

WHEREAS, it is with deep sadness and regret that the Legislature of Alabama records the death of James Vandiver Newton of Greenville, Alabama, on September 9, 1986, at the age of 69 years; and

WHEREAS, a beloved citizen of the Greenville community and a prominent area businessman, Mr. Newton was the owner of Newton Oil Company, Inc., in Greenville and, though semi-retired, he still remained active in company affairs and decisions; and

WHEREAS, Mr. Newton also was a longtime member of the Baptist Church, and was involved as well in a number of the civic and community activities of Greenville; and

WHEREAS, in addition to his wife, the former Authurine Thompson, Mr. Newton is survived by three sons, James Neil Newton, Charles Oliver Newton and William David (Bill) Newton, our good friend and associate who serves as director of the Legislative Fiscal Office; he also is survived by four grandchildren, three sisters and other family members; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of James Vandiver Newton of Greenville, Alabama, and extend our very deepest sympathy to all his family, whose inconsolable loss is a bereavement we share and for whom copies of this resolution of sincere condolence shall be provided.

Approved September 25, 1986

Time: 3:00 P.M.

Act No. 86-656

H. 12—Rep. Mitchell

### AN ACT

Relating to Tuscaloosa County, Alabama; 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 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 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 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, powers, and authority of the districts; authorizing any such district to pledge all or any part 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 service 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 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 as 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 Tuscaloosa County fire district board.

**Section 3.** Any area situated entirely within the county may be established as a district for fighting fires in the manner hereinafter provided for; provided, however, no land lying within the boundaries of a municipality at the time a district is formed shall be included in the district.

**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 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 on the proposed service charge or fee, and the request for an election on the proposed composition of the board re 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 held hereunder.

**Section 7.** The probate judge shall give notice of any election held under 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 will 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.

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 to be added to 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, 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 he is a qualified elector of the district. Membership of the Tuscaloosa County fire district board shall be for a term of four years; provided, however, that the initial terms shall be as follows: of the seven (7) 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 qualify to run with the probate judge in the same manner as other officials for county office, with bond set by the probate judge. Each candidate shall be a qualified elector of the district and over the age of 21 years.

(b) Any vacancy of the board shall be for the unexpired term filled in the same manner as herein required. In event there is less than 12 months remaining on such term, the board may appoint a qualified elector from the district in which the vacancy occurs.

(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 therefor 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 employ agents, servants, and attorneys. 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.

**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. Such 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 sixty (60) days in paying any service charge or fee due by him he shall be liable to pay any reasonable attorney's fee incurred by the district in its effort to enforce payment of the said 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.

(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 in accordance with the terms of this section; provided, however, that no area lying within a municipality at the time of the enlargement shall be brought within the district.

(b) No area shall be brought within a district by enlargement unless the majority of the votes cast at the election provided for by subsection (c), 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 the election.

(c) The term "proposed area," as used in this subsection (c), means an area which it is proposed be brought within a 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 to the advantage of the district and also to the advantage of the majority of the inhabitants of the proposed area, the board may file in the office of the probate judge a petition that there be an election in the proposed area 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 such petition being filed, the probate judge shall order an election to be held within the proposed area, within the time herein provided, at which election the qualified electors residing within the proposed area shall vote on the two foregoing questions. Unless the majority of votes cast at the election vote in the affirmative on each of the foregoing questions, 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, and that the majority of the votes cast approved every service charge or fee in effect within the district at the time of the election, the proposed area shall become a part of 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.

(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 to be held in 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 September 25, 1986

Time: 4:00 P.M.

Act No. 86-657

H. 16—Reps. Adams and Clark (J)

AN ACT

To provide further for the salary of the sheriff of Russell County and to repeal conflicting laws.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Sheriff of Russell County shall receive an annual salary of forty thousand dollars (\$40,000.00) payable in equal monthly installments from the county treasury. Said salary shall be in lieu of any and all other compensation or salary heretofore paid by law.

**Section 2.** 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 3.** All laws or parts of laws in conflict herewith are hereby repealed.

**Section 4.** This act shall become effective on the first day of the next term of office of the sheriff following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 25, 1986

Time: 4:00 P.M.