

1 HB556
2 182208-2
3 By Representative Bandy (N & P)
4 RFD: Lee County Legislation
5 First Read: 25-APR-17

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8 SYNOPSIS: This bill would further provide for the
9 operation of the council-manager form of government
10 in any Class 5 municipality organized under the
11 provisions of Act 71, 1977 Regular Session (Acts
12 1977, p. 78), as amended. The bill, among other
13 things, provides for an assistant city manager and
14 a city planner and allows employment contracts only
15 with the city manager and not department heads.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT

20
21 Relating to any Class 5 municipality organized under
22 the provisions of Act 71, 1977 Regular Session (Acts 1977, p.
23 78), as amended; to amend Act 71, 1977 Regular Session (Acts
24 1977, p. 78), as amended, to further provide for the operation
25 of the council-manager form of government.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. This act shall apply in any Class 5
2 municipality organized under the provisions of Act 71, 1977
3 Regular Session (Acts 1977, p. 78), as amended.

4 Section 2. Sections 1.01, 3.01, 3.10, 3.14, 3.18,
5 4.03, 4.04, 6.13, and 6.18 of Act 71, 1977 Regular Session
6 (Acts 1977, p. 78), as amended, are amended to read as
7 follows:

8 "Section 1.01. (a) Cities to which Act applies.—Any
9 city in the State of Alabama, which has a population of not
10 less than 23,000 nor more than 27,000 inhabitants according to
11 the 1970 or any subsequent federal decennial census, may adopt
12 the council-manager form of government by proceeding in the
13 manner hereafter in this Act provided.

14 "(b) The Legislature finds that the council-manager
15 form of government has been adopted pursuant to this act and
16 is operative in a Class 5 municipality. It is the intent of
17 this act to further provide for the council-manager form of
18 government under this act.

19 "Section 3.01. (a) Number, election, term.—The
20 council shall have five members with two elected at-large by
21 all of the voters of the city and three elected from districts
22 by voters within each district, the council elected in the
23 manner prescribed in Section 1.07 of this Act. An election of
24 councilmen shall be held on the ~~first Tuesday in September~~
25 ~~every three years~~ the date provided by general law. Each
26 councilman shall hold office for ~~three years~~ terms as provided
27 by general law, but shall serve until his or her successor

1 shall have qualified. A councilman may succeed himself or
2 herself in office. Each of the three district councilmen shall
3 reside within the limits of his or her district during the
4 term of his or her office and if any district councilman shall
5 remove from within the limits of his or her district for 60
6 consecutive days his or her office shall become vacant.

7 "(b) Any member of the council shall attain Basic
8 Certified Municipal Officials Certification through the
9 Alabama League of Municipalities within 30 months of taking
10 office.

11 "Section 3.10. Council not to interfere in
12 appointments or removals.

13 "Neither the council nor any of its members shall
14 direct or request the appointment of any person to, or his or
15 her removal from, office by the city manager or by any of his
16 or her subordinates, or in any manner take part in the
17 appointment or removal of officers and employees in the
18 administrative service of the City. Except for the purpose of
19 inquiry, the council and its members shall deal with the
20 administrative service solely through the city manager and
21 neither the council nor any member thereof shall give orders
22 to any subordinates of the city manager, either publicly or
23 privately.

24 "Section 3.14. Induction of council into office;
25 meetings of council.—The first meeting of each newly elected
26 council for induction into office shall be held at ten o'clock
27 in the morning on the first Monday in ~~October~~ November next

1 following its election, after which the council shall meet
2 regularly at such times as may be prescribed by its rules, but
3 not less frequently than once each month. All meetings of the
4 council shall be open to the public.

5 "Section 3.18. Granting of franchises. ~~No~~ Subject to
6 any state law applicable to all municipalities or any federal
7 law that provides otherwise, no resolution or ordinance,
8 granting to any person, firm, or corporation any franchise,
9 lease, or right to use the streets, public highways,
10 thoroughfares, or public property of the City, either in,
11 under, upon, along, through, or over same shall take effect
12 and be enforced until thirty days after the final enactment of
13 same by the council and publication of ~~said~~ the resolution or
14 ordinance in full once a week for three consecutive weeks in
15 some newspaper published in ~~said~~ the City, which publication
16 shall be made at the expense of the persons, firm, or
17 corporation applying for ~~said~~ the grant. Pending the passage
18 of any such resolution or ordinance or during the time
19 intervening between its final passage, and the expiration of
20 the thirty days during which publication shall be made as
21 above provided, the legally qualified voters of ~~said~~ the City
22 may, by written petition or petitions addressed to ~~said~~ the
23 council object to such grant, and if during such period such
24 written petition or petitions signed by at least five percent
25 ~~(5%)~~ of the legally qualified voters of the City shall be
26 filed with ~~said~~ the council, ~~said~~ the council shall forthwith
27 order an election, which shall be conducted by the election

1 commission of the City or other body having charge of the
2 conduct of municipal elections of the City at which election
3 the legally qualified voters of ~~said~~ the City shall vote for
4 or against the proposed grant. In the call for ~~said~~ the
5 election, the ~~said~~ the resolution or ordinance making such
6 grant shall be published one time at length and in full at the
7 expense of the City in a newspaper published in ~~said~~ the City.
8 If a majority of the votes cast at such election shall be
9 against the proposed grant, then and in those events, ~~said~~ the
10 resolution or ordinance shall not become effective nor shall
11 it confer any rights, powers, or privileges of any kind;
12 otherwise, ~~said~~ the resolution or ordinance and ~~said~~ the grant
13 shall thereupon become effective as fully and to the same
14 extent as if ~~said~~ the election had not been called or held.
15 If, as the result of ~~said~~ the election, ~~said~~ the resolution or
16 ordinance shall be disapproved, then it shall be deemed null
17 and void. But if as a result of ~~said~~ the election the proposed
18 grant shall be approved, the council shall adopt a resolution
19 stating the fact of such approval, and such resolution shall,
20 without further proceedings or advertisement, operate as the
21 adoption of the proposed grant. No grant of any franchise or
22 lease or right of user, or any other right in, under, upon,
23 along, through, or over the streets, public highways,
24 thoroughfares, or public property of any such City, shall be
25 made or given nor shall any such rights of any kind whatever
26 be conferred upon any person, firm, or corporation, except by
27 a resolution or ordinance duly passed by the council at some

1 regular or adjourned meeting and published as above provided
2 for in this section; nor shall any extension or enlargement of
3 any such rights or powers previously granted be made or given
4 except in the manner and subject to all conditions herein
5 provided for as to the original grant of same. It is expressly
6 provided, however, that the provisions of this section shall
7 not apply to the grant of side track or switching privileges
8 to any railroad or street car company for the purpose of
9 reaching and affording railway connections, and switch
10 privileges to the owners or users of any industrial plant,
11 store, l or warehouse; provided further that ~~said~~ the side track
12 or switch shall not extend for a greater distance than one
13 thousand, three hundred twenty feet, measured along ~~said~~ the
14 track or switch.

15 "Section 3.20. Examination of books and publication
16 of accounts.—The council shall each month make available in
17 the office of the city manager a detailed statement of all
18 receipts and expenses of the City, and a summary of its
19 proceedings during the preceding month. At the end of each
20 year, the council shall cause a full and complete examination
21 of all the books and accounts of the City to be made by a
22 qualified public accountant, and shall cause the result of
23 such examination to be placed in the office of the city clerk
24 and the office of the city manager, to be open for inspection
25 by all persons. Such examination shall not be made more than
26 ~~two~~ four years in succession by the same accountant or firm.

1 "Section 4.03. The assistant city manager. Absence
2 of city manager.~~-To~~ There shall be employed an assistant city
3 manager. The assistant city manager shall perform his the
4 duties of the city manager during his the temporary absence or
5 temporary disability,~~the manager may designate by letter~~
6 ~~filed with the city clerk a qualified administrative officer~~
7 ~~of the city. In the event of failure of the manager to make~~
8 ~~such designation, the~~ of the city manager. The council may by
9 resolution appoint a qualified administrative officer of the
10 City to perform the duties of the city manager until he shall
11 ~~return or his disability shall cease~~ in the event of the
12 temporary absence of the city manager and the assistant city
13 manager.

14 "Section 4.04. Administrative ~~department~~
15 departments.~~-(a)~~ There shall be a department of finance, and
16 such other departments as may be established by ordinance upon
17 the recommendation of the manager. In addition, the position
18 of city planner shall be established.

19 "(b) Prior to any employee disciplinary action, the
20 city manager shall consult with the city attorney if possible.

21 "(c) The council may enter into an employment
22 contract only with the city manager.

23 "Section 6.13. Competitive bidding.~~-Before the city~~
24 ~~makes any purchase of supplies, materials or equipment,~~
25 ~~costing \$1,500 or more, ample opportunity shall be given for~~
26 ~~competitive bidding, under such rules and regulations, and with~~
27 ~~such exceptions, as the council may prescribe by ordinance;~~

1 ~~provided, however, that the council shall not except~~
2 ~~individual purchases or sales from the requirement of~~
3 ~~competitive bidding. All rules relating to a competitive~~
4 ~~bidding adopted by the council shall meet the minimum~~
5 ~~requirements of Title 41 of the Code of Alabama 1975.~~

6 "Section 6.14. ~~Contracts for city improvements. Any~~
7 ~~city improvement costing more than \$1,500 shall be executed by~~
8 ~~contract. All such contracts for more than \$1,500 shall be~~
9 ~~awarded to the lowest responsible bidder after such public~~
10 ~~notice and competition as may be prescribed by ordinance,~~
11 ~~provided the city manager shall have the power to reject all~~
12 ~~bids and advertise again. Alterations of any contract may be~~
13 ~~made when authorized by the council upon the written~~
14 ~~recommendation of the city manager. The council shall adopt~~
15 ~~standards for competitive bids under this act. All standards~~
16 ~~shall meet the minimum requirements of Title 41 of the Code of~~
17 ~~Alabama 1975."~~

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