition of the board, if the request for the election on the proposed district, the request for an election proposed service charge or fee, and the request for an election on the proposed composition of the board are combined in a single petition.

Section 5. (a) When a petition for the holding of any election is filed with the probate judge not less than thirty (30) days and not more than sixty (60) days prior to some other election to be held in the territory in which an election is sought by the petition, the probate judge shall order the election sought by the petition to be held on the same day as such other election is held.

(b) If the petition is not filed at such time as will permit the election sought thereby to be held at the time some other election is held, as herein provided, the probate judge shall order the election sought by the petition to be held on a day not less than thirty (30) days nor more than forty (40) days from the date on which the probate judge enters said order.

(c) The provisions of this section shall apply to all elections provided for by the act.

Section 6. The provisions of the election laws governing the registration of voters, equipment at polling places, furnishing of supplies, appointment of election officers, voting and canvassing returns at a general election shall apply to any election for a fire district.

Section 7. The judge shall give notice of any election held under Section 4 or Section 13 of this act by publishing for three (3) weeks at least once a week, on the same day of each week, in a newspaper of general circulation in the territory where said election is to be held, a notice that on the day fixed for the election the questions to be then voted on shall be submitted to the electors of the said territory.

Section 8. Where an election is held on the question of the establishment of a district, the governing body of the county shall pay for the necessary expense of advertising and conducting such election out of the general funds of the county; provided, however, that if the district is established, the district shall reimburse the county for the expenses incurred by the county in respect to said election. Furthermore, if any property is within a police jurisdiction, that municipality shall have prior notification at least thirty (30) days before the election.

After a district has been established, the district shall pay the expense of any election held on behalf of the district.

Section 9. No district shall be created unless the creation thereof is approved by the majority of votes cast at the election at which the proposed creation is submitted. Upon the officers canvassing the returns of the election certifying that the creation of the district was approved by the majority of the votes cast at such election, the proposed district shall be created and shall constitute a public corporation.

Section 10. (a) The affairs and business of each district shall be managed by a board of directors, the initial members consisting of the existing board of directors of each volunteer fire department, each being a public corporation. No person shall serve on said board unless the person is a qualified elector of and resides in the district and is over the age of 21. Members of the board of directors of a district shall serve a term of four years; provided, however, that the initial terms shall be as follows: of the seven members first elected, one shall be elected for a term of one year, two shall be elected for a term of two years, two shall be elected for a term of three years, and two shall be elected for a term of four years. Their successors shall be elected from among those candidates who are nominated from the floor at the annual meeting of the district. The members of the board of the district shall be elected at the annual meeting by secret ballot of the district from among the persons nominated. Any person who is a qualified elector and a resident of the district may vote on the election of the board of directors of a district.

(b) Any vacancy on the board shall be filled at the next annual meeting for the unexpired term in the same manner as herein required. The board may appoint a qualified elector from the district in which the vacancy occurs who will serve until the next annual meeting.

(c) The board shall elect annually from its own number a president, secretary, and a treasurer. The members of the board shall not be entitled to any compensation for their services; but they shall be entitled to reimbursement for all expenses incurred by them in the performance of their duties.

Section 11. The district shall constitute a public corporation, which shall have the power to do any and all acts or things necessary and convenient for carrying out the purposes for which it is created including, but not limited to: To sue and be sued. To have a seal and alter the same at pleasure. To acquire, hold and dispose of property, real and personal, tangible and intangible, or interests therein and to pay therefore in cash or on credit, and to secure and procure payment of all or any part of the purchase price thereof on such terms and conditions as the board shall determine. To acquire, own, operate, maintain

and improve a system or systems. To pledge all or any part of its revenues, or mortgage, or otherwise encumber, all or any part of its property for the purpose of securing the payment of the principal of and interest on any of its obligations. To sell, lease, mortgage or otherwise encumber or dispose of all or any part of its property, as hereinafter provided. To contract debts, borrow money, and to issue or assume the payment of obligations. To levy and collect service charges or fees, as herein provided in this act, subject to the limitations prescribed in said act. To provide refunds of overpaid service charges and fees previously collected by the district and to otherwise correct errors made in the assessment and/or collection of service charges and fees. To terminate the assessment and collection of service charges and fees upon the withdrawal of a property owner from the district as provided herein. To employ agents, servants, and attorneys. To enter into mutual assistance agreements and response/coverage agreements with municipalities and other governmental and public entities. To perform any and all of the foregoing acts and to do any and all of the foregoing things under, through, or by means of its own officers, agents, and employees, or by contracts with any person, federal agency, or municipality.

This act shall constitute the articles of incorporation of the public corporation; however, the board shall adopt bylaws for the governance of the district.

Section 12. The expense of establishing and maintaining a district shall be paid for by the proceeds of a service charge or fee which shall be levied and collected in an amount sufficient to pay said expense. Said service charge or fee shall be levied upon and collected from the property owners served by the system. The charge or fee shall be a personal obligation of the owner of the property served by the system; and to secure the collection of the charge or fee there shall be a lien against said property in favor of the district, which lien shall be enforceable by sale thereof in the same manner in which the foreclosure of a municipal assessment for public improvements is authorized.

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 fee incurred by the district in its efforts to enforce payment of the service charge or fee whether suit is filed or not.

Section 13. (a) No service charge or fee shall be levied unless the same has been first approved by the majority of the votes cast at an election held hereunder by the qualified electors residing within the district, or within the proposed district.

(b) An election on the question of levying a service charge or fee in a proposed district may be held at the same time that the

election is held on the creation of the district, provided that the petition for the election on the question of the service charge or fee accompanies the petition for the election on the establishment of the proposed district, as provided herein. An election on the question of a service charge or fee may be held upon the board of a district submitting to the probate judge a petition for such election as provided. The board shall file in the office of the probate judge a petition that he call an election in the district on the question of whether the service charge or fee proposed shall be levied. No election shall be required to refund overpaid service charges or fees, to correct errors in the assessment thereof, or to terminate the assessment and collection thereof upon the withdrawal of a property owner from a district as provided herein; all of which shall be effectuated by written authorization of the president of the board.

(c) The petition shall state specifically the charge or fee which it is proposed shall be levied. The petition may request that an election be held on more than one proposed charge or fee. Upon the petition being filed with the probate judge, he shall order an election to be held within the time provided for by this act.

Section 14. (a) A district may be enlarged or contracted in accordance with the terms of this section, except that no area lying within a municipality at the time of the enlargement shall be brought within the district unless the municipality adopts a resolution to be included in the district. Furthermore, if any property that is proposed for addition to a district is located within the police jurisdiction of a municipality, the mayor of that municipality shall receive prior written notification thereof at least thirty (30) days before the election.

(b) Property contiguous to a district may be included in that district either by the unanimous request of all owners of such property or by election. In either event, inclusion is subject to the approval by a majority vote of the district members at an annual meeting.

Where the request for inclusion is made in writing to the district board at least sixty (60) days before an annual meeting and such request is signed by all owners of the property proposed for inclusion, approving of every service charge or fee in effect in the district at that time, such property may be included in the district by the majority vote of the district members at that annual meeting. Where less than all of the owners of such property request inclusion into the district and approval of such service charges or fees, such area shall not be brought within a district by enlargement unless the majority of the votes cast at the election provided for, below, approve the inclusion of the area within the district and also approve every service charge or fee in effect within the district at the time of election.

The term "proposed area," as used in this subsection (b), means an area which it is proposed by at least one (1) but less

than all of the owners thereof to be brought into the district by enlargement of the district. When the board of a district determines that the inclusion of a proposed area within the district would be in the best interests of the district and the inhabitants of the proposed area, the board shall file with the office of the judge of probate a petition requesting that there be an election at which there shall be submitted to the qualified electors residing within the proposed area the question of whether the proposed area shall be included within the district and also the question of whether every service charge or fee in effect within the district at the time of the election is approved. Upon the petition being filed, the judge of probate shall order an election to be held within time herein provided, at which election the qualified electors residing within the proposed area shall vote on the question of the proposed enlargement. Unless the majority of votes cast at the election to enlarge the district vote in the affirmative on the question of enlargement the proposed area shall not be included within the district. Upon the officers canvassing the returns of the election certifying that a majority of votes cast was in favor of the inclusion of the proposed area in the district, the proposed area shall become a part of the district and shall begin being assessed a service charge or fee in the same manner as other property in the district.

(c) A district may be contracted as hereinafter provided upon the written request to the board from the owner of property seeking withdrawal from the district or by an annexing municipality. No property shall be permitted to withdraw from a district unless the district is paid in advance, by the property owner and/or the annexing municipality as they may agree, a withdrawal fee equal to five (5) times the service charge or fee assessed to such property for the previous year. For property being withdrawn for annexation, upon receipt of such withdrawal fee by the district, the president of such district shall, within thirty (30) days or by the last business day of the district's assessment year, which ever is shorter, notify the tax assessor and tax collector for the county, or such other party that may be assessing and collecting the fire district's service charges or fees, of such withdrawal and request that the fire district service charge or fee for such property be immediately deleted from the ad valorem tax records or other fire district fee assessment records for such property. For property requesting withdrawal for any reason other than annexation, such withdrawal request shall, in addition to payment of the withdrawal fee, be made in writing to the district board at least sixty (60) days prior to an annual meeting and shall be subject to the approval by majority vote of the members at that annual meeting. The property owner withdrawing from the district shall pay the entire service charge or fee for the tax year of withdrawal without proration separate and apart from the withdrawal fee.

Thereafter no service charge or fee shall be charged against such property unless subsequently brought back into the district.

Section 15. (a) Any district created hereunder may be abolished in the manner provided for by this section; provided however, that no district shall be abolished when it has any indebtedness. All assets and equipment shall go to the Tuscaloosa County Fire Protection Association.

(b) Upon the petition for abolition of a district, conforming to the requirements set forth below, being filed with the probate judge, he shall order an election on abolition of the district within the time herein provided, at which qualified electors residing within the district shall be entitled to vote. The petition shall be signed by at least 100 qualified electors of the district. It shall contain a recital that the district is not indebted; and it shall request the probate judge to order an election on whether the district shall be abolished. Upon the officers canvassing the returns of the election certifying that abolition of the district was approved by a majority of the votes cast at the election, the district shall be abolished.

Section 16. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 17. All laws or parts of laws which conflict with this act are hereby repealed.

Section 18. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1997

Time: 2:21 P.M.

Act No. 97-666

S. 714 – Senator Biddle

AN ACT

Relating to the Elected Assistant District Attorney's Office, Tenth Judicial Circuit, Jefferson County, Bessemer Division; to provide for the appointment, duties, and compensation of deputy district attorneys; and to repeal the following acts: No. 245, H. 845, 1975 Regular Session (Acts 1975, p. 773); Act No. 87-721, H. 896, 1987 Regular Session (Acts 1987, p. 1411); Act No. 90-202, H. 449, 1990 Regular Session (Acts 1990, p. 237); and Act No. 93-648, S. 382, 1993 Regular Session (Acts 1993, p. 1119); all relating to the office and compensation of the deputy district attorneys in the Tenth Judicial Circuit, Bessemer Division.

Be It Enacted by the Legislature of Alabama:

Section 1. In the Tenth Judicial Circuit of Alabama, Bessemer Division, the elected assistant district attorney of the circuit may