

1 SB119
2 209071-3
3 By Senator Waggoner
4 RFD: Governmental Affairs
5 First Read: 02-FEB-21
6 PFD: 01/29/2021

1 SB119

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to municipal elections, to amend Sections
12 11-46-6, 11-46-21, 11-46-22, 11-46-25, 11-46-26, 11-46-55, and
13 17-11-12, Code of Alabama 1975, to revise the municipal
14 election dates in certain municipalities beginning on a
15 specified date; to revise the dates by which a mayor of
16 certain municipalities must give notice of municipal
17 elections; to revise the deadline for printing ballots in
18 municipal deadlines; to require confirmation from the Alabama
19 Ethics Commission that a candidate has complied with filing
20 requirements prior to the printing of a ballot; to revise the
21 time frame for municipal runoff elections; to revise the
22 deadline for printing and distribution of ballots in runoff
23 municipal elections; and to make nonsubstantive, technical
24 revisions to update the existing code language to current
25 style.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 11-46-6, 11-46-21, 11-46-22,
2 11-46-25, 11-46-26, 11-46-55, and 17-11-12, Code of Alabama
3 1975, are amended to read as follows:

4 "§11-46-6.

5 "(a) The provisions of this section shall apply to
6 all Class 5 cities, according to Section 11-40-12.

7 "(b) Any Class 5 city may hold its city election on
8 the second Tuesday in July, 1980, and the runoff election
9 ~~three~~ four weeks after ~~said~~ that second Tuesday, with the city
10 election every three years thereafter to be held at the same
11 appointed time, upon adoption of a resolution ~~to such effect~~
12 by the city governing body.

13 "(c) The provisions of this section are cumulative
14 and shall not be construed to repeal or supersede any laws or
15 parts of laws not directly inconsistent herewith.

16 "§11-46-21.

17 "(a) The regular municipal elections in cities and
18 towns shall be held on the fourth Tuesday in August ~~1984~~ 2025,
19 and quadrennially thereafter, and, when necessary as provided
20 in subsection (d) of Section 11-46-55, a second or runoff
21 election shall be held on the ~~sixth~~ fourth Tuesday ~~next~~
22 ~~thereafter~~ following the regular election.

23 "(b) Special elections shall be held on the second
24 or fourth Tuesday of any month when ordered by the municipal
25 governing body; provided, that notice of ~~such~~ the election
26 shall be published in the manner prescribed in Section
27 11-46-22 on or before the corresponding Tuesday of the second

1 month preceding the month in which the special election is to
2 be held.

3 "(c) Municipal officers elected at regular elections
4 shall assume the duties of their respective offices on the
5 first Monday in November following their election unless
6 otherwise provided in this article and shall serve until their
7 successors are elected and qualified.

8 "(d) This section shall not apply to any municipal
9 election required by general or local act at a time different
10 from the dates provided for in this section.

11 "§11-46-22.

12 "(a) It shall be the duty of the mayor to give
13 notice of all municipal elections by publishing notice thereof
14 in a newspaper published in the city or town, and, if no
15 newspaper is published in the city or town, then by posting
16 notices thereof in three public places in the city or town.
17 When the notice is of a regular election, the notice shall be
18 published on the ~~first~~ second Tuesday in ~~July~~ June preceding
19 the election or the first business day thereafter. When the
20 notice is of a special election to be held on the second
21 Tuesday in a month, the notice shall be published on or before
22 the second Tuesday of the second month preceding the month in
23 which the election will be held, except where otherwise
24 provided by law. When the notice is of a special election to
25 be held on the fourth Tuesday of a month, the notice shall be
26 published on or before the fourth Tuesday of the second month
27 preceding the month in which the election will be held, except

1 where otherwise provided by law. Whenever and wherever two or
2 more municipal offices of the same name (constituting a group)
3 are to be filled at the regular election, prior to the first
4 day of April preceding the election, the municipal governing
5 body shall by ordinance designate each of the offices by
6 number. When the offices have been designated by number, the
7 notice of the election shall clearly indicate that the offices
8 have been numbered and each candidate for the offices, in the
9 announcement of his or her candidacy, shall designate the
10 number of the office for which he or she is a candidate.
11 Candidates may begin to qualify after the notice of election
12 is given by the mayor.

13 (b) The notice of an election for municipal
14 officers shall be substantially in the following form:

15 ""Notice of Election of Municipal Officers

16 ""Notice is hereby given that on (day of week),
17 (date - month, day, and year) an election for the purpose of
18 electing a mayor (or other chief executive) and the board of
19 aldermen (town, city council, or other municipal governing
20 body, or, if the positions on the governing board have been
21 designated by number, the position numbers to be filled at the
22 election) and the other officers as pursuant to duly enacted
23 law or ordinance, or any or all of the officers, are to be
24 elected at the election for the city (or town) of _____,
25 Alabama, will be held, and that all registered and qualified
26 electors of the state, who reside within the corporate limits
27 of _____, Alabama, and have resided therein for 30 days or

1 more immediately preceding the date of the election, and who
2 are qualified to vote in the county precinct which embraces
3 and covers that part of the corporate limits of the city (or
4 town) in which the elector resides, will be authorized to
5 participate in the election.

6 "The polls will be opened at (here list the places
7 of voting which have been designated pursuant to Section
8 11-46-24). If necessary, a run-off election will be held on
9 (day of the week), (date - month, day, year)."

10 "Any qualified elector who ~~will have~~ has resided
11 within the municipality, or if the municipality is districted,
12 within the district from which he or she seeks election, for a
13 period of at least 90 days on election day may qualify to run
14 for office by filing the appropriate forms and paying any
15 appropriate fees, as otherwise provided by law.

16 "§11-46-25.

17 "(a) In all municipal elections on any subject which
18 may be submitted by law to a vote of the people of the
19 municipality and for any municipal officers, if paper ballots
20 are used, the voting shall be by official ballot printed and
21 distributed as provided in subsections (c) and (d), and no
22 ballot shall be received or counted in any election unless it
23 is provided as prescribed by law.

24 "(b) There shall be but one form of ballot for all
25 the candidates for municipal office and every ballot provided
26 for use at any polling place in a municipal election shall
27 contain the names of all candidates who have properly

1 qualified and have not withdrawn, as provided in subsection
2 (g), together with the title of the office for which they are
3 candidates.

4 "(c) All ballots shall be printed in black ink on
5 clear book paper. At the bottom of each ballot and at a point
6 an equal distance from the sides thereof there shall be
7 printed a one-inch square in which the number of the ballot
8 shall be placed by the inspector when the ballot is cast. The
9 arrangement of the ballot shall in general conform
10 substantially to the plan given in subsection (f).

11 "(d) Ballots shall be fastened together in
12 convenient numbers in books or blocks in such manner that each
13 ballot may be detached and removed separately, and each ballot
14 shall have attached to it a stub of sufficient size to enable
15 one of the inspectors to write or stamp his or her name or
16 initials thereon and so attached to the ballot that when the
17 same is folded the stub can be detached therefrom without
18 injury to the ballot or exposing the contents thereof.

19 "(e) Absentee ballots shall be in the form
20 prescribed for absentee ballots by Title 17.

21 "(f) The ballot shall be arranged in substantially
22 the following form:

23 For Mayor

24 Vote for One

25 () John Doe

1 () Richard Roe

2 For City Council Place Number One

3 () _____

4 () _____

5 For City Council Place Number Two

6 () _____

7 () _____

8 Etc.

9 (g) ~~The mayor~~ Upon confirmation from the Alabama
10 Ethics Commission that a candidate has complied with the
11 filing requirements under Section 36-25-15, the clerk shall
12 cause to be printed on the ballots the name of any qualified
13 elector who, by 5:00 P.M. on the ~~third~~ fourth Tuesday in ~~July~~
14 June preceding the date set for the election, has filed a
15 statement of candidacy, accompanied by an affidavit taken and
16 certified by an officer authorized to take acknowledgments in
17 this state that ~~such person~~ the individual is duly qualified
18 to hold the office for which the ~~person~~ individual desires to
19 become a candidate. ~~Such~~ The statement shall be substantially
20 in the following form:

21 ""State of Alabama, _____ County. I, the
22 undersigned, being first duly sworn, depose and say that I am
23 a citizen of the city (or town) of _____, in said county, and
24 reside at _____, in said city (or town); that I have been or

1 will have been on the date of the municipal election a resi-
2 dent of said city (or town) for a period of not less than 90
3 days; that I desire to become a candidate for the office of
4 _____ in said city (or town) for the term of _____ years at
5 the election for such office to be held on the _____ day of
6 _____, 2__; that I am presently a qualified elector of the
7 city (or town) of _____; and I hereby request that my name be
8 printed upon the official ballot at said election.

9 "(Signed) _____

10 "Subscribed and sworn to before me by said

11 _____ on this ___ day of ___, 2__

12 "(Style of Officer) _____"

13 "(h) No names shall be printed upon the ballot as
14 candidates for election except the names of ~~such persons as~~
15 individuals who have become candidates in the manner
16 prescribed in subsection (g) nor may any ~~person~~ individual be
17 a candidate or be permitted to file a declaration for more
18 than one place or position in a group of offices of the same
19 name when ~~such~~ the offices have been designated by number as
20 authorized in Section 11-46-22.

21 "(i) All statements of candidacy filed with the
22 mayor within the time prescribed in subsection (g) shall be
23 preserved for six months after the election for which ~~such~~ the
24 statements of candidacy were filed.

1 "(j) Any candidate may withdraw as a candidate by
2 giving written notice to the mayor, at any time, prior to the
3 date of the election. If a candidate withdraws, as herein
4 provided, the election officials shall, if paper ballots are
5 used in the election, draw a line in ink through the name of
6 ~~such the candidate; the election officials shall, if voting~~
7 ~~machines are used in the election, paste or otherwise secure a~~
8 ~~strip of white paper over the name of such candidate. If and~~
9 ~~if electronic voting tabulators are used in the election, the~~
10 name of the candidate shall be removed from the ballot in
11 accordance with the manufacturer's guidelines or instructions.

12 "All written notices of withdrawal filed with the
13 mayor shall be preserved for six months after the election.

14 "§11-46-26.

15 "In the event only one ~~person~~ individual has filed a
16 statement of candidacy for an office by 5:00 P.M. on the ~~third~~
17 ~~fourth~~ Tuesday in ~~July~~ June preceding the date set for an
18 election of municipal officers pursuant to subsection (g) of
19 Section 11-46-25, then ~~such person~~ that individual shall for
20 all purposes be deemed elected to ~~such~~ office, any provisions
21 of this article to the contrary notwithstanding. The mayor or
22 other chief executive officer shall not cause the name of ~~such~~
23 ~~person~~ that individual so elected or the office for which his
24 or her candidacy was declared to be printed on the ballot, but
25 ~~he~~ shall immediately file a written statement with the
26 governing body of the municipality, attested by the clerk,
27 certifying the fact that only one ~~person~~ individual filed a

1 statement of candidacy for the office of _____ (naming the
2 office) by 5:00 P.M. on the ~~third~~ fourth Tuesday in ~~July~~ June
3 preceding the day of _____, 2__, the date set for an election
4 of municipal officers in the City (Town) of _____, Alabama,
5 and setting forth the name of ~~such person~~ the individual. At
6 its first regular meeting after receiving ~~such~~ the mayor or
7 other chief executive officer's statement the governing body
8 of the municipality shall adopt a resolution declaring the
9 ~~person~~ individual named in the statement duly elected to the
10 office described in the statement and shall issue a
11 certificate of election ~~to such person~~ for the individual.
12 Certificates of election shall be filed as provided in Section
13 11-46-55(d). For the purpose of this article, each place on
14 the council of a municipality organized under the
15 mayor-council form of government shall be considered a
16 separate office.

17 "§11-46-55.

18 "(a) Commencing at 12:00 noon on the first Tuesday
19 ~~next~~ after the election, the municipal governing body shall
20 proceed to open the envelopes addressed to the governing body
21 which have been delivered by the ~~several~~ returning officers to
22 the municipal clerk, canvass the returns, and ascertain and
23 determine the number of votes received by each candidate and
24 for and against each proposition submitted at the election. If
25 it appears that any candidate or any proposition in the
26 election has received a majority of the votes cast for that
27 office or on that question, the municipal governing body shall

1 declare the candidate elected to the office or the question
2 carried, and a certificate of election shall be given to the
3 ~~persons~~ individuals by the municipal governing body or a
4 majority of them, which shall entitle the ~~persons~~ individuals
5 so certified to the possession of their respective offices
6 immediately upon the expiration of the terms of their
7 predecessors as provided by law. If the certification results
8 of provisional ballots cast at the election have been received
9 from the board of registrars prior to the first Tuesday next
10 after the election, or if no provisional votes were cast in
11 the election, the municipal governing body, at any special or
12 regular meeting, may ~~canvass~~ canvass the results before the
13 first Tuesday ~~next~~ after the election.

14 "(b) If a single office is to be filled at the
15 election and there is more than one candidate ~~therefor~~
16 running, then the majority of the votes cast for the office in
17 the election shall be ascertained by dividing the total votes
18 cast for all candidates for the office by two, and any number
19 of votes in excess of one half of the total votes cast for all
20 candidates for the office shall be a majority within the
21 meaning of subsection (a).

22 "(c) If two or more offices constituting a group are
23 to be filled and there are more candidates for election than
24 there are offices, then the majority of the votes cast for the
25 office in the election shall be ascertained by dividing the
26 total vote cast for all candidates for the offices by the
27 number of positions to be filled and then dividing the result

1 by two. Any number of votes in excess of the number
2 ascertained by the last division shall be the majority
3 prescribed in subsection (a) as necessary for election. If in
4 ascertaining the result in this way it appears that more
5 candidates have obtained this majority than there are
6 positions to be filled, then those having the highest vote, if
7 beyond the majority just defined, shall be declared elected to
8 fill ~~such~~ the positions.

9 "(d) If no candidate receives a majority of all the
10 votes cast in ~~such~~ the election for any one office or offices
11 for the election to which there were more than two candidates,
12 then the municipal governing body shall order a second or
13 runoff election to be held on the ~~sixth~~ fourth Tuesday ~~next~~
14 ~~thereafter~~ following the regular election, at which election
15 the two candidates having received the most and the second
16 most votes, respectively, shall be candidates, and the ~~person~~
17 individual receiving the highest number of votes for that
18 office in the runoff election shall be declared elected. If
19 only two candidates are standing for election for any one
20 office or offices and neither candidate receives a majority,
21 then the municipal governing body shall order a second or
22 runoff election to be held on the ~~sixth~~ fourth Tuesday ~~next~~
23 ~~thereafter~~ following the regular election, at which election
24 the two candidates shall be candidates, and the person
25 receiving the highest number of votes for that office in the
26 runoff election shall be declared elected. In the event one of
27 the candidates for a particular office in the runoff election

1 withdraws, then there need not be a second election to fill
2 the office nor shall the name of either the party so
3 withdrawing or the remaining candidate be printed on the
4 ballot of any second election held under this article. This
5 second election shall be held by the same election officers
6 who held the first election and at the same places the first
7 election was held. If there should be a tie vote cast at any
8 runoff election, then in that event the tie shall be decided
9 by the municipal governing body no later than 12:00 noon on
10 the first Tuesday following the second or runoff election. A
11 vote for a particular candidate by a majority of those members
12 eligible to vote of the governing body shall be necessary to
13 decide the election in his or her favor. If the municipal
14 governing body fails to break the tie, the elected candidate
15 shall be decided by lot by the judge of probate of the county
16 where the city or town hall is located no later than 5:00 P.M.
17 on the first Tuesday following the second or runoff election
18 in the presence of the candidates and other electors who
19 choose to be present. No ~~probate~~ judge of probate who openly
20 participated in the promotion of candidates in the election
21 which resulted in a tie shall decide the outcome of the
22 election and shall be disqualified to do so. The presiding
23 circuit court judge in the county where the city or town hall
24 is located ~~in which the election was held~~ shall replace the
25 disqualified ~~probate~~ judge of probate and shall conduct the
26 duties required herein. ~~The~~ Within 10 days of canvassing the

1 results, the municipal clerk shall file a copy of each
2 certificate of election with all of the following:

3 "(1) in the The office of the judge of probate of
4 the county in which the city or town hall is situated.

5 "(2) The Secretary of State.

6 "(3) The Alabama League of Municipalities.

7 "The, and the judge of probate shall file the
8 certificate in the same manner that he or she files the
9 declaration of the result of elections to county offices.

10 "§17-11-12.

11 "Not less than 55 days prior to the holding of any
12 election, except a municipal election, to which this chapter
13 pertains, or in the case of a runoff primary election, not
14 more than 14 days after the first primary election, the
15 officer charged with the printing and distribution of the
16 official ballots and election supplies shall deliver to the
17 absentee election manager of each county in which the election
18 is held or to the person designated to serve in his or her
19 place a sufficient number of absentee ballots, envelopes, and
20 other necessary supplies. Not ~~more~~ less than ~~seven~~ 28 days
21 ~~after the last day to qualify as a candidate~~ prior to the
22 general election in a municipal election, or in the case of a
23 runoff municipal election, not more than ~~14~~ 10 days after the
24 first election, or in the case of a municipal election held
25 for a purpose other than the election of municipal officers,
26 not more than seven days after the giving of notice of the
27 election, the officer charged with the printing and

1 distribution of the official ballots and election supplies
2 shall deliver to the absentee election manager of the
3 municipality in which the election is held, or to the ~~person~~
4 individual designated to serve in his or her place, a
5 sufficient number of absentee ballots, envelopes, and other
6 necessary supplies. If the absentee election manager is a
7 candidate with opposition in the election, he or she shall
8 immediately, upon receipt of the ballots, envelopes, and
9 supplies, deliver them to the ~~person~~ individual authorized to
10 act in his or her place, as provided in Section 17-11-13."

11 Section 2. This act shall become effective January
12 1, 2022, following its passage and approval by the Governor,
13 or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Governmental Affairs..... 02-FEB-21

Read for the second time and placed on the calen-
dar..... 23-FEB-21

Read for the third time and passed as amended 04-MAR-21

Yeas 30
Nays 0

Patrick Harris,
Secretary.