

1 SB278
2 191111-1
3 By Senator McClendon
4 RFD: County and Municipal Government
5 First Read: 06-FEB-18

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8 SYNOPSIS: Under existing law, in a city or town with a
9 population of less than 12,000 inhabitants
10 according to the last or any subsequent federal
11 census, the mayor presides over the city council
12 and may vote as a member of the council, except in
13 the case of a tie, when the mayor is required to
14 vote. When the population of a city or town
15 increases to 12,000 or more inhabitants according
16 to the last decennial federal census, the mayor no
17 longer sits with the council nor votes in council
18 proceedings, but instead has veto power over the
19 ordinances and resolutions passed by the council.

20 This bill would authorize cities and towns
21 having a population of 12,000 or more but less than
22 25,000 inhabitants according to the last or any
23 subsequent federal decennial census, by ordinance
24 adopted by a majority vote of the council and the
25 mayor together, to elect to continue operating as a
26 city or town with a population of less than 12,000
27 inhabitants as it relates to the exercise of the

1 legislative functions of the mayor and would
2 restrict the veto power of the mayor while he or
3 she is a voting member of the council.

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5 A BILL
6 TO BE ENTITLED
7 AN ACT

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9 To amend Sections 11-43-2, 11-43-3, 11-43-40,
10 11-45-4, and 11-45-5 of the Code of Alabama 1975, relating to
11 the legislative functions of the mayor of cities or towns with
12 12,000 or more but less than 25,000 inhabitants; to authorize
13 the city council and the mayor together by majority vote to
14 elect to continue operating as a city or town with a
15 population of less than 12,000 inhabitants as it relates to
16 the exercise of the legislative functions of the mayor; and to
17 restrict the veto power of the mayor while he or she is a
18 voting member of the council.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Sections 11-43-2, 11-43-3, 11-43-40,
21 11-45-4, and 11-45-5 of the Code of Alabama 1975, are amended
22 to read as follows:

23 "§11-43-2.

24 "(a) In Except as provided in subsection (c), in all
25 cities and towns at the general election to be held on the
26 fourth Tuesday in August, 1984, and quadrennially thereafter,
27 there shall be elected a mayor, who, in cities having a

1 population of 12,000 or more according to the last or any
2 subsequent federal census, shall not sit with the council nor
3 have a vote in its proceedings, and he or she shall have the
4 power and duties conferred in this chapter.

5 "(b) In all cities and towns having a population of
6 less than 12,000 inhabitants according to the last or any
7 subsequent federal census, the legislative functions shall be
8 exercised by the mayor and five aldermen. The mayor shall
9 preside over all deliberations of the council. At his or her
10 discretion he or she may vote as a member of the council on
11 any question coming to a vote, except in case of a tie, in
12 which event he or she must vote.

13 "(c) (1) Notwithstanding subsection (a), cities and
14 towns having a population of less than 12,000 inhabitants
15 according to the immediate past federal decennial census that
16 have a population of 12,000 or more but less than 25,000
17 inhabitants after the most recent federal decennial census
18 shall continue to operate under subsection (b) for 30 days
19 after the release of the federal decennial census.

20 "(2) During the 30 day period, by ordinance adopted
21 by a majority vote of the council and the mayor together, the
22 city may elect to continue to operate pursuant to subsection
23 (b) as it relates to the exercise of the legislative functions
24 of the mayor until the release of the next federal decennial
25 census.

26 "(3) Thereafter, if the city continues to have
27 12,000 or more but less than 25,000 inhabitants after the most

1 recent federal decennial census, by the same procedure, the
2 city may elect to continue to operate under subsection (b) as
3 it relates to the exercise of the legislative functions of the
4 mayor until the 30 days after the release of the next federal
5 decennial census.

6 "(d) The aldermen in ~~such~~ the cities or towns shall
7 be elected by the city or town at large at the first general
8 election held on the fourth Tuesday in August, 1984, and
9 quadrennially thereafter, or from wards as the ~~said~~ councils
10 may determine, not less than six months before an election,
11 and shall receive such salary as the council may prescribe,
12 which must be fixed by the council not less than six months
13 prior to each general municipal election.

14 "(e) Provided, however, the six-month requirement in
15 this section may be waived when necessary to comply with a
16 mandate by the U.S. Justice Department pursuant to the Voting
17 Rights Act of 1965, as amended, or with an order issued by a
18 state or federal court.

19 "§11-43-3.

20 "(a) In cities having a population of more than
21 6,000, there shall be elected by the council, at its first
22 regular meeting or as soon thereafter as practicable, a city
23 treasurer and a city clerk, who shall hold office until the
24 next general election and until their successors are elected
25 and qualified, and such council may elect an auditor, and any
26 officers whose election is required by ordinance, and, except
27 as otherwise provided, the council shall have authority to fix

1 the terms of office, prescribe their duties and fix the
2 salaries of the officers. The council may, by ordinance,
3 require the city treasurer and the city clerk to be residents
4 of the city. ~~Such~~ Except as provided in subsection (b), the
5 council, may by a two-thirds vote of the members elected, by
6 and with the consent of the mayor, may consolidate two or more
7 of the offices and may abolish any ~~such~~ of the offices;
8 provided, that the term of office of no incumbent shall be
9 diminished.

10 "(b) The consent of the mayor is not necessary to
11 consolidate or abolish offices pursuant to subsection (a) if
12 the mayor is operating pursuant to Section 11-43-2 as it
13 relates to the legislative functions of the mayor in cities
14 and towns having a population of 12,000 or more but less than
15 25,000 inhabitants according to the last or any subsequent
16 federal decennial census.

17 "§11-43-40.

18 "(a) ~~In~~ Except as provided in Section 11-43-2 as it
19 relates to the legislative functions of the mayor in cities
20 and towns having a population of 12,000 or more but less than
21 25,000 inhabitants according to the last or any subsequent
22 federal decennial census, in cities having a population of
23 12,000 or more, the following officers shall be elected at
24 each general municipal election, who shall compose the city
25 council for ~~such~~ the cities and who shall hold office for four
26 years and until their successors are elected and qualified,
27 and who shall exercise the legislative functions of city

1 government and any other powers and duties which are or may be
2 vested by law in the city council or its members:

3 "(1) In cities having seven wards or less, a
4 president of the city council and two aldermen from each ward,
5 to be elected by the qualified voters of the several wards
6 voting separately in every ward; except, that in ~~such~~ cities
7 having a population of less than 20,000, the two aldermen from
8 each ward shall be elected by the electors of the city at
9 large.

10 "(2) In cities having more than seven wards, one
11 alderman from each ward, and a sufficient number of aldermen
12 from the city at large to make the total number of aldermen 14
13 exclusive of the president of the council; provided, that in
14 cities having a population of 50,000 or more, the city council
15 may create not more than 20 wards.

16 "(3) In cities having a population of more than
17 30,000 according to the most recent federal decennial census
18 or according to any census of ~~such~~ the city made pursuant to
19 Sections 11-47-90 through 11-47-95, and having only five
20 wards, a president of the council and five aldermen, if the
21 governing body shall so provide by ordinance or resolution
22 adopted by two-thirds vote of the governing body at least six
23 months prior to a general municipal election. If ~~such~~ an
24 ordinance or resolution is adopted, one alderman shall reside
25 in each of the respective wards of the city, the president and
26 all of the aldermen shall be elected by the voters of the city
27 at large, and the president shall vote only in case of a tie.

1 "(4) Notwithstanding ~~the provisions of~~ subdivisions
2 (1), (2), and (3) ~~of this section~~, the governing body of any
3 city having a population of 12,000 or more may by ordinance or
4 resolution, if adopted by two-thirds vote of the governing
5 body more than six months prior to any general municipal
6 election, provide that the city council of ~~said~~ the city shall
7 consist of five aldermen to be elected from the city at large.

8 "(5) Notwithstanding ~~the provisions of~~ subdivisions
9 (1), (2), (3), and (4) ~~of this section~~, the governing body of
10 any city having a population of 12,000 or more which does now
11 elect council members from single-member districts or cities
12 presently operating with five single-member districts as
13 established under a federal court order ~~may~~, by ordinance or
14 resolution, if adopted by two-thirds vote of the governing
15 body more than six months prior to any general municipal
16 election, may provide that the city council of ~~said~~ the city
17 shall consist of eight aldermen to be elected from
18 single-member districts (wards) with the president of the city
19 council to be elected by the qualified voters of the several
20 wards voting separately in every ward.

21 "(6) Notwithstanding ~~any conflicting provision of~~
22 subdivisions (1), (2), (3), (4), and (5), the city council of
23 any Class 6 municipality, having a population of 19,000 or
24 more, operating under a mayor-council form of government
25 elected on a citywide basis, by ordinance adopted by a
26 majority vote of the city council more than four months prior
27 to the general municipal election for which the ordinance is

1 to take effect, may provide for staggered terms of office for
2 the city council as follows:

3 "a. Each of the council seats established for the
4 city shall be designated by separate number or place.

5 "b. The initial term of office for persons holding
6 the odd-numbered council seats shall be established at two
7 years and the initial terms of office for persons holding the
8 even-numbered council seats and that of the mayor of the city
9 shall remain at four years.

10 "c. Upon expiration of the initial two-year terms of
11 office to be served by the council members holding
12 odd-numbered seats, each council member elected to the seats
13 shall thereafter hold office for a term of four years so that
14 the mayor and all council members are elected for four-year
15 terms of office with the terms to be staggered as provided.

16 "d. This subdivision ~~shall~~ may not be construed to
17 authorize the governing body of any municipality to which it
18 applies by ordinance or otherwise to shorten the term of any
19 elected official serving on April 15, 2004.

20 "(7) Notwithstanding ~~any conflicting provision of~~
21 subdivisions (1), (2), (3), (4), and (5), the city council of
22 any Class 8 municipality having a population of 60,000 or more
23 inhabitants elected by the qualified voters operating under a
24 mayor-council form of government on a citywide basis, by
25 ordinance adopted by a two-thirds vote of the city council
26 more than three months prior to the general municipal election
27 for which the ordinance is to take effect, may provide for the

1 city council to consist of either five or seven aldermen to be
2 elected from the municipality at large.

3 "(b) Unless provided otherwise in this section, the
4 president of the council shall have the right to vote on all
5 questions the same as any other member of the council.

6 "§11-45-4.

7 "(a) If Except as provided in subsection (b), if the
8 mayor shall disapprove of any ordinance or resolution
9 transmitted to him or her as provided in Section 11-45-3, ~~he~~
10 ~~shall,~~ within 10 days of the time of its passage by the
11 council, he or she shall return the same to the clerk with his
12 or her objections in writing, and the clerk shall make report
13 thereof to the next regular meeting of the city council, ~~and,~~
14 ~~if.~~ If two thirds of the members elected to the ~~said~~ council
15 shall adhere to ~~said~~ the ordinance or resolution
16 notwithstanding ~~said~~ the objections, ~~said~~ the vote being taken
17 by yeas and nays and spread upon the minutes, then, ~~and not~~
18 ~~otherwise,~~ ~~said~~ the ordinance or resolution ~~shall,~~ after
19 publication thereof, shall have the force of law, unless by
20 its terms it was to take effect on its approval, in which
21 event it shall take effect upon its passage over ~~such~~ the
22 veto. The failure of the mayor to return to the clerk an
23 ordinance or resolution with his or her veto within 10 days
24 after its passage by the council shall operate and have the
25 same effect as an approval of the same, and the clerk shall
26 publish the same as is provided in subsection (b) of Section

1 11-45-8 for the publication of laws and ordinances of ~~said~~ the
2 city.

3 "(b) The mayor of a city or town who operates
4 pursuant to Section 11-43-2 as it relates to the legislative
5 functions of the mayor in cities and towns having a population
6 of 12,000 or more but less than 25,000 inhabitants according
7 to the last or any subsequent federal decennial census, may
8 not exercise veto power pursuant to this section and his or
9 her signature as the mayor may not affect the validity of an
10 ordinance or resolution passed by the council while the mayor
11 is a voting member of the council.

12 "§11-45-5.

13 "(a) ~~Every~~ Except as provided in subsection (b),
14 every ordinance and resolution fixing the salaries of
15 employees and officers of ~~said~~ the city shall be submitted to
16 the mayor as other ordinances and resolutions are to be
17 submitted and may be approved in part and vetoed as to
18 specific items, to be mentioned by the mayor in his or her
19 veto message, in which case there shall first be submitted to
20 the council at its next regular meeting the question: "Shall
21 the ordinance pass, the veto of the mayor notwithstanding?"
22 and, in the event that two thirds of the members elected to
23 the council do not vote for the passage of the ordinance, the
24 veto notwithstanding, there shall then be submitted the
25 question: "Shall the ordinance stand as approved by the
26 mayor?" and if a majority of those elected to the council vote
27 in the affirmative, the law as amended and approved by the

1 mayor shall have the force and effect of law as in other
2 cases; otherwise, ~~such~~ the salary ordinance shall be defeated.

3 "(b) The mayor of a city or town who operates
4 pursuant to Section 11-43-2 as it relates to the legislative
5 functions of the mayor in cities and towns having a population
6 of 12,000 or more but less than 25,000 inhabitants according
7 to the last or any subsequent federal decennial census, may
8 not exercise veto power pursuant to this section and his or
9 her signature as the mayor may not affect the validity of an
10 ordinance or resolution passed by the council while the mayor
11 is a voting member of the council."

12 Section 2. 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.