

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

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8 SYNOPSIS: This bill would relate to any Class 1
9 municipality and would further provide for the
10 Mayor-Council form of government.

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT

15
16 Relating to any Class 1 municipality; to amend
17 Sections 3.01, 3.02, 3.12, 4.02, and 4.05 of Act 452 of the
18 1955 Regular Session (Acts 1955, p. 1004), as amended,
19 providing a Mayor-Council form of government for cities having
20 a certain population; to provide that members of the city
21 council shall take office on the fourth Tuesday in October of
22 the year of their election; to provide for filing statements
23 of candidacy in city elections; to provide further that the
24 first meeting of each newly elected council shall be held on
25 the fourth Tuesday in October of the year of its election; to
26 provide the time of elections for filling vacancies in the

1 office of mayor; and to repeal Act 507 of the 1969 Regular
2 Session (Acts 1969, p. 964), which never became operative
3 because the act was not approved by the U.S. Justice
4 Department.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. This act shall apply in any Class 1
7 municipality.

8 Section 2. Section 3.01 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 "3.01. Number, election, term. The council shall
13 have nine members elected from single member districts
14 pursuant to Section 2 of Ordinance 89-46, adopted pursuant to
15 Section 11-43-63 of the Code of Alabama 1975. ~~the city at~~
16 ~~large in the manner hereinafter provided, five of whom shall~~
17 ~~be elected at an election held each two years. The regular~~
18 ~~election at large for the choice of such five members of the~~
19 ~~council shall be held on the second Tuesday in October of the~~
20 ~~year during which the term of the five members of the first~~
21 ~~council elected under the provisions of Section 1.07 hereof~~
22 ~~for the term most closely approximating two years shall~~
23 ~~expire, and every two years thereafter. The five members~~
24 ~~receiving a majority of the votes cast in any such election~~
25 ~~shall be elected to the council; and in the event that five~~
26 ~~persons should fail to receive such a majority, then and in~~

1 ~~that event those persons receiving a majority shall be~~
2 ~~elected, and another election for the choice of the remainder~~
3 ~~of the five members of the council to be elected shall be held~~
4 ~~on the third Tuesday thereafter in the same mode and manner~~
5 ~~and under the same rules and regulations provided in Section~~
6 ~~1.07 hereof with respect to the election of the first council.~~
7 ~~The district council members so elected pursuant to Section 2~~
8 ~~of Ordinance 89-46, adopted pursuant to Section 11-43-63 of~~
9 ~~the Code of Alabama 1975, shall take office on the fourth~~
10 ~~Tuesday in November October of the year of its election. The~~
11 ~~four such councilmen of the five so elected receiving the~~
12 ~~largest number of votes at the first election if at least four~~
13 ~~councilmen are elected thereat, shall hold office for a term~~
14 ~~of four years and until their successors are elected and~~
15 ~~qualified. If four councilmen are not elected at the first~~
16 ~~election, then those who are elected at such election and the~~
17 ~~councilmen receiving the highest vote at the second election~~
18 ~~sufficient to bring the total number of such councilmen to~~
19 ~~four, shall hold office as provided in the preceding sentence.~~
20 ~~The fifth such councilman elected at either the first or~~
21 ~~second election shall hold office for a term of two years and~~
22 ~~until his successor is elected and qualified. Elections shall,~~
23 ~~except as otherwise herein provided, be governed by the~~
24 ~~general provisions of law relating to municipal elections of~~
25 ~~such city. No voter shall vote in said election or in any~~
26 ~~other election provided for by this act for either a greater~~

1 ~~or lesser number of candidates than the number of seats in the~~
2 ~~council to be filled at such election, and any violation of~~
3 ~~these provisions shall nullify the ballot of the violator. A~~
4 ~~majority of the votes cast in any election held under this act~~
5 ~~shall mean an excess of number of votes over a number~~
6 ~~ascertained by dividing the total vote cast for all candidates~~
7 ~~by the number of seats in council to be filled, and then~~
8 ~~dividing the result by two."~~

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

12 "3.02 Statement of candidacy. - Any person desiring
13 to become a candidate in any election for the office of
14 councilman may become such candidate by filing in the office
15 of the Judge of Probate of the county in which such city is
16 situated, a statement in writing of such candidacy and an
17 affidavit taken and certified by such judge of probate or by a
18 ~~notary~~ Notary Public that such person is duly qualified to
19 hold the office for which he desires to be a candidate. Such
20 statement shall be filed at least ~~21~~ 45 days before the day
21 set for such election and shall be substantially the following
22 form: State of Alabama, _____ County. I, the undersigned,
23 being first duly sworn, depose and say that I am a citizen of
24 the City of _____ in said State and County, and reside at
25 _____ in said City of _____, ~~that I am a member of~~
26 ~~the _____ party (or if not a member of the party then, I~~

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

1 election. No primary election shall be held for the nomination
2 of candidates for the office of councilman and candidates
3 shall be nominated only as hereinabove provided."

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

8 "3.12. Meetings of council. The first meeting of
9 each newly elected council shall be held on the fourth Tuesday
10 in ~~November~~ October of the year of its election, after which
11 the council shall meet regularly at such times as may be
12 prescribed by its rules, but not less frequently than once a
13 week. All meetings of the council shall be open to the
14 public."

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

18 "4.02. Statement of candidacy. Any person desiring
19 to become a candidate at any election for the office of mayor
20 may become such candidate by filing in the office of the judge
21 of probate of the county in which such city is situated, a
22 statement in writing of such candidacy, accompanied by an
23 affidavit taken and certified by such judge of probate or by a
24 notary public that such person is duly qualified to hold the
25 office for which he desires to be a candidate. Such statement
26 shall be filed at least ~~twenty-one~~ 45 days before the day set

1 for such election and shall be in substantially the following
2 form: 'State of Alabama, _____ County. I, the undersigned,
3 being first duly sworn, depose and say that I am a citizen of
4 the City of _____, in said State and County, and reside at
5 _____ in said City of _____, ~~that I am a member of the~~
6 ~~_____ party (or if not a member of a political party then, I~~
7 ~~am an independent candidate),~~ that I desire to become a
8 candidate for the office of mayor in said city at the election
9 of said office to be held on the _____ day of ~~October~~ August,
10 next and that I am duly qualified to hold said office if
11 elected thereto, and I hereby request that my name be printed
12 upon the official ballot at said election. Signed _____;
13 Subscribed and sworn to before me by said _____, on this
14 _____ day of _____, ~~19~~ 2____, and filed in this office for
15 record on said day. _____, Judge of Probate.' Said
16 statement shall be accompanied by a qualifying fee in an
17 amount equal to \$300.00 which qualifying fee shall be paid
18 over by the judge of probate to the general fund of the city.
19 At every such election all ballots to be used by voters shall
20 be printed and prepared by the election commission or other
21 body or official charged by law with the duty of conducting
22 elections and at the expense of said city, and shall contain
23 the names of all candidates directly underneath the words 'For
24 Mayor'. No names shall appear upon said ballot as a candidate
25 for election except the names of such persons as have become
26 candidates according to provisions as above set forth; no

1 ballot shall be used at any such election except the official
2 ballot prepared by the election commission or other body or
3 official charged by law with the duty of conducting elections,
4 except that the names of candidates may be suitably placed on
5 voting machines if such machines are used to conduct such
6 election."

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

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

1 one, and if not then the council thereof, shall within ~~five~~
2 ~~(5)~~ 30 days of the occurrence of a vacancy in the office of
3 the mayor call a special election to fill such vacancy, such
4 election to be held on ~~a~~ the second Tuesday of the month not
5 less than ~~thirty (30)~~ 70 days and not more than ~~forty-five~~
6 ~~(45)~~ 90 days from the occurrence of such vacancy; provided,
7 however, if a regular or special election is scheduled or
8 required to be held within ~~ninety (90)~~ 120 days after the
9 occurrence of such vacancy ~~but more than thirty (30) days~~
10 ~~after such occurrence~~, then the vacancy in the office of mayor
11 ~~will~~ shall be filled at such regular or special election.
12 Notice of such election shall be given at the expense of the
13 city by one publication at least ~~eighteen (18)~~ 18 days in
14 advance of the same in one or more newspapers published in
15 such city. Any person desiring to become a candidate at the
16 election to fill the vacancy in the office of mayor may become
17 a candidate by filing his or her statement in writing with the
18 judge of probate and paying the qualifying fee as provided in
19 Section 4.02. The method, procedure and requirements of
20 qualifying, voting upon, and determining the successful
21 candidate shall otherwise be the same as ~~is~~ provided herein
22 relative to the election of the mayor at regular elections,
23 ~~except that statements of candidacy must be filed at least~~
24 ~~twenty (20) days before the date set for such election.~~ The
25 successor to the mayor chosen at any such election shall
26 qualify for office as soon as practical thereafter, and shall

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