

1 SB160
2 107789-3
3 By Senator Keahey
4 RFD: Constitution, Campaign Finance, Ethics, and Elections
5 First Read: 12-JAN-10

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8 SYNOPSIS: This bill would further provide for
9 municipal elections. This bill would further
10 provide for the affidavit relating to the statement
11 of candidacy by candidates for municipal offices;
12 would further provide for the appointment of
13 election officers; would delete provisions relating
14 to the voting of challenged ballots and certain
15 offenses related thereto; would provide for the
16 voting of provisional ballots if a person's name is
17 not on the voter list used at an election; would
18 further provide for recount procedures; would
19 further provide for the canvassing of returns;
20 would provide that the municipal clerk would
21 perform duties related to absentee ballots and
22 delete references to registers; would provide that
23 procedures relative to electronic vote counting
24 systems would apply to municipal elections, if
25 practicable; and would delete certain references to
26 municipal elections held separate from primary or
27 general elections.

1
2 A BILL
3 TO BE ENTITLED
4 AN ACT
5

6 Relating to municipal elections; to amend Sections
7 11-46-25, 11-46-27, 11-46-39, 11-46-44, 11-46-45, 11-46-46,
8 11-46-50, 11-46-55.1, 11-46-55, 11-46-57, 11-46-58, and
9 11-46-67, Code of Alabama 1975, to further provide for the
10 affidavit relating to the statement of candidacy by candidates
11 for municipal office; to further provide for the appointment
12 of election officers; to delete the provisions relating to the
13 voting of challenged ballots and certain offenses related to
14 thereto; to provide for the voting of provisional ballots of a
15 person's name is not on the voter list used at an election; to
16 further provide for recount procedures; to provide for the
17 canvassing of returns; to provide that the town or city clerk
18 would perform duties relating to absentee ballots and to
19 delete references to registers; to amend Sections 17-7-25,
20 17-11-14, and 17-11-15, Code of Alabama 1975, relating to
21 elections, to provide that procedures relating to electronic
22 vote counting systems would apply to municipal elections if
23 practicable and to delete certain references to municipal
24 elections held separate from primary or general elections.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Sections 11-46-25, 11-46-27, 11-46-39,
27 11-46-44, 11-46-45, 11-46-46, 11-46-50, 11-46-55.1, 11-46-55,

1 11-46-57, 11-46-58, and 11-46-67, Code of Alabama 1975, are
2 amended to read as follows:

3 "§11-46-25.

4 "(a) In all municipal elections on any subject which
5 may be submitted by law to a vote of the people of the
6 municipality and for any municipal officers, if paper ballots
7 are used, the voting shall be by official ballot printed and
8 distributed as provided in subsections (c) and (d) of this
9 section, and no ballot shall be received or counted in any
10 election unless it is provided as prescribed by law.

11 "(b) There shall be but one form of ballot for all
12 the candidates for municipal office and every ballot provided
13 for use at any polling place in a municipal election shall
14 contain the names of all candidates who have properly
15 qualified and have not withdrawn, as provided in subsection
16 (g) of this section, together with the title of the office for
17 which they are candidates.

18 "(c) All ballots shall be printed in black ink on
19 clear book paper. At the bottom of each ballot and at a point
20 an equal distance from the sides thereof there shall be
21 printed a one-inch square in which the number of the ballot
22 shall be placed by the inspector when the ballot is cast. The
23 arrangement of the ballot shall in general conform
24 substantially to the plan given in subsection (f) of this
25 section.

26 "(d) Ballots shall be fastened together in
27 convenient numbers in books or blocks in such manner that each

1 ballot may be detached and removed separately, and each ballot
2 shall have attached to it a stub of sufficient size to enable
3 one of the inspectors to write or stamp his name or initials
4 thereon and so attached to the ballot that when the same is
5 folded the stub can be detached therefrom without injury to
6 the ballot or exposing the contents thereof.

7 "(e) Absentee ballots shall be in the form
8 prescribed for absentee ballots by Title 17 of this Code.

9 "(f) The ballot shall be arranged in substantially
10 the following form:

11 For Mayor

12 Vote for One

13 () John Doe

14 () Richard Roe

15 For City Council Place Number One

16 () _____

17 () _____

18 For City Council Place Number Two

19 () _____

20 () _____

21 Etc.

1 "(g) The mayor shall cause to be printed on the
2 ballots the name of any qualified elector who has, by 5:00
3 P.M. on the third Tuesday in July preceding the date set for
4 the election, filed a statement of candidacy, accompanied by
5 an affidavit taken and certified by an officer authorized to
6 take acknowledgments in this state that such person is duly
7 qualified to hold the office for which he desires to become a
8 candidate. Such statement shall be substantially in the
9 following form:

10 "State of Alabama, _____County. I, the undersigned,
11 being first duly sworn, depose and say that I am a citizen of
12 the city (or town) of _____, in said county, and reside at
13 _____, in said city (or town); that I have been or will have
14 been on the date of the municipal election a resident of said
15 city (or town) for a period of not less than 90 days; that I
16 desire to become a candidate for the office of _____ in said
17 city (or town) for the term of _____ years at the election for
18 such office to be held on the _____ day of _____, 2__;
19 ~~that I am duly qualified or will be so qualified to hold said office~~
20 ~~if elected thereto~~ that I am presently a qualified elector of
21 the city (or town) of _____; and I hereby request that my name
22 be printed upon the official ballot at said election.

23 "(Signed) _____

24 "Subscribed and sworn to before me by said

1 _____ on this ____ day of ____, 2__
2 "(Style of Officer) _____"

3 "(h) No names shall be printed upon the ballot as
4 candidates for election except the names of such persons as
5 become candidates in the manner prescribed in subsection (g)
6 of this section nor may any person be a candidate or be
7 permitted to file his declaration for more than one place or
8 position in a group of offices of the same name when such
9 offices have been designated by number as authorized in
10 Section 11-46-22.

11 "(i) All statements of candidacy filed with the
12 mayor within the time prescribed in subsection (g) of this
13 section shall be preserved for six months after the election
14 for which such statements of candidacy were filed.

15 "(j) Any candidate may withdraw as a candidate by
16 giving written notice to the mayor, at any time, prior to the
17 date of the election. If a candidate withdraws, as herein
18 provided, the election officials shall, if paper ballots are
19 used in the election, draw a line in ink through the name of
20 such candidate; the election officials shall, if voting
21 machines are used in the election, paste or otherwise secure a
22 strip of white paper over the name of such candidate. If
23 electronic voting tabulators are used in the election, the
24 name of the candidate shall be removed from the ballot in
25 accordance with the manufacturer's guidelines or instructions.

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

3 "§11-46-27.

4 "(a) The municipal governing body or a majority of
5 them must, not less than 15 days before the holding of any
6 municipal election, appoint from the qualified electors of the
7 respective wards or voting districts officers to hold the
8 election as follows: Where paper ballots are used, one
9 returning officer for each ward and three inspectors and two
10 clerks for each box at each voting place and, where voting
11 machines are used, an inspector, a chief clerk, and a first
12 and second assistant clerk for each voting machine; except
13 that in the event voting centers or voting places are
14 established, then the requirements of Section 11-46-24 shall
15 control the number of election officials. In any Class 6,
16 Class 7, or Class 8 municipality, election officials must
17 reside within the municipality and may serve at any polling
18 place within the municipality. An election official appointed
19 to serve in a polling place other than where he or she would
20 be required to vote based on residency, may vote by absentee
21 ballot.

22 "(b) (1) No officer or employee of the municipality
23 shall be eligible to serve as an election official.

24 "(2) No kindred of any candidate or his or her
25 spouse to the second degree, according to the civil law, shall
26 be eligible to serve as an election official.

1 "~~(b)~~ (c) In every city having, according to the last
2 or any subsequent federal decennial census, 10,000 or more
3 inhabitants, the municipal governing body shall also appoint
4 from the qualified electors of the city ~~three inspectors, two~~
5 ~~clerks, and a returning officer~~ one inspector and at least
6 three clerks, who shall meet on the day of the election at
7 such place and hour as the municipal governing body may
8 designate for the purpose of receiving, counting and returning
9 the absentee ballots cast at such election, and four days
10 before the election the municipal governing body shall
11 ascertain the number of absentee ballots which have been cast
12 at the election and, if more than 600 absentee ballots have
13 been cast, then such governing body shall appoint three more
14 inspectors and two more clerks for each 600 absentee ballots
15 or fraction thereof cast at such election. ~~No officer or~~
16 ~~employee of the municipality shall be eligible to serve as an~~
17 ~~election official. No kindred of any candidate or his or her~~
18 ~~spouse to the second degree, according to the civil law, shall~~
19 ~~be eligible to serve as an election official.~~

20 "~~(c)~~ (d) In every city or town having less than
21 10,000 inhabitants, according to the most recent federal
22 decennial census, the municipal governing body may adopt an
23 ordinance at least six months prior to the date of the
24 election to provide that at the time other election officials
25 are appointed, the governing body shall appoint additional
26 election officials who shall meet on the day of the election
27 at the place and hour as the municipal governing body may

1 designate for the purpose of receiving, counting, and
2 returning the absentee ballots cast at the election. The
3 ordinance shall enumerate the election officials the governing
4 body will appoint for this purpose, but the number shall not
5 be less than three. This ordinance shall remain in effect
6 until repealed by a subsequent ordinance adopted at least six
7 months prior to an election. These absentee election officials
8 shall be in addition to other election officials required by
9 law and shall be appointed at the same time and in the same
10 manner as are other election officials. When the election
11 officials are appointed, one of them shall be designated by
12 the municipal governing body as the inspector.

13 ~~"(d)~~ (e) In the event a person appointed as an
14 election official is excused from serving or otherwise
15 disqualifies himself prior to election day, the vacancy
16 created thereby shall be filled by the municipal governing
17 body or a majority of them in the same manner that original
18 appointments are made; provided, however, that if the vacancy
19 is among the officers appointed to serve at a polling place
20 where voting machines will be used, after the school of
21 instruction for election officials has been held as prescribed
22 in subsection (a) of Section 11-46-30, a person who has
23 received a certificate from a previous school of instruction
24 shall, if possible, be appointed to fill the vacancy.

25 ~~"(e)~~ (f) The mayor or other chief executive officer
26 of the municipality shall publish a list of the election
27 officers so appointed, either by posting a list thereof

1 showing the voting places and the election officers appointed
2 for each voting place at three public places in the city or
3 town or by publishing a list in a newspaper published in the
4 city or town at least 10 days prior to the election.

5 ~~"(f)~~ (g) The mayor or other chief executive officer
6 of the municipality shall notify the inspectors, clerks and
7 returning officers of their appointment.

8 ~~"(g)~~ (h) The returning officers, the inspectors and
9 the clerks at polling places where voting is solely by paper
10 ballots shall be entitled to such compensation as the
11 municipal governing body establishes but which in no event
12 shall be less than eight dollars (\$8) per day, and each
13 election officer at a polling place where elections are
14 conducted in whole or in part by voting machines shall be
15 entitled to such compensation as the municipal governing body
16 establishes but which in no event shall be less than eight
17 dollars (\$8) per day. The compensation of the election
18 officials shall be paid as preferred claims out of the general
19 fund of the municipality holding the election on proper proof
20 of service rendered.

21 "§11-46-39.

22 "(a) Where paper ballots are used, the inspector
23 ~~designated as challenger~~, upon the elector's entering the
24 polling place, shall examine the list of qualified electors
25 furnished by the clerk pursuant to subsection (a) of Section
26 11-46-36, and, if it appears from this examination that the
27 person is a qualified elector of the state authorized to vote

1 at that box, ~~unless such elector has been challenged by~~
2 ~~another qualified elector in the manner prescribed by~~
3 ~~subsection (c) of Section 11-46-38,~~ the inspectors inspector
4 shall then give him the person one ballot on the stub of which
5 ~~one of the inspectors~~ inspector shall write or shall have
6 already written his or her name or initials. ~~If such person's~~
7 ~~name does not appear on the list of qualified voters for that~~
8 ~~ward or box,~~ then the challenger shall challenge said person.
9 Any person so challenged or challenged by a qualified elector
10 as authorized in subsection (c) of Section 11-46-38, shall not
11 be allowed to vote until he has taken and subscribed to the
12 oath prescribed in subsection (c) of Section 11-46-41 and
13 proved his identity in the manner therein prescribed. However,
14 if such person duly executes the oath and establishes his
15 identity in the manner prescribed, then his ballot must be
16 received and deposited in the ballot box in the same manner as
17 the ballots of qualified electors. If the person's name does
18 not appear on the list of qualified voters for that ward or
19 box, the person may not vote except by provisional ballot.

20 " (b) In cities of more than 3,000 inhabitants, each
21 elector on receiving his ballot shall forthwith and without
22 leaving the polling place retire alone to one of the booths or
23 compartments provided for that purpose and there prepare his
24 ballot in the manner provided in this article. In all other
25 cities or towns the elector may prepare his ballot at any
26 point within the polling place.

1 "(c) Any elector who shall by accident or mistake
2 spoil a ballot so that he cannot conveniently or safely vote
3 the same may return it to the inspectors and receive another
4 in lieu thereof which must be voted or returned by such
5 elector.

6 "(d) After preparing his ballot the elector shall
7 fold the same so as to conceal the face thereof and show the
8 stub thereto attached with the name or initial of the
9 inspector and hand it to the receiving inspector, who must
10 receive the folded ballot and call the name of the elector
11 audibly and distinctly.

12 "(e) One of the clerks shall immediately enter on
13 one of the lists headed "names of voters" and called "poll
14 lists" the name of such elector opposite the number indicating
15 the order in which electors vote, the first elector voting
16 being numbered one, the second two and so on to the last
17 elector voting, and at the same time the other clerk shall see
18 that the elector whose name was called shall immediately sign
19 his own name on another poll list on a line bearing the same
20 number appearing opposite such elector's name on the
21 above-mentioned poll list, unless such elector because of
22 physical handicap or illiteracy is unable to write his own
23 name on such list. If the voter is physically handicapped, an
24 election official shall write the name of such voter on said
25 list together with the cause of assistance and shall sign his
26 own name on the poll list on the same line with the voter's
27 name. If the voter is unable to sign his name because of

1 illiteracy, his name shall be written for him and the voter
2 shall, in the presence of one of the election officials, make
3 his mark upon the poll list. The election official witnessing
4 the act shall record his name as witness on the same line with
5 the name of the voter.

6 "(f) The receiving inspector shall then write the
7 number of the ballot in the square provided therefor and
8 forthwith, in the presence of the voter, shall place one of
9 the black seals furnished along with the other election
10 supplies over the square in such manner as to make it
11 impossible to see the number placed therein without removing
12 the seal, yet so that the seal may be removed without
13 obliterating the number placed in the square. After numbering
14 the ballot the inspector shall detach the stub and pass the
15 ballot to each of the other inspectors, and it must then,
16 without being opened or examined, be deposited in the proper
17 ballot box.

18 "§11-46-44.

19 "(a) No votes shall be counted until the polls are
20 closed.

21 "(b) Immediately after the polls are closed at
22 elections where paper ballots are used, the poll list signed
23 by the voters and the poll list made by one of the clerks
24 shall be sealed in separate envelopes and labelled before the
25 inspectors begin to count the votes, ~~and one copy of each~~
26 ~~affidavit made by a challenged voter and one copy of each~~
27 ~~affidavit identifying a challenged voter shall be sealed in a~~

1 ~~package by the inspectors, and the other copy of each of such~~
2 ~~affidavits shall be sealed in a package and forwarded to the~~
3 ~~district attorney of the county, who shall lay them before the~~
4 ~~next grand jury sitting for the county.~~

5 "(c) As soon as this is done, the ballots cast shall
6 be counted in the following manner: The returning officer or
7 one of the inspectors must take the ballots one by one from
8 the box in which they were deposited, at the same time reading
9 aloud the name of each person receiving a vote and the office
10 for which ~~he~~ the person received ~~such~~ the vote, and they must
11 separately keep a calculation of the number of votes each
12 person receives and for what office ~~he~~ the person receives
13 them. If the elector has marked more than there are persons to
14 be elected to an office or if for any reason it is impossible
15 to determine the elector's choice for any office to be filled,
16 ~~his~~ the ballot shall not be counted for ~~such~~ that office, but
17 this shall not vitiate the ballot so far as properly marked
18 nor shall any ballot be rejected for any technical error which
19 does not make it impossible to determine the elector's choice.

20 "§11-46-45.

21 "(a) At elections where paper ballots are used, as
22 soon as the ballots are all counted, the inspectors must
23 ascertain the number of votes received for each person and for
24 what office and must make a statement of same in writing. Each
25 of the inspectors must sign this statement and must also
26 certify in writing on the sealed envelope containing the poll
27 list signed by the electors that such poll list is the poll

1 list of the election in the ward or voting place at which they
2 were inspectors, the day and year on which such election was
3 held and for what offices. The statement of the vote and the
4 poll list thus certified, together with a list of the
5 registered electors qualified to vote at such voting place at
6 such election on such day, must be sealed up in an envelope
7 furnished along with the other election supplies and addressed
8 to the municipal governing body. Each of the inspectors shall
9 write his or her name across every fold at which the envelope
10 when fastened could be opened, and such envelope shall be
11 delivered immediately to the returning officer of the ward,
12 who shall deliver it to the municipal clerk along with the
13 ballot box within the time prescribed in subsection (c) of
14 this section.

15 "(b) As soon as the ballots contained in a ballot
16 box have been counted and the statement of the vote prepared
17 as directed in subsection (a) of this section, the inspectors
18 shall roll up the ballots so counted, seal the bundle thereof,
19 and label the same as to show for what officer or officers the
20 ballots contained therein were received. The rejected ballots,
21 if any, shall also be rolled up, the package thereof labelled
22 as rejected ballots and sealed up as the other parcel of
23 ballots. These sealed packages, together with the sealed poll
24 list made by one of the clerks ~~and the oaths relative to~~
25 ~~challenged voters~~, shall be returned by the inspectors to the
26 ballot box from which the ballots were taken and the ballot
27 box shall be securely sealed and labelled so as to show the

1 nature of its contents. The inspectors shall also attach to
2 the outside of the box a slip of paper or other device showing
3 the total votes received by each candidate voted for in such
4 election.

5 "(c) The envelope containing the statement of the
6 votes prepared pursuant to subsection (a) of this section and
7 the sealed ballot box shall be delivered to the returning
8 officer of the ward who shall immediately and in any event not
9 later than 11:00 A.M. of the next day after the polls have
10 closed deliver them to the municipal clerk, who shall
11 thereupon give such returning officer ~~his~~ a receipt stating
12 therein the condition of the box when received.

13 "§11-46-46.

14 "(a) At the time appointed by the municipal
15 governing body to canvass the returns of the election the
16 municipal clerk shall deliver to the governing body the
17 envelopes addressed to the governing body, which were
18 delivered to him or her by the returning officers of the
19 several wards in the city or town immediately after the votes
20 had been counted and the returns thereof prepared.

21 "(b) The clerk shall securely keep the ballot boxes
22 until it is known that there will be no contest, but in any
23 event not less than six months, and, if in that time no
24 contest has been properly instituted, the clerk shall then
25 destroy the contents of the boxes without examining the same.

26 "(c) No ballot box shall be opened except in one ~~or~~
27 ~~the other~~ of the following events:

1 "(1) In the event of a contest, where the opening of
2 a box has been ordered by the court hearing the contest, in
3 which event the ballot box shall be opened by or under the
4 supervision of the judge ordering the opening of a box and in
5 the manner prescribed by him or her; ~~and.~~

6 "(2) For the purpose of canvassing the returns and
7 obtaining the result of the election in a particular ward or
8 voting district from the contents of the box when the box has
9 been returned, but no certificate of the result of the
10 election has been separately delivered to the municipal
11 governing body by the election inspectors. If a box is opened
12 for this latter purpose the certificate of result contained
13 therein, if any, and if no certificate of result is enclosed,
14 then any other of the contents of the box, so far as
15 necessary, may be used to determine the result of the
16 election, after which the papers shall be returned into the
17 box and the box shall be resealed in the presence of the
18 municipal governing body, and the box shall then be retained
19 without again opening it for the time prescribed in subsection
20 (b).

21 "(3) For the purpose of conducting a recount of the
22 ballots as otherwise allowed by law.

23 "§11-46-50.

24 "(a) The election officials, where voting machines
25 are used, shall ascertain whether each applicant to vote is
26 entitled to vote, and each applicant found to be entitled to
27 vote shall be permitted to vote in the manner provided in this

1 article. Each applicant to vote shall identify himself or
2 herself to the chief clerk, who shall examine the list of
3 qualified electors furnished by the municipal clerk and, if
4 such voter's name appears on such list, ~~unless such voter has~~
5 ~~been challenged,~~ the chief clerk shall mark the applicant's
6 name off the list. The applicant, unless ~~he is~~ unable to write
7 his or her own name because of physical handicap or
8 illiteracy, shall then sign his or her name on the poll list
9 on the line numbered to indicate the order in which the voters
10 cast their ballots, and the clerk shall record the voter's
11 name on a second poll list on the line numbered to indicate
12 the order in which the voter cast his or her ballot.
13 Thereafter, the voter shall be admitted within the voting
14 machine booth and permitted to vote.

15 "(b) If ~~such~~ the applicant is unable to sign his or
16 her name because of physical disability or illiteracy, his or
17 her name shall be written for him or her in the manner
18 prescribed in subsection (e) of Section 11-46-39 for the
19 writing of names of voters on the poll list at polls where
20 paper ballots are used.

21 "~~(c) If such applicant's name is not on the list of~~
22 ~~qualified voters or if such applicant has been challenged by a~~
23 ~~qualified elector, the chief clerk shall so notify the~~
24 ~~inspector, and the inspector shall challenge such voter. No~~
25 ~~challenged voter shall be permitted to cast his vote on a~~
26 ~~voting machine, but any challenged voter shall be permitted to~~
27 ~~cast a paper ballot in the same manner and under the same~~

1 ~~circumstances, rules and regulations that challenged voters~~
2 ~~may vote at polls where paper ballots are usually and~~
3 ~~customarily used. If the applicant's name is not on the list~~
4 ~~of qualified voters, the applicant shall not be allowed to~~
5 ~~vote except by provisional ballot.~~

6 "§11-46-55.1.

7 "(a) Any person with standing to contest a municipal
8 election may petition the canvassing authority for a recount
9 of any or all precinct returns. The time period for requesting
10 a recount ends 48 hours after the official canvass of returns
11 by the municipal governing body. The petitioner must be
12 prepared to pay the cost of the recount and must be required
13 to give security to cover these costs in an amount as
14 determined by the municipal governing body based upon an
15 estimate of actual costs. The recount must be conducted under
16 the supervision of a trained and certified poll official.
17 Representatives of opposing interests shall be given at least
18 24 hours notice and shall be invited to participate in the
19 recount.

20 "(b) The recount shall be conducted as simply as the
21 type of equipment and local conditions permit provided that
22 the following minimum safeguards shall be observed:

23 "(1) The box or envelope holding the ballots shall
24 be delivered unopened to the inspector in charge of the
25 recount.

26 "(2) A representative of the municipality shall be
27 present during the recount.

1 "(3) Where ballots are counted by hand,
2 representatives of opposing interests have the right to
3 participate in the hand count, and any unresolved disputes
4 over the interpretation of the voter's intent may be appealed
5 to the municipal governing body.

6 "(c) When the recount has been completed, the
7 ballots shall be returned to their container along with a copy
8 of the recount results. The ballot container shall be sealed
9 and signed by the inspector conducting the recount and by the
10 representative of the authority having custody of the ballots.

11 "(d) If the recount produces a change in precinct
12 totals of sufficient magnitude to alter the result of the
13 election, the outcome shall constitute grounds for an election
14 contest as now prescribed by law. If the recount of the
15 resulting contest alters the result of the election, the cost
16 of the recount shall be borne by the municipality.

17 "~~(e) This section shall not apply to any recount in
18 an election where any device regulated by the Alabama
19 Electronic Voting Committee established in Chapter 24 of Title
20 17 was used.~~

21 "§11-46-55.

22 "(a) ~~On~~ Commencing at 12:00 noon on the first
23 Tuesday next after the election, ~~by the hour of 12:00 noon,~~
24 the municipal governing body shall proceed to open the
25 envelopes addressed to the governing body which have been
26 delivered by the several returning officers to the municipal
27 clerk, canvass the returns, and ascertain and determine the

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

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

26 "(c) If two or more offices constituting a group are
27 to be filled and there are more candidates for election than

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

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

1 candidates shall be candidates, and the person receiving the
2 highest number of votes for that office in the runoff election
3 shall be declared elected. In the event one of the candidates
4 for a particular office in the runoff election withdraws, then
5 there need not be a second election to fill the office nor
6 shall the name of either the party so withdrawing or the
7 remaining candidate be printed on the ballot of any second
8 election held under this article. This second election shall
9 be held by the same election officers who held the first
10 election and at the same places the first election was held.
11 If there should be a tie vote cast at any runoff election,
12 then in that event the tie shall be decided by the municipal
13 governing body. A vote for a particular candidate by a
14 majority of those members eligible to vote of the governing
15 body shall be necessary to decide the election in his or her
16 favor. The municipal clerk shall file a copy of each
17 certificate of election in the office of the judge of probate
18 of the county in which the city or town is situated, and the
19 judge shall file the certificate in the same manner that he or
20 she files the declaration of the result of elections to county
21 offices.

22 "§11-46-57.

23 "The provisions of Chapter ~~10~~ 11 of Title 17 ~~of this~~
24 ~~Code~~ shall be applicable to the casting and handling of
25 absentee ballots in municipal elections, and any amendments,
26 extensions, or deletions from said chapter in the future shall
27 likewise be applicable to municipal elections.

1 ~~"The register or the person authorized to act in his~~
2 ~~stead,~~ the town clerk, city clerk, or other officer performing
3 the duties of the clerk, as the case may be, shall have and
4 perform the duties required by Chapter ~~10~~ 11 of Title 17 ~~of~~
5 ~~this Code.~~ For performing these duties, the municipal
6 governing body may compensate the clerk or other officer
7 performing the duties of the clerk in whatever manner and
8 amount it deems appropriate.

9 "All other laws of this state regulating and
10 providing for voting of an absentee ballot shall apply to
11 elections held under this article.

12 "§11-46-58.

13 ~~"The register or the person authorized to act in his~~
14 ~~stead,~~ the town clerk, city clerk, or other officer performing
15 the duties of the clerk, as the case may be, in municipal
16 elections held under the provisions of this article, shall
17 comply with the provisions of Chapter ~~10~~ 11 of Title 17 ~~of~~
18 ~~this Code~~ with respect to marking, enrolling, posting, and
19 delivering of lists showing the names and addresses of
20 applicants for an absentee ballot.

21 "§11-46-67.

22 "(a) Any elector who takes or removes or attempts to
23 take or remove any ballot from the polling place at a
24 municipal election before the close of the polls or who
25 remains longer than the time allowed by law in the booth or
26 compartment after being notified his or her time has expired

1 must, on conviction, be fined not less than ~~\$10.00~~ ten dollars
2 (\$10) nor more than ~~\$100.00~~ one hundred dollars (\$100).

3 "(b) Any person who willfully makes to the
4 inspectors of a municipal election a false declaration
5 asserting ~~his~~ an inability to prepare his or her ballot
6 without assistance must, on conviction, be fined not less than
7 ~~\$50.00~~ fifty dollars (\$50) nor more than ~~\$500.00~~ five hundred
8 dollars (\$500).

9 "(c) Any qualified elector at any municipal election
10 who takes or receives any money or other valuable thing upon
11 the condition that the same shall be paid at any future time
12 in exchange for the vote of such elector for any particular
13 candidate or the promise to vote for any particular candidate
14 shall be guilty of a misdemeanor and, upon conviction thereof,
15 shall be fined not less than ~~\$50.00~~ fifty dollars (\$50) nor
16 more than ~~\$500.00~~ five hundred dollars (\$500). No witnesses
17 shall be prosecuted for any offense under this subsection as
18 to which he testifies before the grand jury.

19 "(d) Any person who falsely impersonates another and
20 thereby or otherwise fraudulently casts a vote in a municipal
21 election or, having voted at such election votes a second
22 time, whether in the same ward or another, shall, on
23 conviction, be punished by hard labor for the county for not
24 more than 12 months or by a fine of not less than ~~\$500.00~~ five
25 hundred dollars (\$500) nor more than ~~\$2,000.00~~ two thousand
26 dollars (\$2,000) or by both fine and sentence to hard labor.

1 "(e) Any absentee voter who shall willfully make or
2 subscribe to an oath falsely in order to qualify himself to
3 vote at a municipal election shall, on conviction, be punished
4 by hard labor for the county for not more than 12 months or by
5 a fine of not less than ~~\$500.00~~ five hundred dollars (\$500)
6 nor more than ~~\$2,000.00~~ two thousand dollars (\$2,000) or by
7 both fine and sentence to hard labor.

8 "~~(f) Any person who takes a challenged voter's oath~~
9 ~~or any person who makes an affidavit of identity for a~~
10 ~~challenged voter willfully and falsely shall, on conviction,~~
11 ~~be punished by hard labor for the county for not more than 12~~
12 ~~months or by a fine of not less than \$500.00 nor more than~~
13 ~~\$2,000.00 or by both fine and sentence to hard labor.~~

14 "~~(g)~~ (f) Any person voting at any municipal election
15 who has not registered and taken and subscribed to the
16 registration oath must, on conviction, be fined not less than
17 ~~\$100.00~~ one hundred dollars (\$100) nor more than ~~\$1,000.00~~ one
18 thousand dollars (\$1,000) and may also be imprisoned in the
19 county jail or sentenced to hard labor for the county for not
20 less than one nor more than six months.

21 Section 2. Sections 17-7-25, 17-11-14, and 17-11-15,
22 Code of Alabama 1975, are amended to read as follows:

23 "§17-7-25.

24 "(a) It shall be the duty of the committee to
25 recommend procedures to be implemented by the Secretary of
26 State under the Administrative Procedure Act where appropriate
27 to achieve and maintain the maximum degree of correctness and

1 impartiality of voting, counting, tabulating, and recording
2 votes, by electronic vote counting systems provided by this
3 article.

4 "(b) To the extent practicable, statutes and
5 procedures implemented by the Secretary of State pursuant to
6 this chapter shall apply in all municipal elections that are
7 conducted using automatic tabulating equipment or an
8 electronic official vote counting system. The duties assigned
9 in the rules and statutes to a state or county election
10 official shall be performed by the corresponding municipal
11 official. Where there is no corresponding municipal official,
12 the duties shall be performed by the municipal clerk or other
13 election official appointed by the municipal governing body
14 where the clerk is ineligible to perform these duties. Where
15 the rules or statutes refer to a statutory provision or act
16 that conflicts with a statutory provision or act specifically
17 applicable in municipal elections, the provision governing
18 municipal elections shall prevail.

19 "§17-11-14.

20 "The county commission, ~~or the municipal governing~~
21 ~~body for municipal elections,~~ shall determine the amount of
22 compensation to be paid to the absentee election manager or
23 other absentee election manager for the performance of his or
24 her duties with respect to the absentee ballots during the
25 45-day period prior to and on the day of the election for
26 which his or her services are required, but such compensation
27 shall be at least fifty dollars (\$50) per day or the same pay

1 as an inspector as authorized under Section 17-8-12. In all
2 counties in which the compensation of absentee election
3 managers is prescribed by local law or general law of local
4 application at an amount in excess of the amount prescribed,
5 the compensation of the absentee election manager shall not be
6 increased or decreased. The amount shall be the total
7 compensation allowed the absentee election manager for duties
8 relating to absentee ballots in all elections held on the same
9 day and shall be paid from the county treasury, ~~except in case~~
10 ~~of a municipal election held at a time different from a~~
11 ~~primary or general election, in which event payment shall be~~
12 ~~made from the city or town treasury.~~ Any reimbursement shall
13 be as provided in Chapter 16.

14 "§17-11-15.

15 "In any municipal election that is held at a time
16 different from a primary or general election, the duties with
17 reference to the handling of absentee ballots which are
18 required of the circuit clerk shall be performed by the town
19 clerk, city clerk, or other officer performing the duties of
20 the clerk. If such clerk or other officer is also a candidate
21 in such election, the governing body of the city or town shall
22 appoint a qualified elector of the city or town to perform the
23 duties. Such person so appointed shall have all the powers,
24 duties, and responsibilities of the circuit clerk under this
25 chapter ~~and shall be entitled to the compensation provided by~~
26 ~~Section 17-11-14."~~

1 Section 3. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.