

1 HB545
2 129308-2
3 By Representatives Williams (D), Faust, Brown, Henry, Tuggle
4 and Collins
5 RFD: County and Municipal Government
6 First Read: 19-APR-11

1 ENGROSSED

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4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 To amend Sections 11-43-2 and 11-43-81 of the Code
9 of Alabama 1975, relating to municipalities, to provide for a
10 public hearing and a referendum under certain conditions on
11 any change in the role of the mayor in a city when the
12 population increases to over 12,000 persons after a federal
13 census and to specify the power of a mayor to appoint
14 officers.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. ~~Section 11-43-81 of the Code of Alabama~~
17 ~~1975, is amended to read as follows:~~

18 Sections 11-43-2 and 11-43-81 of the Code of Alabama
19 1975, are amended to read as follows:

20 "§11-43-2.

21 "In all cities and towns at the general election to
22 be held on the fourth Tuesday in August, 1984, and
23 quadrennially thereafter, there shall be elected a mayor, who,
24 in cities having a population of 12,000 or more according to
25 the last or any subsequent federal census, shall not sit with
26 the council nor have a vote in its proceedings, and he or she
27 shall have the power and duties conferred in this chapter.

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

9 "Notwithstanding the foregoing, within 180 days
10 following the release of the official preliminary census
11 figures by the U.S. Census Bureau of the 2010 or any
12 subsequent federal decennial census which indicate that the
13 population of a municipality will change from under 12,000
14 persons to 12,000 or more persons, the municipality shall hold
15 a public hearing to inform the public of the proposed change
16 and to obtain public comment. Upon petition of 10 percent or
17 more of the qualified electors of the municipality being filed
18 with the city clerk or governing body of the municipality
19 within 60 days following the date of the public hearing, the
20 governing body shall call a municipal election to determine
21 the sentiment of the people as to whether or not the changes
22 in the form of government required by the population change as
23 provided by law shall take effect. The municipal election
24 shall be held within 90 days of the filing of the petition. If
25 a majority of the votes cast at the election are in favor of
26 the change, the change shall take place as provided above. If
27 a majority of the votes case at the election are against the

1 change, the change as provided above shall not take place. If
2 no petition is filed, the change in the form of government
3 shall take effect as provided above.

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

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

17 "§11-43-81.

18 "The mayor shall be the chief executive officer, and
19 shall have general supervision and control of all other
20 officers and the affairs of the city or town, except as
21 otherwise provided in this title. ~~He~~ The mayor shall have the
22 power to appoint all officers whose appointment is not
23 otherwise provided for by state law. ~~He~~ The mayor may remove
24 any officer for good cause, except those elected by the
25 people, and fill the vacancy caused thereby, permanently, if
26 the appointment of ~~such~~ the officer is made by the mayor, and
27 temporarily, if ~~such~~ the officer was elected by the council or

1 appointed with its consent, in either of which last two cases
2 ~~he must~~ the mayor shall report ~~such~~ the removal and ~~his~~ the
3 reasons therefor to the council at its next regular meeting,
4 when, after a due process hearing should the officer request a
5 hearing, if the council shall sustain the act of removal by
6 the mayor by a majority vote of those elected to the council,
7 the vacancy shall be filled as provided in this title."

8 Notwithstanding any other provision of law, any
9 Class 5 municipality is excluded from this act.

10 Notwithstanding any other provision of law, any
11 Class 1 or 3 municipality is excluded from this act.

12 Notwithstanding any other provision of law, any
13 Class 4 municipality is excluded from this act.

14 Section 2. This act shall become effective on the
15 first day of the third month following its passage and
16 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on County and Mu-
nicipal Government..... 19-APR-11

Read for the second time and placed
on the calendar 1 amendment 05-MAY-11

Read for the third time and passed
as amended..... 01-JUN-11

Yeas 64, Nays 10, Abstains 3

Greg Pappas
Clerk