

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

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8 SYNOPSIS: Under existing law, municipalities in
9 Classes 2 through 8 may opt to adopt a
10 council-manager form of government that provides
11 for a five-member council with the mayor and one
12 council member elected at large and the remaining
13 three council members elected from districts. This
14 change must be initiated by petition of qualified
15 electors and requires a referendum. At various
16 times, existing law has provided alternate methods
17 of limited duration for adopting a council-manager
18 form of government in Class 6 municipalities.

19 This bill would provide an alternate method
20 by which a Class 7 municipality could convert to a
21 council-manager form of government. This bill would
22 authorize the governing body of a Class 7
23 municipality, by resolution and without the
24 requirement of a petition, to call an election on
25 the adoption of a council-manager form of
26 government with a five-member council consisting of
27 a mayor and four council members elected at large.

1 This bill would provide a specific time period in
2 which a municipality could call an election on the
3 adoption of a council-manager form of government
4 using this method. This bill would provide that in
5 municipalities adopting the alternate form of
6 government the change would become effective the
7 first Monday in November 2012.

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
12

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

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

3 §11-43A-3.3.

4 (a) In addition to any mayor-council form of
5 government authorized in Chapter 43A of Title 11, Code of
6 Alabama 1975, the governing body of a Class 7 municipality may
7 elect by resolution to adopt a council-manager form of
8 government comprised of a mayor and four council members
9 elected at-large. No petition of qualified electors is
10 required to initiate such an election by the governing body
11 pursuant to this section. If the governing body elects to
12 adopt a council-manager form of government pursuant to this
13 section, an election on the question shall be submitted to the
14 qualified electors of the municipality. The governing body
15 shall hold the election before January 1, 2011. The question
16 submitted at the election shall be:

17 "Shall the municipality of _____ adopt a
18 council-manager form of government consisting of a mayor and
19 four council members elected in an at-large election to become
20 operative on the first Monday in November 2012?" The governing
21 body of the municipality shall call the election and the
22 election shall be conducted pursuant to general municipal
23 election laws.

24 (b) The mayor of any Class 7 municipality in which
25 an election pursuant to this section is required, by
26 proclamation, within 10 days of the adoption of the resolution
27 by the governing body, shall call an election on the question

1 of the adoption of the council-manager form of government
2 pursuant to this section. The election shall be held before
3 January 1, 2011. If the mayor fails, by proclamation, to call
4 the election within the 10-day period, the majority of the
5 council, by resolution, shall call the election.

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

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

14 Section 2. Sections 11-43A-16, 11-43A-18, and
15 11-43A-32, Code of Alabama 1975, are amended to read as
16 follows:

17 "§11-43A-16.

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

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

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

1 be filled by the council at its next regular meeting following
2 the vacancy. An affirmative vote of three members of the
3 council is required to fill the vacancy.

4 "§11-43A-18.

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

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

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

25 "Any person appointed as acting city manager or as
26 city manager need not be a resident of the city nor a resident
27 of the State of Alabama at the time of ~~his~~ appointment.

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

12 "Neither the council nor any of its members shall
13 direct or request the appointment of any person to, or ~~his~~
14 removal from, office by the city manager, or in any manner
15 take part in the appointment or removal of officers and
16 employees in the administrative service to the city. Except
17 for the purpose of inquiry, the mayor and the members of the
18 council shall deal with the administrative service only
19 through the city manager and neither the mayor nor any member
20 of the council shall give orders to any subordinates of the
21 city manager, either publicly or privately. The mayor or any
22 member of the council violating the provisions of this section
23 or voting for a resolution or ordinance in violation of this
24 section shall be guilty of a Class C misdemeanor. Upon
25 conviction of a second violation of this section, the person
26 so convicted shall forfeit his office.

27 "§11-43A-32.

1 ~~"(a) In all cities to which this section applies,~~
2 ~~except Class 6 cities in which the municipal governing body~~
3 ~~has elected to have a nine-member council, as authorized in~~
4 ~~Section 11-43A-8, supra, there~~ There shall be established
5 three council districts to be designated respectively as
6 district post 1, district post 2, and district post 3, and in
7 such Class 6 cities, there shall be established four council
8 districts with eight district posts to be designated district
9 1 post 1, district 1 post 2, district 2 post 1, district 2
10 post 2, district 3 post 1, district 3 post 2, district 4 post
11 1, and district 4 post 2. Such districts shall have, as nearly
12 as is reasonable, the same population. The designation and
13 boundaries of the initial council districts shall be
14 specifically described and set forth. In all cities to which
15 this section applies, except the above-described Class 6
16 cities, the two at-large posts on the council shall be
17 designated as mayor and councilman-at-large; and in such Class
18 6 cities the one at-large post on the council shall be
19 designated as mayor.

20 "(b) This section shall not apply to a Class 6
21 municipality with a nine-member council authorized pursuant to
22 Section 11-43A-8 or a Class 7 municipality with a five-member
23 council elected at-large authorized pursuant to Section
24 11-43A-3.3."

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

