

1 SB104
2 134827-2
3 By Senator Coleman (N & P)
4 RFD: Local Legislation No. 2
5 First Read: 07-FEB-12
6 PFD: 01/27/2012

1 SB104

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3
4 With Notice and Proof

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6 ENROLLED, An Act,

7 Relating to any Class 1 municipality; to amend
8 Sections 3.01, 3.02, 3.12, 4.02, and 4.05 of Act 452 of the
9 1955 Regular Session (Acts 1955, p. 1004), as amended,
10 providing a Mayor-Council form of government for cities having
11 a certain population; to provide that members of the city
12 council shall take office on the fourth Tuesday in October of
13 the year of their election; to provide for filing statements
14 of candidacy in city elections; to provide further that the
15 first meeting of each newly elected council shall be held on
16 the fourth Tuesday in October of the year of its election; to
17 provide the time of elections for filling vacancies in the
18 office of mayor; and to repeal Act 507 of the 1969 Regular
19 Session (Acts 1969, p. 964), which never became operative
20 because the act was not approved by the U.S. Justice
21 Department.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. This act shall apply in any Class 1
24 municipality.

1 Section 2. Section 3.01 of Act 452 of the 1955
2 Regular Session (Acts 1955, p. 1004), as amended by Act 85-919
3 of the 1985 Second Special Session (Acts 1985, p. 197), is
4 amended to read as follows:

5 "3.01. Number, election, term. The council shall
6 have nine members elected from single member districts
7 pursuant to Section 2 of Ordinance 89-46, adopted pursuant to
8 Section 11-43-63 of the Code of Alabama 1975. The district
9 council members elected pursuant to Section 2 of Ordinance
10 89-46, adopted pursuant to Section 11-43-63 of the Code of
11 Alabama 1975, shall take office on the fourth Tuesday in
12 October of the year of election."

13 Section 3. Section 3.02 of Act 452 of the 1955
14 Regular Session (Acts 1955, p. 1004), is amended to read as
15 follows:

16 "3.02 Statement of candidacy. - Any person desiring
17 to become a candidate in any election for the office of
18 councilman may become such candidate by filing in the office
19 of the Judge of Probate of the county in which such city is
20 situated, a statement in writing of such candidacy and an
21 affidavit taken and certified by such judge of probate or by a
22 Notary Public that such person is duly qualified to hold the
23 office for which he desires to be a candidate. Such statement
24 shall be filed at least 45 days before the day set for such
25 election and shall be substantially the following form: State

1 of Alabama, _____ County. I, the undersigned, being first
2 duly sworn, depose and say that I am a citizen of the City of
3 _____ in said State and County, and reside at _____
4 in said City of _____, that I desire to become a
5 candidate for office as a member of the city council, district
6 number _____, in said City at the election for said office to
7 be held on the _____ day of August next and that I am duly
8 qualified to hold said office if elected thereto and I hereby
9 request that my name be printed upon the official ballot at
10 said election. Signed _____; Subscribed and sworn to before
11 me by said _____ on this ____ day of _____, 2____, and
12 filed in this office for record on said day. _____, Judge
13 of Probate. Said statement shall be accompanied by a
14 qualifying fee in the amount of \$50.00, which fee shall be
15 paid over by the judge of probate to the general fund of the
16 city. At every such election all ballots to be used by voters
17 shall be printed and prepared by the election commission or
18 other body or official charged by law with the duty of
19 conducting elections and at the expense of said city, and
20 shall contain the names of all candidates directly underneath
21 the words 'For members of the council.' No name shall appear
22 upon said ballot as a candidate for election except the names
23 of such persons as have become candidates according to
24 provisions as above set forth; no ballot shall be used at any
25 such election except the official ballot prepared by the

1 election commission or other body or official charged by law
2 with the duty of conducting elections, except that the names
3 of candidates may be suitably placed on voting machines if
4 such machines are used to conduct such election. No primary
5 election shall be held for the nomination of candidates for
6 the office of councilman and candidates shall be nominated
7 only as hereinabove provided."

8 Section 4. Section 3.12 of Act 452 of the 1955
9 Regular Session (Acts 1955, p. 1004) as amended by Act 85-919
10 of the 1985 Second Special Session (Acts 1985, p. 197), is
11 amended to read as follows:

12 "3.12. Meetings of council. The first meeting of
13 each newly elected council shall be held on the fourth Tuesday
14 in October of the year of its election, after which the
15 council shall meet regularly at such times as may be
16 prescribed by its rules, but not less frequently than once a
17 week. All meetings of the council shall be open to the
18 public."

19 Section 5. Section 4.02 of Act 452 of the 1955
20 Regular Session (Acts 1955, p. 1004), is amended to read as
21 follows:

22 "4.02. Statement of candidacy. Any person desiring
23 to become a candidate at any election for the office of mayor
24 may become such candidate by filing in the office of the judge
25 of probate of the county in which such city is situated, a

1 statement in writing of such candidacy, accompanied by an
2 affidavit taken and certified by such judge of probate or by a
3 notary public that such person is duly qualified to hold the
4 office for which he desires to be a candidate. Such statement
5 shall be filed at least 45 days before the day set for such
6 election and shall be in substantially the following form:

7 'State of Alabama, _____ County. I, the undersigned, being
8 first duly sworn, depose and say that I am a citizen of the
9 City of _____, in said State and County, and reside at
10 _____ in said City of _____, that I desire to become a
11 candidate for the office of mayor in said city at the election
12 of said office to be held on the _____ day of August, next and
13 that I am duly qualified to hold said office if elected
14 thereto, and I hereby request that my name be printed upon the
15 official ballot at said election. Signed _____; Subscribed
16 and sworn to before me by said _____, on this _____ day of
17 _____, 2_____, and filed in this office for record on said day.
18 _____, Judge of Probate.'

19 Said statement shall be
20 accompanied by a qualifying fee in an amount equal to \$300.00
21 which qualifying fee shall be paid over by the judge of
22 probate to the general fund of the city. At every such
23 election all ballots to be used by voters shall be printed and
24 prepared by the election commission or other body or official
25 charged by law with the duty of conducting elections and at
the expense of said city, and shall contain the names of all

1 candidates directly underneath the words 'For Mayor'. No names
2 shall appear upon said ballot as a candidate for election
3 except the names of such persons as have become candidates
4 according to provisions as above set forth; no ballot shall be
5 used at any such election except the official ballot prepared
6 by the election commission or other body or official charged
7 by law with the duty of conducting elections, except that the
8 names of candidates may be suitably placed on voting machines
9 if such machines are used to conduct such election."

10 Section 6. Section 4.05 of Act 452 of the 1955
11 Regular Session (Acts 1955, p. 1004), is amended to read as
12 follows:

13 "Sec. 4.05 Vacancy in office of mayor. Whenever any
14 vacancy in the office of mayor shall occur by reason of death,
15 resignation, removal or any other cause, the president of the
16 council shall assume the duties of the office of mayor
17 effective on the date such vacancy occurs and shall serve as
18 acting mayor until a new mayor is elected and qualified as
19 hereinafter provided. The acting mayor shall receive no
20 compensation, expenses or allowances as a member of the city
21 council while acting as mayor, but shall receive the same rate
22 of pay and allowances provided for the mayor whose vacated
23 office he or she fills, and the compensation received for days
24 of service as acting mayor shall not be counted in determining
25 the maximum annual per diem compensation permitted council

1 members. While the president of the council is serving as
2 acting mayor he or she shall not sit with the council or vote
3 on any matters before the council. The election commission of
4 the city, if there be one, and if not then the council
5 thereof, shall within 30 days of the occurrence of a vacancy
6 in the office of the mayor call a special election to fill
7 such vacancy, such election to be held on the second Tuesday
8 of the month not less than 70 days and not more than 90 days
9 from the occurrence of such vacancy; provided, however, if a
10 regular or special election is scheduled or required to be
11 held within 120 days after the occurrence of such vacancy ,
12 then the vacancy in the office of mayor shall be filled at
13 such regular or special election. Notice of such election
14 shall be given at the expense of the city by one publication
15 at least 18 days in advance of the same in one or more
16 newspapers published in such city. Any person desiring to
17 become a candidate at the election to fill the vacancy in the
18 office of mayor may become a candidate by filing his or her
19 statement in writing with the judge of probate and paying the
20 qualifying fee as provided in Section 4.02. The method,
21 procedure and requirements of qualifying, voting upon, and
22 determining the successful candidate shall otherwise be the
23 same as provided herein relative to the election of the mayor
24 at regular elections. The successor to the mayor chosen at any
25 such election shall qualify for office as soon as practical

1 thereafter, and shall be clothed with and assume the duties,
2 responsibilities and powers of such office immediately upon
3 such qualification, and shall hold office for the unexpired
4 term of his or her predecessor and until a successor is
5 elected and qualified."

6 Section 7. Act 507 of the 1969 Regular Session (Acts
7 1969, p. 964), relating to the Mayor-Council form of
8 government in certain cities on a population basis and
9 amending Act 452 of the 1955 Regular Session (Acts 1955, p.
10 1004), is repealed, which never became operative because the
11 act was never approved by the U.S. Justice Department.

12 Section 8. This act shall become effective on the
13 first day of the third month following its passage and
14 approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB104
Senate 03-APR-12
I hereby certify that the within Act originated in and passed
the Senate.

Patrick Harris
Secretary

House of Representatives
Passed: 17-APR-12

By: Senator Coleman