

1 HB147
2 188464-1
3 By Representative Faulkner
4 RFD: County and Municipal Government
5 First Read: 09-JAN-18

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8 SYNOPSIS: Under existing law, a municipality may adopt
9 the council-manager form of government pursuant to
10 Article 1 of Chapter 43A of Title 11, Code of
11 Alabama 1975, the Council-Manager Act of 1982. In
12 that case, the council is composed of five members.
13 The mayor and one council member are elected at
14 large and three council members are elected from
15 single-member districts. In addition, an alternate
16 form for the composition of the council is provided
17 for in Class 6 municipalities with a mayor and
18 eight council members.

19 This bill would authorize a Class 4, 5, 6,
20 7, or 8 municipality having the mayor-council form
21 of government to adopt the council-manager form of
22 government having a council composed of either five
23 or seven members with a mayor elected at large and
24 either four or six council members elected either
25 at large or from single-member districts. The bill
26 would also amend existing law to further specify
27 exceptions to existing law to conform to this act.

1
2 A BILL
3 TO BE ENTITLED
4 AN ACT
5

6 To add Section 11-43A-1.1 to the Code of Alabama
7 1975, the Council-Manager Act of 1982; to authorize certain
8 municipalities having the mayor-council form of government to
9 adopt alternate forms of organization for the council-manager
10 form of government and to provide for the election of the
11 members of the council; and to amend Section 11-43A-16, Code
12 of Alabama 1975, to further provide for the election of a
13 mayor pro tempore and for the filling of vacancies in the
14 office of mayor and members of the council, and to amend
15 Sections 11-43A-8, 11-43A-9, 11-43A-14, and 11-43A-32 of the
16 Code of Alabama 1975, to conform to this act and to further
17 specify exceptions to the number of members on the
18 council-manager form of government under existing law.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Section 11-43-1.1 is added to the Code of
21 Alabama 1975, to read as follows:

22 §11-43-1.1

23 Notwithstanding any other provision of this article,
24 any Class 4, 5, 6, 7, or 8 municipality having the
25 mayor-council form of government, by resolution of the
26 council, may provide for the adoption of the council-manager
27 form of government under this article having a council

1 composed of either five or seven members. One member shall be
2 the mayor elected at large, who shall be a voting member of
3 the council. Either four or six members shall be council
4 members elected either at large or from single-member
5 districts, as the resolution shall provide. If a municipality
6 has single-member districts for the election of council
7 members when the council-manager form of government is adopted
8 in the municipality, the municipality shall continue with
9 either four or six council members elected from single-member
10 districts and the mayor shall be elected at large. After the
11 adoption of the resolution by the council, the adoption of the
12 council-manager form of government shall be governed by this
13 article, except to the extent of any direct conflict in this
14 article concerning the number and election of members of the
15 council and as subject to the resolution of the council
16 providing for the adoption of the council-manager form of
17 government.

18 Section 2. Sections 11-43A-8, 11-43A-9, 11-43A-14,
19 11-43A-16, and 11-43A-32 of the Code of Alabama 1975, are
20 amended to read as follows:

21 "§11-43A-8.

22 "(a) The governing body provided for herein shall be
23 known collectively as the "Council of the City (Town) of _____
24 (name of city or town to be inserted)" and shall have the
25 powers and duties hereinafter provided. Except as hereinafter
26 provided and as otherwise provided for in Section 11-43A-1.1,
27 the council shall have five members. One member shall be the

1 mayor, elected by the voters at large, to preside over the
2 deliberations of the council. One member shall be a council
3 member elected by the voters at large. Three members shall be
4 council members elected by the voters from each of three
5 single-member districts. The council first elected shall
6 qualify and take office on the first Monday in October
7 following the date of the next ensuing municipal election held
8 for the election of members of a municipal governing body
9 during a general municipal election year.

10 "(b) In Class 6 cities the municipal governing body,
11 by resolution, may elect to have the council composed and
12 elected as above prescribed or to have the alternate form as
13 hereinafter prescribed. If the municipal governing body, by
14 resolution, elects to have the alternate form, it shall
15 immediately notify the judge of probate, who shall have the
16 ballots for the election, authorized in section 11-43A-3,
17 prepared to pose the question of the adoption of the alternate
18 form of government authorized in this section. The council
19 shall have nine members. One member shall be the mayor, who
20 shall be a voting member, elected by the voters at large, to
21 preside over the deliberations of the council. Eight members
22 shall be council members elected by the voters, two from each
23 of four dual-member districts. The council first elected shall
24 qualify and take office on the first Monday in October in an
25 even-numbered year designated by the municipal governing body
26 unless the election approving the change in the form of

1 government was held in 1983, in which case such council shall
2 qualify and take office on the first Monday in October 1986.

3 "(c) Subsequent to the seating of the initial
4 council, the next council shall be elected at an election to
5 be held in accordance with provisions of the general municipal
6 election laws.

7 "§11-43A-9.

8 "(a) In all cities to which this section applies,
9 except Class 6 cities wherein the municipal governing body has
10 elected to have a nine-member council, as authorized in
11 Section 11-43A-8, the election for the first officers of the
12 municipality shall be held on the same date as the date of
13 election for the next ensuing general municipal election.

14 ~~Before~~ Except as otherwise provided for in Section 11-43A-1.1,
15 ~~such~~ the election of the governing body of the municipality
16 shall cause the municipality to be divided into three
17 districts containing as nearly an equal number of people as
18 possible. Candidates shall qualify in the manner prescribed in
19 the general municipal election laws and shall have the
20 qualifications and eligibility set forth therein. Each
21 candidate shall announce that he or she is to become a
22 candidate for mayor, or councilman-at-large, or if he or she
23 desires to become a candidate for one of the three district
24 posts, either district post 1, district post 2, or district
25 post 3. A candidate for a district position shall reside in
26 his or her district. Each voter in the election may cast one
27 vote for a candidate for mayor, one vote for a

1 councilman-at-large, and one vote for the candidate from the
2 district in which he or she resides. Any candidate receiving a
3 majority of the total votes cast for mayor,
4 councilman-at-large, district post 1, district post 2, and
5 district post 3 shall be elected. In the event no candidate
6 receives a majority for a place on the council there shall be
7 a runoff election for such place held in the manner prescribed
8 by the general municipal election laws. The councilmen elected
9 shall take office as herein provided. Each councilman shall
10 hold office for four years and shall serve until his or her
11 successor shall have been elected and qualified.

12 "(b) In Class 6 cities wherein the municipal
13 governing body has elected to have a nine-member council as
14 authorized in Section 11-43A-8, the election for the first
15 officers of the municipality shall be held on the same date as
16 the date of election for the next ensuing general municipal
17 election. Before such election the governing body of the
18 municipality shall cause the municipality to be divided into
19 four districts containing as nearly an equal number of people
20 as possible. Candidates shall qualify in the manner prescribed
21 in the general municipal election laws and shall have the
22 qualifications and eligibility set forth therein. Each
23 candidate shall announce that he or she is to become a
24 candidate for mayor, or if he or she desires to become a
25 candidate for one of the eight district posts, either district
26 1 post 1, district 1 post 2, district 2 post 1, district 2
27 post 2, district 3 post 1, district 3 post 2, district 4 post

1 1, or district 4 post 2. A candidate for a district position
2 shall reside in his or her district. The municipal governing
3 body shall have the authority by ordinance to establish
4 geographic boundaries of approximately equal population for
5 each of the two posts in any or all of the four districts. The
6 ordinance of the city required by the preceding sentence shall
7 be adopted no later than 75 days prior to the date of the
8 election with respect to which the establishment of districts
9 is to be effective. In establishing any such posts within a
10 district, the city shall not be required to comply with
11 Section 11-43A-33 except with respect to elections held
12 subsequent to the publication of a federal census or
13 population subsequent to the 1990 federal census of
14 population. Each voter in the election may cast one vote for a
15 candidate for mayor and one vote for a candidate for each of
16 the two posts for the district in which he or she resides
17 unless the municipal governing body has designated geographic
18 boundaries for the two posts in a district. If the governing
19 body has designated by ordinance geographic post boundaries
20 for a district, then each voter within that district may cast
21 one vote for a candidate for the post position within the
22 district geographic boundaries where he or she resides. Any
23 candidate receiving a majority of the total votes cast for
24 mayor, or for a district post shall be elected. In the event
25 no candidate receives a majority for a place on the council
26 there shall be a runoff election for such place held in the
27 manner prescribed by the general municipal election laws. The

1 councilmen elected shall take office as herein provided.

2 Councilmen elected hereunder, each, shall hold office for four
3 years and shall serve until his or her successor shall have
4 been elected and qualified.

5 "§11-43A-14.

6 "(a) At every such election all ballots to be used
7 by the voters shall be printed and prepared by the
8 municipality and shall contain the names of all candidates
9 seeking election to the office of mayor, ~~councilman-at-large,~~
10 ~~or one of the three district council seats except that in all~~
11 ~~Class 6 cities wherein the municipal governing body has~~
12 ~~elected to have a nine-member council as authorized in Section~~
13 ~~11-43A-8, supra, the ballot shall contain the names of all~~
14 ~~candidates seeking election to the office of mayor, or to each~~
15 ~~post in one of the four council districts.~~ or to a position as
16 a member of the council.

17 "(b) The ballot shall conform, as nearly as can be,
18 to the ballot prescribed in the general municipal election
19 laws and the election shall be conducted as nearly as can be
20 as prescribed by such laws.

21 "§11-43A-16.

22 "(a) The mayor shall preside at the meetings of the
23 council and shall be recognized as the head of the municipal
24 government for all ceremonial purposes and by the Governor for
25 purpose of military law, but shall have no other
26 administrative duties.

1 "(b) In all cities to which this section applies,
2 except Class 6 cities wherein the municipal governing body has
3 elected to have a nine-member council, as authorized in
4 Section 11-43A-8, and except in municipalities organized under
5 Section 11-43A-1.1, the councilman-at-large shall be assistant
6 mayor and shall act as mayor during the absence or disability
7 of the mayor. Any vacancy in the office of the mayor shall be
8 filled by the councilman-at-large. In ~~such~~ the Class 6 cities
9 and municipalities organized under Section 11-43A-1.1, a mayor
10 pro ~~tem~~ tempore shall be elected from the membership by a
11 majority vote of the council at its first meeting following
12 its election. The mayor pro ~~tem~~ tempore shall act as mayor
13 during the absence or disability of the mayor. Any vacancy in
14 the office of the mayor shall be filled by the mayor pro ~~tem~~
15 tempore. Any vacancies on the council, except that of the
16 office of mayor, shall be filled by the council at the next
17 regular meeting of the council following the date of the
18 vacancy. The election of a new councilman shall require the
19 affirmative vote of at least three members in all cities to
20 which this section applies, except in Class 6 cities wherein
21 the municipal governing body has elected to have a nine-member
22 council, as authorized in Section 11-43A-8, and in ~~such~~ the
23 Class 6 cities ~~such~~ the election shall require the affirmative
24 vote of five members and in municipalities organized under
25 Section 11-43A-1.1, the election shall require an affirmative
26 vote of a majority of the elected members of the council. A
27 vacancy in one of the district council seats shall be filled

1 by a person who shall reside within the district from whence
2 the vacancy arose.

3 "~~(b)~~(c) Notwithstanding subsection ~~(a)~~(b), in Class
4 7 municipalities that have adopted a council-manager form of
5 government consisting of a mayor and four council members
6 elected at-large, the council, at its first meeting after
7 election, by majority vote, shall elect a mayor pro tempore
8 from its membership. The mayor pro tempore shall preside
9 during the absence or disability of the mayor. Any vacancy in
10 the office of the mayor shall be filled by the mayor pro
11 tempore. Any vacancy on the council, except for the office of
12 mayor, shall be filled by the council at its next regular
13 meeting following the vacancy. An affirmative vote of the
14 council is required to fill the vacancy.

15 "§11-43A-32.

16 "(a) ~~There~~ Except as otherwise provided for in
17 Section 11-43A-1.1 and subject to subsection (b), there shall
18 be established three council districts to be designated
19 respectively as district post 1, district post 2, and district
20 post 3, and in such Class 6 cities, there shall be established
21 four council districts with eight district posts to be
22 designated district 1 post 1, district 1 post 2, district 2
23 post 1, district 2 post 2, district 3 post 1, district 3 post
24 2, district 4 post 1, and district 4 post 2. Such districts
25 shall have, as nearly as is reasonable, the same population.
26 The designation and boundaries of the initial council
27 districts shall be specifically described and set forth. In

1 all cities to which this section applies, except the
2 above-described Class 6 cities, the two at-large posts on the
3 council shall be designated as mayor and councilman-at-large;
4 and in such Class 6 cities the one at-large post on the
5 council shall be designated as mayor.

6 "(b) This section shall not apply to a Class 6
7 municipality with a nine-member council authorized pursuant to
8 Section 11-43A-8 or a Class 7 municipality with a five-member
9 council elected at-large authorized pursuant to Section
10 11-43A-3.3."

11 Section 3. This act shall become effective on the
12 first day of the third month following its passage and
13 approval by the Governor, or its otherwise becoming law.