

1 HB113
2 208741-1
3 By Representative Meadows
4 RFD: Constitution, Campaigns and Elections
5 First Read: 02-FEB-21
6 PFD: 01/26/2021

SYNOPSIS: Existing law specifies that a runoff municipal election or runoff special primary election must occur a certain number of weeks after the regular election.

This bill would revise the date for runoff elections to be four weeks after the regular election for all runoff municipal elections and runoff special primary elections.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

A BILL
TO BE ENTITLED
AN ACT

Relating to runoff elections; to amend Sections 11-46-6, 11-46-21, and 11-46-55 and Section 17-13-3, as last amended by Act 2019-318, 2019 Regular Session, Code of Alabama 1975; to provide that all runoff municipal and runoff special

1 primary elections be held four weeks after the previous
2 election; and to make nonsubstantive, technical revisions to
3 update the existing code language to current style.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Sections 11-46-6, 11-46-21, and 11-46-55
6 and Section 17-13-3, as last amended by Act 2019-318, 2019
7 Regular Session, Code of Alabama 1975, are amended to read as
8 follows:

9 "§11-46-6.

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

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

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

21 "§11-46-21.

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

1 "(b) Special elections shall be held on the second
2 or fourth Tuesday of any month when ordered by the municipal
3 governing body; provided, that notice of ~~such~~ the election
4 shall be published in the manner prescribed in Section
5 11-46-22 on or before the corresponding Tuesday of the second
6 month preceding the month in which the special election is to
7 be held.

8 "(c) Municipal officers elected at regular elections
9 shall assume the duties of their respective offices on the
10 first Monday in November following their election unless
11 otherwise provided in this article and shall serve until their
12 successors are elected and qualified.

13 "§11-46-55.

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

1 so certified to the possession of their respective offices
2 immediately upon the expiration of the terms of their
3 predecessors as provided by law. If the certification results
4 of provisional ballots cast at the election have been received
5 from the board of registrars prior to the first Tuesday ~~next~~
6 after the election, or if no provisional votes were cast in
7 the election, the municipal governing body, at any special or
8 regular meeting, may ~~canvass~~ canvass the results before the
9 first Tuesday ~~next~~ after the election.

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

18 "(c) If two or more offices constituting a group are
19 to be filled and there are more candidates for election than
20 there are offices, then the majority of the votes cast for the
21 office in the election shall be ascertained by dividing the
22 total vote cast for all candidates for the offices by the
23 number of positions to be filled and then dividing the result
24 by two. Any number of votes in excess of the number
25 ascertained by the last division shall be the majority
26 prescribed in subsection (a) as necessary for election. If in
27 ascertaining the result in this way it appears that more

1 candidates have obtained this majority than there are
2 positions to be filled, then those having the highest vote, if
3 beyond the majority just defined, shall be declared elected to
4 fill ~~such~~ the positions.

5 "(d) If no candidate receives a majority of all the
6 votes cast in ~~such~~ the election for any one office or offices
7 for the election to which there were more than two candidates,
8 then the municipal governing body shall order a second or
9 runoff election to be held on the ~~sixth~~ fourth Tuesday ~~next~~
10 ~~thereafter~~ following the regular election, at which election
11 the two candidates having received the most and the second
12 most votes, respectively, shall be candidates, and the ~~person~~
13 individual receiving the highest number of votes for that
14 office in the runoff election shall be declared elected. If
15 only two candidates are standing for election for any one
16 office or offices and neither candidate receives a majority,
17 then the municipal governing body shall order a second or
18 runoff election to be held on the ~~sixth~~ fourth Tuesday ~~next~~
19 ~~thereafter~~ following the regular election, at which election
20 the two candidates shall be candidates, and the ~~person~~
21 individual receiving the highest number of votes for that
22 office in the runoff election shall be declared elected. In
23 the event one of the candidates for a particular office in the
24 runoff election withdraws, then there need not be a second
25 election to fill the office nor shall the name of either the
26 party so withdrawing or the remaining candidate be printed on
27 the ballot of any second election held under this article.

1 This second election shall be held by the same election
2 officers who held the first election and at the same places
3 the first election was held. If there should be a tie vote
4 cast at any runoff election, then in that event the tie shall
5 be decided by the municipal governing body no later than 12:00
6 noon on the first Tuesday following the second or runoff
7 election. A vote for a particular candidate by a majority of
8 those members eligible to vote of the governing body shall be
9 necessary to decide the election in his or her favor. If the
10 municipal governing body fails to break the tie, the elected
11 candidate shall be decided by lot by the judge of probate of
12 the county no later than 5:00 ~~P.M.~~ p.m. on the first Tuesday
13 following the second or runoff election in the presence of the
14 candidates and other electors who choose to be present. ~~No~~ Any
15 ~~probate~~ judge of probate who openly participated in the
16 promotion of candidates in the election which resulted in a
17 tie ~~shall~~ may not decide the outcome of the election and shall
18 be disqualified to do so. The presiding circuit court judge in
19 the county in which the election was held shall replace the
20 disqualified ~~probate~~ judge of probate and shall conduct the
21 duties required herein. The municipal clerk shall file a copy
22 of each certificate of election in the office of the judge of
23 probate of the county in which the city or town is situated,
24 and the judge shall file the certificate in the same manner
25 that he or she files the declaration of the result of
26 elections to county offices.

27 "§17-13-3.

1 "(a) Except as otherwise provided in ~~subsection~~
2 subsections (b) and (d), primary elections, ~~except special~~
3 ~~primary elections and presidential preference primaries~~, held
4 at the expense of the state or counties, shall be held on the
5 fourth Tuesday in May. When necessary, as provided in this
6 chapter, a second or runoff primary election shall be held on
7 the fourth Tuesday following the primary election. Any second
8 primary shall be held by the same election officers who held
9 the first primary election, and be held at the same places as
10 the first primary election. No primary election shall be held
11 by any political party except as ~~herein~~ provided in this
12 subsection. Primary elections ~~herein provided for~~ shall be
13 held at the regular polling places established for the purpose
14 of holding general elections.

15 "(b) In years in which a presidential primary is
16 conducted, the primary election shall be the first Tuesday in
17 March.

18 "(c) Notwithstanding any other provision of law, in
19 any year in which the primary election is held in March and
20 the primary election is held in conjunction with the
21 presidential preference primary election, as provided in this
22 section and Section 17-13-100, any reference in any existing
23 statutes to a primary election being held in June or May shall
24 be construed to refer to the primary election in March.

25 "(d) Special primary elections, held at the expense
26 of the state or counties, shall be held following the issuance
27 of a proclamation by the Governor or as otherwise provided by

1 law. When necessary, as provided in this chapter, a second or
2 runoff special primary election shall be held on the fourth
3 Tuesday following the special primary election. Any second
4 special primary election shall be held by the same election
5 officers who held the first special primary election, and be
6 held at the same places as the first special primary election.
7 No special primary election shall be held by any political
8 party, except as provided in this subsection. Special primary
9 elections shall be held at the regular polling places
10 established for the purpose of holding general elections."

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