

1 HB496  
2 116798-2  
3 By Representative McMillan  
4 RFD: County and Municipal Government  
5 First Read: 04-FEB-10

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8 SYNOPSIS: Under existing law, in all cities and towns  
9 having a population of less than 12,000 persons  
10 according to the last census, the mayor presides  
11 over the council, may vote on any question, and is  
12 required to vote in the case of a tie. In all  
13 cities or towns having a population of 12,000 or  
14 more persons according to the last census, the  
15 mayor does not sit with the council or vote in its  
16 proceedings. If a federal census shows a change in  
17 population to 12,000 or more persons or less than  
18 12,000 persons, the change in the mayor's role in  
19 city council proceedings changes after the next  
20 municipal general election.

21 This bill would provide that if the  
22 population of a city increases to 12,000 or more  
23 persons after a federal census, the change in the  
24 mayor's role in the city council proceedings may be  
25 subject to a referendum of the voters of the city  
26 after a public hearing and a petition of a certain  
27 percentage of the registered voters of the city.

1  
2 A BILL  
3 TO BE ENTITLED  
4 AN ACT  
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6 To amend Section 11-43-2 of the Code of Alabama  
7 1975, relating to municipalities and the role of the mayor in  
8 the proceedings of the council, to provide for a public  
9 hearing and a referendum under certain conditions on any  
10 change in the role of the mayor in a city when the population  
11 increases to over 12,000 persons after a federal census.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Section 11-43-2 of the Code of Alabama  
14 1975, is amended to read as follows:

15 "§11-43-2.

16 "In all cities and towns at the general election to  
17 be held on the fourth Tuesday in August, 1984, and  
18 quadrennially thereafter, there shall be elected a mayor, who,  
19 in cities having a population of 12,000 or more according to  
20 the last or any subsequent federal census, shall not sit with  
21 the council nor have a vote in its proceedings, and he or she  
22 shall have the power and duties conferred in this chapter.

23 "In all cities and towns having a population of less  
24 than 12,000 inhabitants according to the last or any  
25 subsequent federal census, the legislative functions shall be  
26 exercised by the mayor and five aldermen. The mayor shall  
27 preside over all deliberations of the council. At his or her

1 discretion ~~he~~, the mayor may vote as a member of the council  
2 on any question coming to a vote, except in case of a tie, in  
3 which event ~~he~~ the mayor must vote.

4 "Notwithstanding the foregoing, within 180 days  
5 following the release of the official preliminary census  
6 figures by the U.S. Census Bureau of the 2010 or any  
7 subsequent federal decennial census which indicate that the  
8 population of a municipality will change from under 12,000  
9 persons to 12,000 or more persons, the municipality shall hold  
10 a public hearing to inform the public of the proposed change  
11 and to obtain public comment. Upon petition of 10 percent or  
12 more of the qualified electors of the municipality being filed  
13 with the city clerk or governing body of the municipality  
14 within 60 days following the date of the public hearing, the  
15 governing body shall call a municipal election to determine  
16 the sentiment of the people as to whether or not the changes  
17 in the form of government required by the population change as  
18 provided by law shall take effect. The municipal election  
19 shall be held within 90 days of the filing of the petition. If  
20 a majority of the votes cast at the election are in favor of  
21 the change, the change shall take place as provided above. If  
22 a majority of the votes case at the election are against the  
23 change, the change as provided above shall not take place. If  
24 no petition is filed, the change in the form of government  
25 shall take effect as provided above.

26 "The aldermen in such cities or towns shall be  
27 elected by the city or town at large at the first general

1 election held on the fourth Tuesday in August, 1984, and  
2 quadrennially thereafter, or from wards as the said councils  
3 may determine, not less than six months before an election,  
4 and shall receive such salary as the council may prescribe,  
5 which must be fixed by the council not less than six months  
6 prior to each general municipal election.

7 "Provided, however, the six-month requirement in  
8 this section may be waived when necessary to comply with a  
9 mandate by the U.S. Justice Department pursuant to the Voting  
10 Rights Act of 1965, as amended, or with an order issued by a  
11 state or federal court."

12 Section 2. 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.