

1 SB363
2 117282-2
3 By Senator Waggoner
4 RFD: Governmental Affairs
5 First Read: 02-FEB-10

1 SB363

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4 ENROLLED, An Act,

5 Relating to the council-manager form of government,
6 to amend Sections 11-43A-16, 11-43A-18, and 11-43A-32, Code of
7 Alabama 1975; to add Section 11-43A-3.3 to the Code of Alabama
8 1975; to provide an alternate method for adopting a
9 council-manager form of government in certain Class 7
10 municipalities; to provide for a five-member council with a
11 mayor and four council members elected at large; to provide
12 that the governing body of certain Class 7 municipalities, by
13 resolution and without petition, could call for an election on
14 the adoption of a council-manager form of government using the
15 alternate method; to provide a limited period of time in which
16 the alternate method may be used; and to provide when the
17 change to the alternate method would be effective.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Section 11-43A-3.3 is added to the Code
20 of Alabama 1975, to read as follows:

21 §11-43A-3.3.

22 (a) In addition to any mayor-council form of
23 government authorized in Chapter 43A of Title 11, Code of
24 Alabama 1975, the governing body of a Class 7 municipality may
25 elect by resolution to adopt a council-manager form of

1 government comprised of a mayor and four council members
2 elected at-large. No petition of qualified electors is
3 required to initiate such an election by the governing body
4 pursuant to this section. If the governing body elects to
5 adopt a council-manager form of government pursuant to this
6 section, an election on the question shall be submitted to the
7 qualified electors of the municipality. The governing body
8 shall hold the election before January 1, 2011. The question
9 submitted at the election shall be:

10 "Shall the municipality of _____ adopt a
11 council-manager form of government consisting of a mayor and
12 four council members elected in an at-large election to become
13 operative on the first Monday in November 2012?" The governing
14 body of the municipality shall call the election and the
15 election shall be conducted pursuant to general municipal
16 election laws.

17 (b) The mayor of any Class 7 municipality in which
18 an election pursuant to this section is required, by
19 proclamation, within 10 days of the adoption of the resolution
20 by the governing body, shall call an election on the question
21 of the adoption of the council-manager form of government
22 pursuant to this section. The election shall be held before
23 January 1, 2011. If the mayor fails, by proclamation, to call
24 the election within the 10-day period, the majority of the
25 council, by resolution, shall call the election.

1 (c) A change in the form of government adopted
2 pursuant to this section shall become effective on the first
3 Monday in November 2012.

4 (d) This section supersedes all other laws in
5 conflict only for the purpose of holding the election in 2010
6 and making the change in the form of government approved at
7 the election. When these purposes have been effectuated, this
8 section shall have no further force or effect.

9 Section 2. Sections 11-43A-16, 11-43A-18, and
10 11-43A-32, Code of Alabama 1975, are amended to read as
11 follows:

12 "§11-43A-16.

13 "(a) The mayor shall preside at the meetings of the
14 council and shall be recognized as the head of the municipal
15 government for all ceremonial purposes and by the governor for
16 purpose of military law, but shall have no other
17 administrative duties. In all cities to which this section
18 applies, except Class 6 cities wherein the municipal governing
19 body has elected to have a nine-member council, as authorized
20 in Section 11-43A-8, the councilman-at-large shall be
21 assistant mayor and shall act as mayor during the absence or
22 disability of the mayor. Any vacancy in the office of the
23 mayor shall be filled by the councilman-at-large. In such
24 Class 6 cities, a mayor pro tem shall be elected from the
25 membership by a majority vote of the council at its first

1 meeting following its election. The mayor pro tem shall act as
2 mayor during the absence or disability of the mayor. Any
3 vacancy in the office of the mayor shall be filled by the
4 mayor pro tem. Any vacancies on the council, except that of
5 the office of mayor, shall be filled by the council at the
6 next regular meeting of the council following the date of the
7 vacancy. The election of a new councilman shall require the
8 affirmative vote of at least three members in all cities to
9 which this section applies, except Class 6 cities wherein the
10 municipal governing body has elected to have a nine-member
11 council, as authorized in Section 11-43A-8, and in such Class
12 6 cities such election shall require the affirmative vote of
13 five members. A vacancy in one of the district council seats
14 shall be filled by a person who shall reside within the
15 district from whence the vacancy arose.

16 "(b) Notwithstanding subsection (a), in Class 7
17 municipalities that have adopted a mayor-council form of
18 government consisting of a mayor and four council members
19 elected at-large, the council, at its first meeting, by
20 majority vote, shall elect a mayor pro tempore from its
21 membership. The mayor pro tempore shall preside during the
22 absence or disability of the mayor. Any vacancy in the office
23 of the mayor shall be filled by the mayor pro tempore. Any
24 vacancy on the council, except for the office of mayor, shall
25 be filled by the council at its next regular meeting following

1 the vacancy. An affirmative vote of three members of the
2 council is required to fill the vacancy.

3 "§11-43A-18.

4 "The council, by a majority vote of the whole
5 qualified membership of the council, shall appoint a city
6 manager, who shall be an officer of the city, and shall have
7 the powers to perform the duties in this article provided. No
8 councilman shall receive such appointment during the term for
9 which the council member shall have been elected nor within
10 one year after expiration of the term. Any civil service act,
11 applicable to the municipality, shall not apply to the
12 appointment or the removal of the city manager.

13 "A temporary acting city manager may be designated
14 by the council to serve for not more than four months in these
15 events, but only in these events: (1) When the first council
16 takes office after adoption of this article or (2) following
17 the removal of any permanent city manager.

18 "Such temporary acting city manager shall perform
19 the duties and assume the obligations of the office of city
20 manager and may be removed by the council at any time. If the
21 council shall permit the temporary acting manager to serve for
22 longer than four months, he or she shall become the permanent
23 city manager.

1 "Any person appointed as acting city manager or as
2 city manager need not be a resident of the city nor a resident
3 of the State of Alabama at the time of appointment.

4 "The council shall appoint the city manager for an
5 indefinite term, but the council may remove the manager at any
6 time by a majority vote of the whole qualified membership of
7 the council. However, in any Class 6 city in which the
8 governing body has elected to have a nine-member council, as
9 authorized in Section 11-43A-8, any such removal shall be
10 subject to any agreements contained in a contract between the
11 council and the city manager. In any Class 7 city in which the
12 governing body is organized as provided in Section 11-43A-3.3,
13 removal of the city manager shall be subject to the contract
14 between the governing body and the city manager.

15 "Neither the council nor any of its members shall
16 direct or request the appointment of any person to, or removal
17 from, office by the city manager, or in any manner take part
18 in the appointment or removal of officers and employees in the
19 administrative service to the city. Except for the purpose of
20 inquiry, the mayor and the members of the council shall deal
21 with the administrative service only through the city manager
22 and neither the mayor nor any member of the council shall give
23 orders to any subordinates of the city manager, either
24 publicly or privately. The mayor or any member of the council
25 violating the provisions of this section or voting for a

1 resolution or ordinance in violation of this section shall be
2 guilty of a Class C misdemeanor. Upon conviction of a second
3 violation of this section, the person so convicted shall
4 forfeit his office.

5 "§11-43A-32.

6 "(a) There shall be established three council
7 districts to be designated respectively as district post 1,
8 district post 2, and district post 3, and in such Class 6
9 cities, there shall be established four council districts with
10 eight district posts to be designated district 1 post 1,
11 district 1 post 2, district 2 post 1, district 2 post 2,
12 district 3 post 1, district 3 post 2, district 4 post 1, and
13 district 4 post 2. Such districts shall have, as nearly as is
14 reasonable, the same population. The designation and
15 boundaries of the initial council districts shall be
16 specifically described and set forth. In all cities to which
17 this section applies, except the above-described Class 6
18 cities, the two at-large posts on the council shall be
19 designated as mayor and councilman-at-large; and in such Class
20 6 cities the one at-large post on the council shall be
21 designated as mayor.

22 "(b) This section shall not apply to a Class 6
23 municipality with a nine-member council authorized pursuant to
24 Section 11-43A-8 or a Class 7 municipality with a five-member

1 council elected at-large authorized pursuant to Section 11-43A-3.3."

2 Section 3. This act shall become effective
3 immediately following its passage and approval by the
4 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB363

Senate 11-FEB-10

I hereby certify that the within Act originated in and passed the Senate.

McDowell Lee
Secretary

House of Representatives
Passed: 14-APR-10

By: Senator Waggoner