

1 SB31
2 208741-2
3 By Senator Roberts
4 RFD: Governmental Affairs
5 First Read: 02-FEB-21
6 PFD: 01/04/2021

1 SB31

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4 ENROLLED, An Act,

5 Relating to runoff elections; to amend Sections
6 11-46-6, 11-46-21, and 11-46-55 and Section 17-13-3, as last
7 amended by Act 2019-318, 2019 Regular Session, Code of Alabama
8 1975; to provide that all runoff municipal and runoff special
9 primary elections be held four weeks after the previous
10 election; and to make nonsubstantive, technical revisions to
11 update the existing code language to current style.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

17 "§11-46-6.

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

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

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

4 "§11-46-21.

5 "(a) The regular municipal elections in cities and
6 towns shall be held on the fourth Tuesday in August 1984, and
7 quadrennially thereafter, and, when necessary as provided in
8 subsection (d) of Section 11-46-55, a second or runoff
9 election shall be held on the ~~sixth~~ fourth Tuesday ~~next~~
10 ~~thereafter~~ following the regular election.

11 "(b) Special elections shall be held on the second
12 or fourth Tuesday of any month when ordered by the municipal
13 governing body; provided, that notice of ~~such~~ the election
14 shall be published in the manner prescribed in Section
15 11-46-22 on or before the corresponding Tuesday of the second
16 month preceding the month in which the special election is to
17 be held.

18 "(c) Municipal officers elected at regular elections
19 shall assume the duties of their respective offices on the
20 first Monday in November following their election unless
21 otherwise provided in this article and shall serve until their
22 successors are elected and qualified.

23 "§11-46-55.

24 "(a) Commencing at 12:00 noon on the first Tuesday
25 ~~next~~ after the election, the municipal governing body shall

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

22 "(b) If a single office is to be filled at the
23 election and there is more than one candidate ~~therefor~~
24 running, then the majority of the votes cast for the office in
25 the election shall be ascertained by dividing the total votes

1 cast for all candidates for the office by two, and any number
2 of votes in excess of one half of the total votes cast for all
3 candidates for the office shall be a majority within the
4 meaning of subsection (a).

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

19 "(d) If no candidate receives a majority of all the
20 votes cast in ~~such~~ the election for any one office or offices
21 for the election to which there were more than two candidates,
22 then the municipal governing body shall order a second or
23 runoff election to be held on the ~~sixth~~ fourth Tuesday ~~next~~
24 ~~thereafter~~ following the regular election, at which election
25 the two candidates having received the most and the second

1 most votes, respectively, shall be candidates, and the ~~person~~
2 individual receiving the highest number of votes for that
3 office in the runoff election shall be declared elected. If
4 only two candidates are standing for election for any one
5 office or offices and neither candidate receives a majority,
6 then the municipal governing body shall order a second or
7 runoff election to be held on the ~~sixth~~ fourth Tuesday ~~next~~
8 ~~thereafter~~ following the regular election, at which election
9 the two candidates shall be candidates, and the ~~person~~
10 individual receiving the highest number of votes for that
11 office in the runoff election shall be declared elected. In
12 the event one of the candidates for a particular office in the
13 runoff election withdraws, then there need not be a second
14 election to fill the office nor shall the name of either the
15 party so withdrawing or the remaining candidate be printed on
16 the ballot of any second election held under this article.
17 This second election shall be held by the same election
18 officers who held the first election and at the same places
19 the first election was held. If there should be a tie vote
20 cast at any runoff election, then in that event the tie shall
21 be decided by the municipal governing body no later than 12:00
22 noon on the first Tuesday following the second or runoff
23 election. A vote for a particular candidate by a majority of
24 those members eligible to vote of the governing body shall be
25 necessary to decide the election in his or her favor. If the

1 municipal governing body fails to break the tie, the elected
 2 candidate shall be decided by lot by the judge of probate of
 3 the county no later than 5:00 ~~P.M.~~ p.m. on the first Tuesday
 4 following the second or runoff election in the presence of the
 5 candidates and other electors who choose to be present. ~~No~~ Any
 6 ~~probate~~ judge of probate who openly participated in the
 7 promotion of candidates in the election which resulted in a
 8 tie ~~shall~~ may not decide the outcome of the election and shall
 9 be disqualified to do so. The presiding circuit court judge in
 10 the county in which the election was held shall replace the
 11 disqualified ~~probate~~ judge of probate and shall conduct the
 12 duties required herein. The municipal clerk shall file a copy
 13 of each certificate of election in the office of the judge of
 14 probate of the county in which the city or town is situated,
 15 and the judge shall file the certificate in the same manner
 16 that he or she files the declaration of the result of
 17 elections to county offices.

18 "§17-13-3.

19 "(a) Except as otherwise provided in ~~subsection~~
 20 subsections (b) and (d), primary elections, ~~except special~~
 21 ~~primary elections and presidential preference primaries~~, held
 22 at the expense of the state or counties, shall be held on the
 23 fourth Tuesday in May. When necessary, as provided in this
 24 chapter, a second or runoff primary election shall be held on
 25 the fourth Tuesday following the primary election. Any second

1 primary shall be held by the same election officers who held
2 the first primary election, and be held at the same places as
3 the first primary election. No primary election shall be held
4 by any political party except as ~~herein~~ provided in this
5 subsection. Primary elections ~~herein provided for~~ shall be
6 held at the regular polling places established for the purpose
7 of holding general elections.

8 "(b) In years in which a presidential primary is
9 conducted, the primary election shall be the first Tuesday in
10 March.

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

18 "(d) Special primary elections, held at the expense
19 of the state or counties, shall be held following the issuance
20 of a proclamation by the Governor or as otherwise provided by
21 law. When necessary, as provided in this chapter, a second or
22 runoff special primary election shall be held on the fourth
23 Tuesday following the special primary election. Any second
24 special primary election shall be held by the same election
25 officers who held the first special primary election, and be

1 held at the same places as the first special primary election.
2 No special primary election shall be held by any political
3 party, except as provided in this subsection. Special primary
4 elections shall be held at the regular polling places
5 established for the purpose of holding general elections."

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

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB31
Senate 09-FEB-21
I hereby certify that the within Act originated in and passed
the Senate.

Patrick Harris,
Secretary.

House of Representatives
Passed: 01-APR-21

By: Senator Roberts