

1 HB161  
2 107789-5  
3 By Representative Hinshaw  
4 RFD: Constitution and Elections  
5 First Read: 12-JAN-10

1  
2 ENROLLED, An Act,

3           Relating to municipal elections; to amend Sections  
4 11-46-25, 11-46-27, 11-46-39, 11-46-44, 11-46-45, 11-46-46,  
5 11-46-50, 11-46-55.1, 11-46-55, 11-46-57, 11-46-58, and  
6 11-46-67, Code of Alabama 1975, to further provide for the  
7 affidavit relating to the statement of candidacy by candidates  
8 for municipal office; to further provide for the appointment  
9 of election officers; to delete the provisions relating to the  
10 voting of challenged ballots and certain offenses related to  
11 thereto; to provide for the voting of provisional ballots of a  
12 person's name is not on the voter list used at an election; to  
13 further provide for recount procedures; to provide for the  
14 canvassing of returns; to provide that the town or city clerk  
15 would perform duties relating to absentee ballots and to  
16 delete references to registers; to amend Sections 17-7-25,  
17 17-11-14, and 17-11-15, Code of Alabama 1975, relating to  
18 elections, to provide that procedures relating to electronic  
19 vote counting systems would apply to municipal elections if  
20 practicable and to delete certain references to municipal  
21 elections held separate from primary or general elections; and  
22 amend Section 17-9-30 relating to voter identification.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24           Section 1. Sections 11-46-25, 11-46-27, 11-46-39,  
25 11-46-44, 11-46-45, 11-46-46, 11-46-50, 11-46-55.1, 11-46-55,

1 11-46-57, 11-46-58, and 11-46-67, Code of Alabama 1975, are  
2 amended to read as follows:

3 "§11-46-25.

4 "(a) In all municipal elections on any subject which  
5 may be submitted by law to a vote of the people of the  
6 municipality and for any municipal officers, if paper ballots  
7 are used, the voting shall be by official ballot printed and  
8 distributed as provided in subsections (c) and (d) of this  
9 section, and no ballot shall be received or counted in any  
10 election unless it is provided as prescribed by law.

11 "(b) There shall be but one form of ballot for all  
12 the candidates for municipal office and every ballot provided  
13 for use at any polling place in a municipal election shall  
14 contain the names of all candidates who have properly  
15 qualified and have not withdrawn, as provided in subsection  
16 (g) of this section, together with the title of the office for  
17 which they are candidates.

18 "(c) All ballots shall be printed in black ink on  
19 clear book paper. At the bottom of each ballot and at a point  
20 an equal distance from the sides thereof there shall be  
21 printed a one-inch square in which the number of the ballot  
22 shall be placed by the inspector when the ballot is cast. The  
23 arrangement of the ballot shall in general conform  
24 substantially to the plan given in subsection (f) of this  
25 section.



1 Etc.

2 "(g) The mayor shall cause to be printed on the  
 3 ballots the name of any qualified elector who has, by 5:00  
 4 P.M. on the third Tuesday in July preceding the date set for  
 5 the election, filed a statement of candidacy, accompanied by  
 6 an affidavit taken and certified by an officer authorized to  
 7 take acknowledgments in this state that such person is duly  
 8 qualified to hold the office for which he desires to become a  
 9 candidate. Such statement shall be substantially in the  
 10 following form:

11 "State of Alabama, \_\_\_\_\_ County. I, the undersigned,  
 12 being first duly sworn, depose and say that I am a citizen of  
 13 the city (or town) of \_\_\_\_\_, in said county, and reside at  
 14 \_\_\_\_\_, in said city (or town); that I have been or will have  
 15 been on the date of the municipal election a resident of said  
 16 city (or town) for a period of not less than 90 days; that I  
 17 desire to become a candidate for the office of \_\_\_\_\_ in said  
 18 city (or town) for the term of \_\_\_\_\_ years at the election for  
 19 such office to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_; ~~that I~~  
 20 ~~am duly qualified or will be so qualified to hold said office~~  
 21 ~~if elected thereto~~ that I am presently a qualified elector of  
 22 the city (or town) of \_\_\_\_\_; and I hereby request that my name  
 23 be printed upon the official ballot at said election.

1                   "(Signed) \_\_\_\_\_

2                   "Subscribed and sworn to before me by said

3                   \_\_\_\_\_ on this \_\_\_ day of \_\_\_, 2\_\_

4                   "(Style of Officer) \_\_\_\_\_"

5                   "(h) No names shall be printed upon the ballot as  
6 candidates for election except the names of such persons as  
7 become candidates in the manner prescribed in subsection (g)  
8 of this section nor may any person be a candidate or be  
9 permitted to file his declaration for more than one place or  
10 position in a group of offices of the same name when such  
11 offices have been designated by number as authorized in  
12 Section 11-46-22.

13                   "(i) All statements of candidacy filed with the  
14 mayor within the time prescribed in subsection (g) of this  
15 section shall be preserved for six months after the election  
16 for which such statements of candidacy were filed.

17                   "(j) Any candidate may withdraw as a candidate by  
18 giving written notice to the mayor, at any time, prior to the  
19 date of the election. If a candidate withdraws, as herein  
20 provided, the election officials shall, if paper ballots are  
21 used in the election, draw a line in ink through the name of  
22 such candidate; the election officials shall, if voting

1 machines are used in the election, paste or otherwise secure a  
2 strip of white paper over the name of such candidate. If  
3 electronic voting tabulators are used in the election, the  
4 name of the candidate shall be removed from the ballot in  
5 accordance with the manufacturer's guidelines or instructions.

6 "All written notices of withdrawal filed with the  
7 mayor shall be preserved for six months after the election.

8 "§11-46-27.

9 "(a) The municipal governing body or a majority of  
10 them must, not less than 15 days before the holding of any  
11 municipal election, appoint from the qualified electors of the  
12 respective wards or voting districts officers to hold the  
13 election as follows: Where paper ballots are used, one  
14 returning officer for each ward and three inspectors and two  
15 clerks for each box at each voting place and, where voting  
16 machines are used, an inspector, a chief clerk, and a first  
17 and second assistant clerk for each voting machine; except  
18 that in the event voting centers or voting places are  
19 established, then the requirements of Section 11-46-24 shall  
20 control the number of election officials. In any Class 6,  
21 Class 7, or Class 8 municipality, election officials must  
22 reside within the municipality and may serve at any polling  
23 place within the municipality. An election official appointed  
24 to serve in a polling place other than where he or she would

1 be required to vote based on residency, may vote by absentee  
2 ballot.

3 "(b) (1) No officer or employee of the municipality  
4 shall be eligible to serve as an election official.

5 "(2) No kindred of any candidate or his or her  
6 spouse to the second degree, according to the civil law, shall  
7 be eligible to serve as an election official.

8 ~~"(b) (c)~~ In every city having, according to the last  
9 or any subsequent federal decennial census, 10,000 or more  
10 inhabitants, the municipal governing body shall also appoint  
11 from the qualified electors of the city ~~three inspectors, two~~  
12 ~~clerks, and a returning officer~~ one inspector and at least  
13 three clerks, who shall meet on the day of the election at  
14 such place and hour as the municipal governing body may  
15 designate for the purpose of receiving, counting and returning  
16 the absentee ballots cast at such election, and four days  
17 before the election the municipal governing body shall  
18 ascertain the number of absentee ballots which have been cast  
19 at the election and, if more than 600 absentee ballots have  
20 been cast, then such governing body shall appoint three more  
21 inspectors and two more clerks for each 600 absentee ballots  
22 or fraction thereof cast at such election. ~~No officer or~~  
23 ~~employee of the municipality shall be eligible to serve as an~~  
24 ~~election official. No kindred of any candidate or his or her~~



1 ~~spouse to the second degree, according to the civil law, shall~~  
2 ~~be eligible to serve as an election official.~~

3           "~~(c)~~(d) In every city or town having less than  
4 10,000 inhabitants, according to the most recent federal  
5 decennial census, the municipal governing body may adopt an  
6 ordinance at least six months prior to the date of the  
7 election to provide that at the time other election officials  
8 are appointed, the governing body shall appoint additional  
9 election officials who shall meet on the day of the election  
10 at the place and hour as the municipal governing body may  
11 designate for the purpose of receiving, counting, and  
12 returning the absentee ballots cast at the election. The  
13 ordinance shall enumerate the election officials the governing  
14 body will appoint for this purpose, but the number shall not  
15 be less than three. This ordinance shall remain in effect  
16 until repealed by a subsequent ordinance adopted at least six  
17 months prior to an election. These absentee election officials  
18 shall be in addition to other election officials required by  
19 law and shall be appointed at the same time and in the same  
20 manner as are other election officials. When the election  
21 officials are appointed, one of them shall be designated by  
22 the municipal governing body as the inspector.

23           "~~(d)~~(e) In the event a person appointed as an  
24 election official is excused from serving or otherwise  
25 disqualifies himself prior to election day, the vacancy

1 created thereby shall be filled by the municipal governing  
2 body or a majority of them in the same manner that original  
3 appointments are made; provided, however, that if the vacancy  
4 is among the officers appointed to serve at a polling place  
5 where voting machines will be used, after the school of  
6 instruction for election officials has been held as prescribed  
7 in subsection (a) of Section 11-46-30, a person who has  
8 received a certificate from a previous school of instruction  
9 shall, if possible, be appointed to fill the vacancy.

10 "~~(e)~~ (f) The mayor or other chief executive officer  
11 of the municipality shall publish a list of the election  
12 officers so appointed, either by posting a list thereof  
13 showing the voting places and the election officers appointed  
14 for each voting place at three public places in the city or  
15 town or by publishing a list in a newspaper published in the  
16 city or town at least 10 days prior to the election.

17 "~~(f)~~ (g) The mayor or other chief executive officer  
18 of the municipality shall notify the inspectors, clerks and  
19 returning officers of their appointment.

20 "~~(g)~~ (h) The returning officers, the inspectors and  
21 the clerks at polling places where voting is solely by paper  
22 ballots shall be entitled to such compensation as the  
23 municipal governing body establishes but which in no event  
24 shall be less than eight dollars (\$8) per day, and each  
25 election officer at a polling place where elections are

1 conducted in whole or in part by voting machines shall be  
2 entitled to such compensation as the municipal governing body  
3 establishes but which in no event shall be less than eight  
4 dollars (\$8) per day. The compensation of the election  
5 officials shall be paid as preferred claims out of the general  
6 fund of the municipality holding the election on proper proof  
7 of service rendered.

8 "§11-46-39.

9 "(a) Where paper ballots are used, the inspector  
10 ~~designated as challenger~~, upon the elector's entering the  
11 polling place, shall examine the list of qualified electors  
12 furnished by the clerk pursuant to subsection (a) of Section  
13 11-46-36, and, if it appears from this examination that the  
14 person is a qualified elector of the state authorized to vote  
15 at that box, ~~unless such elector has been challenged by~~  
16 ~~another qualified elector in the manner prescribed by~~  
17 ~~subsection (c) of Section 11-46-38~~, the inspectors inspector  
18 shall then give him the person one ballot on the stub of which  
19 ~~one of the inspectors~~ inspector shall write or shall have  
20 already written his or her name or initials. ~~If such person's~~  
21 ~~name does not appear on the list of qualified voters for that~~  
22 ~~ward or box, then the challenger shall challenge said person.~~  
23 ~~Any person so challenged or challenged by a qualified elector~~  
24 ~~as authorized in subsection (c) of Section 11-46-38, shall not~~  
25 ~~be allowed to vote until he has taken and subscribed to the~~

1 ~~oath prescribed in subsection (c) of Section 11-46-41 and~~  
2 ~~proved his identity in the manner therein prescribed. However,~~  
3 ~~if such person duly executes the oath and establishes his~~  
4 ~~identity in the manner prescribed, then his ballot must be~~  
5 ~~received and deposited in the ballot box in the same manner as~~  
6 ~~the ballots of qualified electors. If the person's name does~~  
7 ~~not appear on the list of qualified voters for that ward or~~  
8 ~~box, the person may not vote except by provisional ballot.~~

9           "(b) In cities of more than 3,000 inhabitants, each  
10 elector on receiving his ballot shall forthwith and without  
11 leaving the polling place retire alone to one of the booths or  
12 compartments provided for that purpose and there prepare his  
13 ballot in the manner provided in this article. In all other  
14 cities or towns the elector may prepare his ballot at any  
15 point within the polling place.

16           "(c) Any elector who shall by accident or mistake  
17 spoil a ballot so that he cannot conveniently or safely vote  
18 the same may return it to the inspectors and receive another  
19 in lieu thereof which must be voted or returned by such  
20 elector.

21           "(d) After preparing his ballot the elector shall  
22 fold the same so as to conceal the face thereof and show the  
23 stub thereto attached with the name or initial of the  
24 inspector and hand it to the receiving inspector, who must

1 receive the folded ballot and call the name of the elector  
2 audibly and distinctly.

3 "(e) One of the clerks shall immediately enter on  
4 one of the lists headed "names of voters" and called "poll  
5 lists" the name of such elector opposite the number indicating  
6 the order in which electors vote, the first elector voting  
7 being numbered one, the second two and so on to the last  
8 elector voting, and at the same time the other clerk shall see  
9 that the elector whose name was called shall immediately sign  
10 his own name on another poll list on a line bearing the same  
11 number appearing opposite such elector's name on the  
12 above-mentioned poll list, unless such elector because of  
13 physical handicap or illiteracy is unable to write his own  
14 name on such list. If the voter is physically handicapped, an  
15 election official shall write the name of such voter on said  
16 list together with the cause of assistance and shall sign his  
17 own name on the poll list on the same line with the voter's  
18 name. If the voter is unable to sign his name because of  
19 illiteracy, his name shall be written for him and the voter  
20 shall, in the presence of one of the election officials, make  
21 his mark upon the poll list. The election official witnessing  
22 the act shall record his name as witness on the same line with  
23 the name of the voter.

24 "(f) The receiving inspector shall then write the  
25 number of the ballot in the square provided therefor and

1       forthwith, in the presence of the voter, shall place one of  
2       the black seals furnished along with the other election  
3       supplies over the square in such manner as to make it  
4       impossible to see the number placed therein without removing  
5       the seal, yet so that the seal may be removed without  
6       obliterating the number placed in the square. After numbering  
7       the ballot the inspector shall detach the stub and pass the  
8       ballot to each of the other inspectors, and it must then,  
9       without being opened or examined, be deposited in the proper  
10      ballot box.

11               "§11-46-44.

12               "(a) No votes shall be counted until the polls are  
13      closed.

14               "(b) Immediately after the polls are closed at  
15      elections where paper ballots are used, the poll list signed  
16      by the voters and the poll list made by one of the clerks  
17      shall be sealed in separate envelopes and labelled before the  
18      inspectors begin to count the votes, ~~and one copy of each~~  
19      ~~affidavit made by a challenged voter and one copy of each~~  
20      ~~affidavit identifying a challenged voter shall be sealed in a~~  
21      ~~package by the inspectors, and the other copy of each of such~~  
22      ~~affidavits shall be sealed in a package and forwarded to the~~  
23      ~~district attorney of the county, who shall lay them before the~~  
24      ~~next grand jury sitting for the county.~~

1           "(c) As soon as this is done, the ballots cast shall  
2 be counted in the following manner: The returning officer or  
3 one of the inspectors must take the ballots one by one from  
4 the box in which they were deposited, at the same time reading  
5 aloud the name of each person receiving a vote and the office  
6 for which ~~he~~ the person received ~~such~~ the vote, and they must  
7 separately keep a calculation of the number of votes each  
8 person receives and for what office ~~he~~ the person receives  
9 them. If the elector has marked more than there are persons to  
10 be elected to an office or if for any reason it is impossible  
11 to determine the elector's choice for any office to be filled,  
12 ~~his~~ the ballot shall not be counted for ~~such~~ that office, but  
13 this shall not vitiate the ballot so far as properly marked  
14 nor shall any ballot be rejected for any technical error which  
15 does not make it impossible to determine the elector's choice.

16           "§11-46-45.

17           "(a) At elections where paper ballots are used, as  
18 soon as the ballots are all counted, the inspectors must  
19 ascertain the number of votes received for each person and for  
20 what office and must make a statement of same in writing. Each  
21 of the inspectors must sign this statement and must also  
22 certify in writing on the sealed envelope containing the poll  
23 list signed by the electors that such poll list is the poll  
24 list of the election in the ward or voting place at which they  
25 were inspectors, the day and year on which such election was

1 held and for what offices. The statement of the vote and the  
2 poll list thus certified, together with a list of the  
3 registered electors qualified to vote at such voting place at  
4 such election on such day, must be sealed up in an envelope  
5 furnished along with the other election supplies and addressed  
6 to the municipal governing body. Each of the inspectors shall  
7 write his or her name across every fold at which the envelope  
8 when fastened could be opened, and such envelope shall be  
9 delivered immediately to the returning officer of the ward,  
10 who shall deliver it to the municipal clerk along with the  
11 ballot box within the time prescribed in subsection (c) of  
12 this section.

13 " (b) As soon as the ballots contained in a ballot  
14 box have been counted and the statement of the vote prepared  
15 as directed in subsection (a) of this section, the inspectors  
16 shall roll up the ballots so counted, seal the bundle thereof,  
17 and label the same as to show for what officer or officers the  
18 ballots contained therein were received. The rejected ballots,  
19 if any, shall also be rolled up, the package thereof labelled  
20 as rejected ballots and sealed up as the other parcel of  
21 ballots. These sealed packages, together with the sealed poll  
22 list made by one of the clerks ~~and the oaths relative to~~  
23 ~~challenged voters~~, shall be returned by the inspectors to the  
24 ballot box from which the ballots were taken and the ballot  
25 box shall be securely sealed and labelled so as to show the



1 nature of its contents. The inspectors shall also attach to  
2 the outside of the box a slip of paper or other device showing  
3 the total votes received by each candidate voted for in such  
4 election.

5 "(c) The envelope containing the statement of the  
6 votes prepared pursuant to subsection (a) of this section and  
7 the sealed ballot box shall be delivered to the returning  
8 officer of the ward who shall immediately and in any event not  
9 later than 11:00 A.M. of the next day after the polls have  
10 closed deliver them to the municipal clerk, who shall  
11 thereupon give such returning officer ~~his~~ a receipt stating  
12 therein the condition of the box when received.

13 "§11-46-46.

14 "(a) At the time appointed by the municipal  
15 governing body to canvass the returns of the election the  
16 municipal clerk shall deliver to the governing body the  
17 envelopes addressed to the governing body, which were  
18 delivered to him or her by the returning officers of the  
19 several wards in the city or town immediately after the votes  
20 had been counted and the returns thereof prepared.

21 "(b) The clerk shall securely keep the ballot boxes  
22 until it is known that there will be no contest, but in any  
23 event not less than six months, and, if in that time no  
24 contest has been properly instituted, the clerk shall then  
25 destroy the contents of the boxes without examining the same.

1           "(c) No ballot box shall be opened except in one ~~or~~  
 2 ~~the other~~ of the following events:

3           "(1) In the event of a contest, where the opening of  
 4 a box has been ordered by the court hearing the contest, in  
 5 which event the ballot box shall be opened by or under the  
 6 supervision of the judge ordering the opening of a box and in  
 7 the manner prescribed by him or her, ~~and.~~

8           "(2) For the purpose of canvassing the returns and  
 9 obtaining the result of the election in a particular ward or  
 10 voting district from the contents of the box when the box has  
 11 been returned, but no certificate of the result of the  
 12 election has been separately delivered to the municipal  
 13 governing body by the election inspectors. If a box is opened  
 14 for this latter purpose the certificate of result contained  
 15 therein, if any, and if no certificate of result is enclosed,  
 16 then any other of the contents of the box, so far as  
 17 necessary, may be used to determine the result of the  
 18 election, after which the papers shall be returned into the  
 19 box and the box shall be resealed in the presence of the  
 20 municipal governing body, and the box shall then be retained  
 21 without again opening it for the time prescribed in subsection  
 22 (b).

23           "(3) For the purpose of conducting a recount of the  
 24 ballots as otherwise allowed by law.

25           "§11-46-50.

1           "(a) The election officials, where voting machines  
2 are used, shall ascertain whether each applicant to vote is  
3 entitled to vote, and each applicant found to be entitled to  
4 vote shall be permitted to vote in the manner provided in this  
5 article. Each applicant to vote shall identify himself or  
6 herself to the chief clerk, who shall examine the list of  
7 qualified electors furnished by the municipal clerk and, if  
8 such voter's name appears on such list, ~~unless such voter has~~  
9 ~~been challenged,~~ the chief clerk shall mark the applicant's  
10 name off the list. The applicant, unless ~~he is~~ unable to write  
11 his or her own name because of physical handicap or  
12 illiteracy, shall then sign his or her name on the poll list  
13 on the line numbered to indicate the order in which the voters  
14 cast their ballots, and the clerk shall record the voter's  
15 name on a second poll list on the line numbered to indicate  
16 the order in which the voter cast his or her ballot.  
17 Thereafter, the voter shall be admitted within the voting  
18 machine booth and permitted to vote.

19           "(b) If ~~such~~ the applicant is unable to sign his or  
20 her name because of physical disability or illiteracy, his or  
21 her name shall be written for him or her in the manner  
22 prescribed in subsection (e) of Section 11-46-39 for the  
23 writing of names of voters on the poll list at polls where  
24 paper ballots are used.

1           ~~"(c) If such applicant's name is not on the list of~~  
2 ~~qualified voters or if such applicant has been challenged by a~~  
3 ~~qualified elector, the chief clerk shall so notify the~~  
4 ~~inspector, and the inspector shall challenge such voter. No~~  
5 ~~challenged voter shall be permitted to cast his vote on a~~  
6 ~~voting machine, but any challenged voter shall be permitted to~~  
7 ~~cast a paper ballot in the same manner and under the same~~  
8 ~~circumstances, rules and regulations that challenged voters~~  
9 ~~may vote at polls where paper ballots are usually and~~  
10 ~~customarily used. If the applicant's name is not on the list~~  
11 ~~of qualified voters, the applicant shall not be allowed to~~  
12 ~~vote except by provisional ballot.~~

13           "§11-46-55.1.

14           "(a) Any person with standing to contest a municipal  
15 election may petition the canvassing authority for a recount  
16 of any or all precinct returns. The time period for requesting  
17 a recount ends 48 hours after the official canvass of returns  
18 by the municipal governing body. The petitioner must be  
19 prepared to pay the cost of the recount and must be required  
20 to give security to cover these costs in an amount as  
21 determined by the municipal governing body based upon an  
22 estimate of actual costs. The recount must be conducted under  
23 the supervision of a trained and certified poll official.  
24 Representatives of opposing interests shall be given at least

1 24 hours notice and shall be invited to participate in the  
2 recount.

3 "(b) The recount shall be conducted as simply as the  
4 type of equipment and local conditions permit provided that  
5 the following minimum safeguards shall be observed:

6 "(1) The box or envelope holding the ballots shall  
7 be delivered unopened to the inspector in charge of the  
8 recount.

9 "(2) A representative of the municipality shall be  
10 present during the recount.

11 "(3) Where ballots are counted by hand,  
12 representatives of opposing interests have the right to  
13 participate in the hand count, and any unresolved disputes  
14 over the interpretation of the voter's intent may be appealed  
15 to the municipal governing body.

16 "(c) When the recount has been completed, the  
17 ballots shall be returned to their container along with a copy  
18 of the recount results. The ballot container shall be sealed  
19 and signed by the inspector conducting the recount and by the  
20 representative of the authority having custody of the ballots.

21 "(d) If the recount produces a change in precinct  
22 totals of sufficient magnitude to alter the result of the  
23 election, the outcome shall constitute grounds for an election  
24 contest as now prescribed by law. If the recount of the

1 resulting contest alters the result of the election, the cost  
2 of the recount shall be borne by the municipality.

3 ~~"(e) This section shall not apply to any recount in  
4 an election where any device regulated by the Alabama  
5 Electronic Voting Committee established in Chapter 24 of Title  
6 17 was used.~~

7 "§11-46-55.

8 "(a) ~~On~~ Commencing at 12:00 noon on the first  
9 Tuesday next after the election, ~~by the hour of 12:00 noon,~~  
10 the municipal governing body shall proceed to open the  
11 envelopes addressed to the governing body which have been  
12 delivered by the several returning officers to the municipal  
13 clerk, canvass the returns, and ascertain and determine the  
14 number of votes received by each candidate and for and against  
15 each proposition submitted at the election. If it appears that  
16 any candidate or any proposition in the election has received  
17 a majority of the votes cast for that office or on that  
18 question, the municipal governing body shall declare the  
19 candidate elected to the office or the question carried, and a  
20 certificate of election shall be given to the persons by the  
21 municipal governing body or a majority of them, which shall  
22 entitle the persons so certified to the possession of their  
23 respective offices immediately upon the expiration of the  
24 terms of their predecessors as provided by law. If the  
25 certification results of provisional ballots cast at the

1 election have been received from the board of registrars prior  
2 to first Tuesday next after the election, or if no provisional  
3 votes were cast in the election, the municipal governing body,  
4 at any special or regular meeting, may canvas the results  
5 before the first Tuesday next after the election.

6 "(b) If a single office is to be filled at the  
7 election and there is more than one candidate therefor, then  
8 the majority of the votes cast for the office in the election  
9 shall be ascertained by dividing the total votes cast for all  
10 candidates for the office by two, and any number of votes in  
11 excess of one half of the total votes cast for all candidates  
12 for the office shall be a majority within the meaning of  
13 subsection (a).

14 "(c) If two or more offices constituting a group are  
15 to be filled and there are more candidates for election than  
16 there are offices, then the majority of the votes cast for the  
17 office in the election shall be ascertained by dividing the  
18 total vote cast for all candidates for the offices by the  
19 number of positions to be filled and then dividing the result  
20 by two. Any number of votes in excess of the number  
21 ascertained by the last division shall be the majority  
22 prescribed in subsection (a) as necessary for election. If in  
23 ascertaining the result in this way it appears that more  
24 candidates have obtained this majority than there are  
25 positions to be filled, then those having the highest vote, if

1 beyond the majority just defined, shall be declared elected to  
2 fill such positions.

3 "(d) If no candidate receives a majority of all the  
4 votes cast in such election for any one office or offices for  
5 the election to which there were more than two candidates,  
6 then the municipal governing body shall order a second or  
7 "runoff" election to be held on the sixth Tuesday next  
8 thereafter following the regular election, at which election  
9 the two candidates having received the most and the second  
10 most votes, respectively, shall be candidates, and the person  
11 receiving the highest number of votes for that office in the  
12 runoff election shall be declared elected. If only two  
13 candidates are standing for election for any one office or  
14 offices and neither candidate receives a majority, then the  
15 municipal governing body shall order a second or "runoff"  
16 election to be held on the sixth Tuesday next thereafter  
17 following the regular election, at which election the two  
18 candidates shall be candidates, and the person receiving the  
19 highest number of votes for that office in the runoff election  
20 shall be declared elected. In the event one of the candidates  
21 for a particular office in the runoff election withdraws, then  
22 there need not be a second election to fill the office nor  
23 shall the name of either the party so withdrawing or the  
24 remaining candidate be printed on the ballot of any second  
25 election held under this article. This second election shall



1 be held by the same election officers who held the first  
2 election and at the same places the first election was held.  
3 If there should be a tie vote cast at any runoff election,  
4 then in that event the tie shall be decided by the municipal  
5 governing body. A vote for a particular candidate by a  
6 majority of those members eligible to vote of the governing  
7 body shall be necessary to decide the election in his or her  
8 favor. The municipal clerk shall file a copy of each  
9 certificate of election in the office of the judge of probate  
10 of the county in which the city or town is situated, and the  
11 judge shall file the certificate in the same manner that he or  
12 she files the declaration of the result of elections to county  
13 offices.

14 "§11-46-57.

15 "The provisions of Chapter ~~10~~ 11 of Title 17 ~~of this~~  
16 ~~Code~~ shall be applicable to the casting and handling of  
17 absentee ballots in municipal elections, and any amendments,  
18 extensions, or deletions from said chapter in the future shall  
19 likewise be applicable to municipal elections.

20 "~~The register or the person authorized to act in his~~  
21 ~~stead,~~ the town clerk, city clerk, or other officer performing  
22 the duties of the clerk, as the case may be, shall have and  
23 perform the duties required by Chapter ~~10~~ 11 of Title 17 ~~of~~  
24 ~~this Code~~. For performing these duties, the municipal  
25 governing body may compensate the clerk or other officer

1 performing the duties of the clerk in whatever manner and  
 2 amount it deems appropriate.

3 "All other laws of this state regulating and  
 4 providing for voting of an absentee ballot shall apply to  
 5 elections held under this article.

6 "§11-46-58.

7 ~~"The register or the person authorized to act in his~~  
 8 ~~stead,~~ the town clerk, city clerk, or other officer performing  
 9 the duties of the clerk, as the case may be, in municipal  
 10 elections held under the provisions of this article, shall  
 11 comply with the provisions of Chapter ~~10~~ 11 of Title 17 ~~of~~  
 12 ~~this Code~~ with respect to marking, enrolling, posting, and  
 13 delivering of lists showing the names and addresses of  
 14 applicants for an absentee ballot.

15 "§11-46-67.

16 "(a) Any elector who takes or removes or attempts to  
 17 take or remove any ballot from the polling place at a  
 18 municipal election before the close of the polls or who  
 19 remains longer than the time allowed by law in the booth or  
 20 compartment after being notified his or her time has expired  
 21 must, on conviction, be fined not less than ~~\$10.00~~ ten dollars  
 22 (\$10) nor more than ~~\$100.00~~ one hundred dollars (\$100).

23 "(b) Any person who willfully makes to the  
 24 inspectors of a municipal election a false declaration  
 25 asserting ~~his~~ an inability to prepare his or her ballot

1 without assistance must, on conviction, be fined not less than  
2 ~~\$50.00~~ fifty dollars (\$50) nor more than ~~\$500.00~~ five hundred  
3 dollars (\$500).

4 "(c) Any qualified elector at any municipal election  
5 who takes or receives any money or other valuable thing upon  
6 the condition that the same shall be paid at any future time  
7 in exchange for the vote of such elector for any particular  
8 candidate or the promise to vote for any particular candidate  
9 shall be guilty of a misdemeanor and, upon conviction thereof,  
10 shall be fined not less than ~~\$50.00~~ fifty dollars (\$50) nor  
11 more than ~~\$500.00~~ five hundred dollars (\$500). No witnesses  
12 shall be prosecuted for any offense under this subsection as  
13 to which he testifies before the grand jury.

14 "(d) Any person who falsely impersonates another and  
15 thereby or otherwise fraudulently casts a vote in a municipal  
16 election or, having voted at such election votes a second  
17 time, whether in the same ward or another, shall, on  
18 conviction, be punished by hard labor for the county for not  
19 more than 12 months or by a fine of not less than ~~\$500.00~~ five  
20 hundred dollars (\$500) nor more than ~~\$2,000.00~~ two thousand  
21 dollars (\$2,000) or by both fine and sentence to hard labor.

22 "(e) Any absentee voter who shall willfully make or  
23 subscribe to an oath falsely in order to qualify himself to  
24 vote at a municipal election shall, on conviction, be punished  
25 by hard labor for the county for not more than 12 months or by

1 a fine of not less than ~~\$500.00~~ five hundred dollars (\$500)  
 2 nor more than ~~\$2,000.00~~ two thousand dollars (\$2,000) or by  
 3 both fine and sentence to hard labor.

4 ~~"(f) Any person who takes a challenged voter's oath~~  
 5 ~~or any person who makes an affidavit of identity for a~~  
 6 ~~challenged voter willfully and falsely shall, on conviction,~~  
 7 ~~be punished by hard labor for the county for not more than 12~~  
 8 ~~months or by a fine of not less than \$500.00 nor more than~~  
 9 ~~\$2,000.00 or by both fine and sentence to hard labor.~~

10 ~~"(g)(f)~~ Any person voting at any municipal election  
 11 who has not registered and taken and subscribed to the  
 12 registration oath must, on conviction, be fined not less than  
 13 ~~\$100.00~~ one hundred dollars (\$100) nor more than ~~\$1,000.00~~ one  
 14 thousand dollars (\$1,000) and may also be imprisoned in the  
 15 county jail or sentenced to hard labor for the county for not  
 16 less than one nor more than six months.

17 Section 2. Sections 17-7-25, 17-11-14, and 17-11-15,  
 18 Code of Alabama 1975, are amended to read as follows:

19 "§17-7-25.

20 "(a) It shall be the duty of the committee to  
 21 recommend procedures to be implemented by the Secretary of  
 22 State under the Administrative Procedure Act where appropriate  
 23 to achieve and maintain the maximum degree of correctness and  
 24 impartiality of voting, counting, tabulating, and recording

1 votes, by electronic vote counting systems provided by this  
2 article.

3 "(b) To the extent practicable, statutes and  
4 procedures implemented by the Secretary of State pursuant to  
5 this chapter shall apply in all municipal elections that are  
6 conducted using automatic tabulating equipment or an  
7 electronic official vote counting system. The duties assigned  
8 in the rules and statutes to a state or county election  
9 official shall be performed by the corresponding municipal  
10 official. Where there is no corresponding municipal official,  
11 the duties shall be performed by the municipal clerk or other  
12 election official appointed by the municipal governing body  
13 where the clerk is ineligible to perform these duties. Where  
14 the rules or statutes refer to a statutory provision or act  
15 that conflicts with a statutory provision or act specifically  
16 applicable in municipal elections, the provision governing  
17 municipal elections shall prevail.

18 "§17-11-14.

19 "The county commission, ~~or the municipal governing~~  
20 ~~body for municipal elections,~~ shall determine the amount of  
21 compensation to be paid to the absentee election manager or  
22 other absentee election manager for the performance of his or  
23 her duties with respect to the absentee ballots during the  
24 45-day period prior to and on the day of the election for  
25 which his or her services are required, but such compensation

1 shall be at least fifty dollars (\$50) per day or the same pay  
2 as an inspector as authorized under Section 17-8-12. In all  
3 counties in which the compensation of absentee election  
4 managers is prescribed by local law or general law of local  
5 application at an amount in excess of the amount prescribed,  
6 the compensation of the absentee election manager shall not be  
7 increased or decreased. The amount shall be the total  
8 compensation allowed the absentee election manager for duties  
9 relating to absentee ballots in all elections held on the same  
10 day and shall be paid from the county treasury, ~~except in case~~  
11 ~~of a municipal election held at a time different from a~~  
12 ~~primary or general election, in which event payment shall be~~  
13 ~~made from the city or town treasury.~~ Any reimbursement shall  
14 be as provided in Chapter 16.

15 "§17-11-15.

16 "In any municipal election that is held at a time  
17 different from a primary or general election, the duties with  
18 reference to the handling of absentee ballots which are  
19 required of the circuit clerk shall be performed by the town  
20 clerk, city clerk, or other officer performing the duties of  
21 the clerk. If such clerk or other officer is also a candidate  
22 in such election, the governing body of the city or town shall  
23 appoint a qualified elector of the city or town to perform the  
24 duties. Such person so appointed shall have all the powers,  
25 duties, and responsibilities of the circuit clerk under this

1 chapter ~~and shall be entitled to the compensation provided by~~  
2 ~~Section 17-11-14."~~

3 Section 3. Notwithstanding any provision of law to  
4 the contrary, the provisions of subsection (f) of Section  
5 17-9-30, Code of Alabama 1975, shall not apply to municipal  
6 elections.

7 Section 4. This act shall become effective on the  
8 first day of the third month following its passage and  
9 approval by the Governor, or its otherwise becoming law.

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\_\_\_\_\_  
Speaker of the House of Representatives

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\_\_\_\_\_  
President and Presiding Officer of the Senate

7

House of Representatives

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I hereby certify that the within Act originated in  
9 and was passed by the House 26-JAN-10.

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12

13

Greg Pappas  
Clerk

14

15

Senate

\_\_\_\_\_  
14-APR-10

Amended and Passed

16

House

\_\_\_\_\_  
21-APR-10

Concurred in Sen-  
ate Amendment

17