

1 HB515
2 176363-2
3 By Representative Robinson (N & P)
4 RFD: Jefferson County Legislation
5 First Read: 07-APR-16

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8 SYNOPSIS: This bill would relate to any Class 1
9 municipality; would provide when the council would
10 elect its president and president pro tem; require
11 the council have the written approval of the mayor
12 to create, change, abolish, or assign additional
13 duties to certain offices, departments, or
14 agencies; give the mayor the authority to appoint
15 or remove members of certain boards, commissions,
16 or other bodies; have the mayor act in an ex
17 officio capacity when the chief executive officer
18 of the city is designated to so act under certain
19 conditions; give the mayor the authority to retain
20 counsel to meet the needs of the city under certain
21 conditions; require the approval of the mayor in
22 writing for new, modified, or deleted items of
23 expenditure placed in the budget and require the
24 recommendation of the mayor for certain other
25 appropriations; further provide for the validity or
26 invalidity of certain current or future ordinances
27 and resolutions of the city; and prohibit a member

1 of the council from serving as a member on another
2 city board, commission, or other like body while
3 serving on the council, except as an ex officio
4 officer.

5 This bill would prohibit a member of the
6 council from serving as a member on another city
7 board, commission, or other like body while serving
8 as a member of the council, except as an ex officio
9 member.

10 This bill would revise the appointment
11 authority for the following boards, commissions,
12 authorities, committees, or other entities
13 organized or provided for in the Class 1
14 municipality or members appointed from the Class 1
15 municipality, notwithstanding any law to the
16 contrary:

17 (1) Any municipal airport authority.

18 (2) Any municipal construction industry
19 authority.

20 (3) Any municipal parking authority.

21 (4) Any municipal planning commission.

22 (5) Any municipal commercial development
23 authority.

24 (6) Any municipal industrial development
25 board.

26 (7) Any municipal industrial water board.

1 (8) Any municipal overall economic
2 development program committee.

3 (9) Any municipal public building authority.

4 (10) Any municipal public park and
5 recreational board.

6 (11) Any municipal urban forestry and tree
7 commission.

8 (12) Any joint municipal and county transit
9 authority.

10
11 A BILL

12 TO BE ENTITLED

13 AN ACT

14
15 Relating to any Class 1 municipality; to amend
16 Sections 45-37A-52.55, 45-37A-52.56, 45-37A-52.59,
17 45-37A-52.95, 45-37A-52.128, 45-37A-52.134, 45-37A-52.198,
18 45-37A-52.200, 45-37A-52.221, and 45-37A-52.270 of the Code of
19 Alabama 1975, relating to the mayor-council form of
20 government; to further provide for the powers and duties of
21 the mayor and the council; to revise the appointment authority
22 for certain boards, commissions, authorities, committees, or
23 other entities organized or provided for in any Class 1
24 municipality or members appointed from any Class 1
25 municipality; and to prohibit a member of the council from
26 serving as a member on another city board, commission, or

1 other like body while serving as a member of the council,
2 except as an ex officio member.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 45-37A-52.55, 45-37A-52.56,
5 45-37A-52.59, 45-37A-52.95, 45-37A-52.128, 45-37A-52.134,
6 45-37A-52.198, 45-37A-52.200, 45-37A-52.221, and 45-37A-52.270
7 of the Code of Alabama 1975, are amended to read as follows:

8 "§45-37A-52.55.

9 ~~The~~ At the first meeting, which shall be held
10 immediately following the effective date of the act adding
11 this amendatory language, and then subsequently at the first
12 meeting held in November of the year after the effective date
13 of the act adding this amendatory language and every two years
14 thereafter, the council shall elect an officer of the city who
15 shall have the title of president of the council and shall
16 preside at meetings of the council. At the first meeting,
17 which shall be held immediately following the effective date
18 of the act adding this amendatory language, and then
19 subsequently at the first meeting held in November of the year
20 after the effective date of the act adding this amendatory
21 language and every two years thereafter, the ~~The~~ council shall
22 also elect a president pro tem, who shall act as president of
23 the council during the absence or disability of the president.
24 ~~The terms of office of the president and the president pro tem~~
25 ~~shall be until the council members shall qualify following the~~
26 ~~next succeeding biennial election.~~ If a vacancy shall occur in
27 the office of president of the council, the council shall

1 elect a successor for the completion of the unexpired term.
2 Both the president of the council and the president pro tem
3 shall be elected from among the council members.

4 "§45-37A-52.56.

5 "~~All~~ Except those powers specifically granted by
6 this part to the mayor or as otherwise granted to the mayor by
7 law, all powers of the city, including all powers vested in it
8 by this part, by the laws, general and local, of the state,
9 and the determination of all matters of policy, shall be
10 vested in the council. Without limitation of the foregoing,
11 the council shall have power to:

12 "(1) Establish administrative departments and
13 distribute the work of divisions.

14 "(2) Adopt the budget of the city.

15 "(3) Authorize the issuance of bonds or warrants.

16 "(4) Inquire into the conduct of any office,
17 department, or agency of the city and make investigations as
18 to municipal affairs.

19 "~~(5) Appoint the members of all boards, commissions,~~
20 ~~or other bodies authorized hereunder or by law. This provision~~
21 ~~for appointment of members of boards, commissions, or other~~
22 ~~bodies authorized hereunder or by law shall supersede any~~
23 ~~different provision for appointment of such members contained~~
24 ~~in any statute or ordinance in effect at the time of adoption~~
25 ~~by the city of the mayor-council form of government set up by~~
26 ~~this part, and shall include power to remove any member of any~~
27 ~~board, commission, or body to the same extent as might be done~~

1 by the governing body of the city at the time of adoption by
2 the city of the mayor-council form of government set up by
3 this part and to appoint another in his or her stead. And
4 wherever in any statute in effect at the time of adoption by
5 the city of the mayor-council form of government the chief
6 executive officer of the city is designated to act in any
7 capacity ex officio, the mayor shall act.

8 "~~(6)~~(5) Succeed to all the powers, rights, and
9 privileges conferred upon the former governing body of the
10 city by statutes in effect at the time of adoption by the city
11 of the mayor-council form of government and not in conflict
12 with this part.

13 "~~(7)~~(6) Levy property and license taxes and local
14 improvement assessments.

15 "~~(8)~~(7) Employ for and on behalf of the city such
16 employees as the council may deem necessary to assist the
17 council and perform such duties relating to the work of the
18 council as the president of the council may assign. Each such
19 employee shall serve at the pleasure of the council at such
20 compensation as the council may set, and shall not be under
21 any merit or civil service system. Each such employee shall by
22 reason of such employment become a member of the pension
23 system covering the general employees of such city, if there
24 be such a system, to the same extent and in the same manner as
25 other general employees of the city; provided, application for
26 such inclusion in such pension system be made to the board or
27 other authority administering such pension system within 30

1 days of May 31, 1984, or, thereafter, within 30 days of their
2 appointment. If no such application be made within such time,
3 such council employees shall not hereafter be a member of such
4 system.

5 "§45-37A-52.59.

6 "~~The~~ Upon the written approval of the mayor, the
7 council by ordinance may create, change, and abolish offices,
8 departments, or agencies, other than the offices, departments,
9 and agencies established by this part. ~~The~~ Upon the written
10 approval of the mayor, the council by ordinance may assign
11 additional functions or duties to offices, departments, or
12 agencies established by this part, but may not discontinue or
13 assign to any other office, department, or agency any function
14 or duty assigned by this part to a particular office,
15 department, or agency.

16 "§45-37A-52.95.

17 "The mayor shall be the head of the administrative
18 branch of the city government. The mayor shall not sit with
19 the council nor shall he or she have a vote in its proceedings
20 and he or she shall have the power and duties herein
21 conferred. The mayor shall be responsible for the proper
22 administration of all affairs of the city and, subject to any
23 civil service or merit system law applicable to such city and
24 except as otherwise provided herein, he or she shall have
25 power and shall be required to:

26 "(1) Enforce all law and ordinances.

1 "(2) Appoint members to certain boards, commissions,
2 or other bodies authorized hereunder or by law. The authority
3 to appoint members of boards, commissions, or other bodies
4 pursuant to this subdivision or by law shall supersede any
5 other authority to appoint those members contained in any law
6 or ordinance in effect at the time of or subsequent to the
7 adoption by the city of the mayor-council form of government
8 set up by this part, and shall include the power to remove any
9 member of any board, commission, or body to the same extent as
10 might be done by the governing body of the city at the time of
11 or subsequent to the adoption by the city of the mayor-council
12 form of government set up by this part and appoint another in
13 his or her place. When the chief executive officer of the city
14 is designated to act in any capacity ex officio in any law in
15 effect at the time of or subsequent to the adoption by the
16 city of the mayor-council form of government, the mayor shall
17 act, except that this subdivision does not override the
18 express terms of the Lewis Spratt Act, Subpart 1, commencing
19 with Section 45-37A-50, Part 1, of this article.

20 ~~"(2)~~ (3) Appoint and, when necessary for the good of
21 the service, remove all officers and employees of the city
22 except as otherwise provided by this part and except as he or
23 she may authorize the head of a department or office to
24 appoint and remove subordinates in such department or office;
25 provided that he or she shall not appoint or remove officers
26 and employees of:

27 ~~"a. Any library board of the city.~~

1 ~~"b.~~ a. Any board of the city having control over any
2 park, recreation facility, fair, ~~or~~ exhibit, or any library
3 board of the city.

4 ~~"e.~~ b. Any municipally-owned public utility, or
5 those utilities, the board of directors of which a
6 municipality appoints a member, including electric, gas, and
7 water systems, while such utility is operating under a board
8 constituted by law or required by the terms of any indenture,
9 mortgage, or deed of trust providing for employment by other
10 authority.

11 ~~"d.~~ c. Any nonelected school board of the city.

12 ~~"e.~~ d. Any planning board or zoning board of the
13 city.

14 ~~"(3)~~ (4) Exercise administrative supervision and
15 control over all departments created by this part or by law or
16 hereafter created by the council except those enumerated in
17 paragraphs a. to ~~e.~~ d., inclusive, of subdivision ~~(2)~~ (3) and
18 except those otherwise given independent status under this
19 part.

20 ~~"(4)~~ (5) Shall keep the council fully advised as to
21 the financial conditions and needs of the city; prepare and
22 submit the budget annually to the council and be responsible
23 for its administration after its adoption; prepare and submit,
24 as of the end of the fiscal year, a complete report on the
25 financial and administrative activities of the city for such
26 year and prepare a detailed report within 30 days of the
27 council's request.

1 "~~(5)~~ (6) Recommend to the council such actions as he
2 or she may deem desirable.

3 "~~(6)~~ (7) Prepare and submit to the council such
4 reports as may be required of him or her.

5 "~~(7)~~ (8) Perform such other duties as may be
6 prescribed by this part.

7 "~~(8)~~ (9) Fix the salaries or compensation of all
8 officers and employees of the city who are appointable by him
9 or her, subject, however, to any civil service or merit law
10 applicable to the city.

11 "~~(9)~~ (10) Employ as members of his or her staff such
12 employees as the mayor may deem necessary for and on behalf of
13 the city to assist the mayor and perform such duties relating
14 to the mayor as the mayor may assign. Each such employee shall
15 serve at the pleasure of the mayor for such compensation as
16 the mayor may set. Such staff members shall not be under any
17 merit or civil service system, but, should a member of the
18 classified service under any merit or civil service system
19 applicable to the city be appointed hereunder, the provisions
20 of this section notwithstanding, he or she may be paid at the
21 salary established for his or her classification at the time
22 of appointment and such person shall not lose any rights under
23 such merit or civil service system by reason of his or her
24 appointment hereunder, and shall, upon termination of service
25 on the mayor's staff, have the right to return to the
26 classified service, with full credit for time served on the
27 mayor's staff, at the same or higher classification as that

1 held upon appointment hereunder. Each such employee shall by
2 reason of such employment become a member of the pension
3 system covering the general employees of the city, if there be
4 such a system, to the same extent and in the same manner as
5 other general employees of the city, provided such employee
6 apply to the board or other authority administering such
7 pension system within 30 days of appointment; otherwise, such
8 employee shall not be a member of the system. This section
9 shall not limit the authority of the mayor to appoint other
10 staff under the merit system or as otherwise authorized by
11 law. No person employed in one of these staff positions shall
12 run for elected office while so employed.

13 "(11) Retain the services of outside counsel, to the
14 extent that it is in the budget, and will not impact the
15 budget, to meet the needs of the city when, in the opinion of
16 the mayor, such action would best serve the interests of the
17 city.

18 "§45-37A-52.128.

19 "After the conclusion of the public hearing the
20 council, only to the extent approved in writing by the mayor,
21 may insert new items of expenditures or may increase,
22 decrease, or strike out items of expenditure in the general
23 fund budget, except that no item of expenditure for debt
24 service, or any other item required to be included by this
25 part or other provision of law, shall be reduced or stricken
26 out. The council shall not alter the estimates of receipts
27 contained in the budget except to correct omissions or

1 mathematical errors and it shall not cause the total of
2 expenditures as recommended by the mayor to be increased
3 without a public hearing on such increase, which shall be held
4 not less than three days after notice thereof by publication
5 in a newspaper of general circulation published in the city.
6 The council shall in no event adopt a general fund budget in
7 which the total of expenditures exceeds the receipts and
8 available surplus, estimated as provided in Section
9 45-37A-52.123, unless at the same time it adopts measures for
10 providing additional revenue in the ensuing fiscal year,
11 estimated as provided in Sections 45-37A-52.121 and
12 45-37A-52.124, sufficient to make up the difference.

13 "§45-37A-52.134.

14 "Appropriations in addition to those contained in
15 the original general fund budget ordinance, may be made by the
16 council by not less than five affirmative votes, but only on
17 the recommendation of the mayor in writing, copies of which he
18 or she shall provide to the director of finance, and only if
19 the director of finance certifies in writing that there is
20 available in the general fund a sum unencumbered and
21 unappropriated sufficient to meet such appropriation.
22 Additional appropriations may be made by the council, by not
23 less than five affirmative votes, from the funds of any
24 utility for the operation of that utility, but only on the
25 recommendation of the mayor in writing, copies of which he or
26 she shall provide to the director of finance, and only if the
27 director of finance certifies in writing that there is

1 available in the funds of the utility, a sum unencumbered and
2 unappropriated sufficient to meet such appropriation.

3 "§45-37A-52.198.

4 "~~All~~ Except as expressly provided by this part, all
5 laws and parts of laws relating to establishment of an
6 authority for fairgrounds, parks, exhibits, exhibitions, and
7 other installations, facilities, and places for the amusement,
8 entertainment, recreation, and cultural development of the
9 citizens of a city, and for the powers, authority, mode of
10 financing, and conduct of the same, contained in the general
11 or local laws of the state or in Title 62 of the Code of
12 Alabama of 1940, as amended, as the same may apply and be in
13 effect with respect to any city at the time when such city
14 shall elect to be governed by this part, shall continue in
15 full force and effect, and without interruption or change as
16 to the establishment or conduct of any authority created
17 thereunder, after adoption of the mayor-council form of
18 government by such city.

19 "§45-37A-52.200.

20 "~~All~~ To the extent consistent with the terms of this
21 part, all ordinances and resolutions of the city in effect at
22 the time of adoption by the city of the mayor-council form of
23 government herein set up shall continue in effect unless and
24 until changed or repealed by the council. To the extent any
25 current or future ordinance or resolution of the city is
26 inconsistent with the express terms of this part, the

1 ordinance or resolution shall be void and of no effect to the
2 extent of its inconsistency.

3 "§45-37A-52.221.

4 "The mayor, the heads of all departments, and such
5 other officers of the city as may be designated by the
6 council, shall be entitled to attend meetings of the council,
7 but shall have no vote therein. The mayor shall have the right
8 to take part in the discussion of all matters coming before
9 the council, and the directors and other officers shall be
10 entitled to take part in all discussions of the council
11 relating to their respective offices, departments, or
12 agencies. No member of the council shall serve as a member on
13 another city board, commission, or other like body while
14 serving as a member of the council, except as an ex officio
15 member.

16 "§45-37A-52.270.

17 "~~All~~ Except as otherwise provided by this part, all
18 laws and parts of laws, general, local, or special, relating
19 to or affecting the city, its powers, functions, duties, and
20 property, in force on September 9, 1955, are hereby continued
21 in effect; but all such laws relating to the exercise of
22 powers, functions, and duties by the commission or
23 council-manager or some other form of government shall be
24 superseded to the extent that the same are inconsistent with
25 this part."

26 Section 2. Notwithstanding any other provision of
27 law, the appointing authority for members of the following

1 boards, commissions, authorities, committees, or other
2 entities organized or provided for in a Class 1 municipality
3 shall be divided between the city council and the mayor with
4 the city council appointing a simple majority of the number of
5 members and the mayor appointing the remainder for those
6 entities with an odd number of members and the city council
7 and mayor appointing an equal number of positions for those
8 entities that have an even number of positions:

9 (1) Any municipal parking authority.

10 (2) Any municipal planning commission.

11 (3) Any municipal industrial development board.

12 (4) Any municipal industrial water board.

13 (5) Any municipal overall economic development
14 program committee.

15 (6) Any municipal public building authority.

16 (7) Any municipal urban forestry and tree
17 commission.

18 (8) Any joint municipal and county transit
19 authority.

20 (9) Any municipal airport authority.

21 (10) Any municipal construction industry authority.

22 (11) Any municipal commercial development authority.

23 (12) Any municipal public park and recreational
24 board.

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

