

1 HB66  
2 187203-1  
3 By Representative Hill  
4 RFD: County and Municipal Government  
5 First Read: 09-JAN-18  
6 PFD: 01/04/2018

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8 SYNOPSIS: Under existing law, in a city or town with a  
9 population of less than 12,000 inhabitants  
10 according to the last or any subsequent federal  
11 census, the mayor presides over the city council  
12 and may vote as a member of the council, except in  
13 the case of a tie, when the mayor is required to  
14 vote. When the population of a city or town  
15 increases to 12,000 or more inhabitants according  
16 to the last decennial federal census, the mayor no  
17 longer sits with the council nor votes in council  
18 proceedings, but instead has veto power over the  
19 ordinances and resolutions passed by the council.

20 This bill would authorize cities and towns  
21 having a population of 12,000 or more but less than  
22 25,000 inhabitants according to the last or any  
23 subsequent federal decennial census, by ordinance  
24 adopted by a majority vote of the council and the  
25 mayor together, to elect to continue operating as a  
26 city or town with a population of less than 12,000  
27 inhabitants as it relates to the exercise of the

1 legislative functions of the mayor and would  
2 restrict the veto power of the mayor while he or  
3 she is a voting member of the council.

4  
5 A BILL  
6 TO BE ENTITLED  
7 AN ACT

8  
9 To amend Sections 11-43-2, 11-43-3, 11-43-40,  
10 11-45-4, and 11-45-5 of the Code of Alabama 1975, relating to  
11 the legislative functions of the mayor of cities or towns with  
12 12,000 or more but less than 25,000 inhabitants; to authorize  
13 the city council and the mayor together by majority vote to  
14 elect to continue operating as a city or town with a  
15 population of less than 12,000 inhabitants as it relates to  
16 the exercise of the legislative functions of the mayor; and to  
17 restrict the veto power of the mayor while he or she is a  
18 voting member of the council.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Sections 11-43-2, 11-43-3, 11-43-40,  
21 11-45-4, and 11-45-5 of the Code of Alabama 1975, are amended  
22 to read as follows:

23 "§11-43-2.

24 "(a) In Except as provided in subsection (c), in all  
25 cities and towns at the general election to be held on the  
26 fourth Tuesday in August, 1984, and quadrennially thereafter,  
27 there shall be elected a mayor, who, in cities having a

1 population of 12,000 or more according to the last or any  
2 subsequent federal census, shall not sit with the council nor  
3 have a vote in its proceedings, and he or she shall have the  
4 power and duties conferred in this chapter.

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

13 "(c) (1) Notwithstanding subsection (a), cities and  
14 towns having a population of less than 12,000 inhabitants  
15 according to the immediate past federal decennial census that  
16 have a population of 12,000 or more but less than 25,000  
17 inhabitants after the most recent federal decennial census  
18 shall continue to operate under subsection (b) for 30 days  
19 after the release of the federal decennial census.

20 "(2) During the 30 day period, by ordinance adopted  
21 by a majority vote of the council and the mayor together, the  
22 city may elect to continue to operate pursuant to subsection  
23 (b) as it relates to the exercise of the legislative functions  
24 of the mayor until the release of the next federal decennial  
25 census.

26 "(3) Thereafter, if the city continues to have  
27 12,000 or more but less than 25,000 inhabitants after the most

1 recent federal decennial census, by the same procedure, the  
2 city may elect to continue to operate under subsection (b) as  
3 it relates to the exercise of the legislative functions of the  
4 mayor until the 30 days after the release of the next federal  
5 decennial census.

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

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

19 "§11-43-3.

20 "(a) In cities having a population of more than  
21 6,000, there shall be elected by the council, at its first  
22 regular meeting or as soon thereafter as practicable, a city  
23 treasurer and a city clerk, who shall hold office until the  
24 next general election and until their successors are elected  
25 and qualified, and such council may elect an auditor, and any  
26 officers whose election is required by ordinance, and, except  
27 as otherwise provided, the council shall have authority to fix

1 the terms of office, prescribe their duties and fix the  
2 salaries of the officers. The council may, by ordinance,  
3 require the city treasurer and the city clerk to be residents  
4 of the city. ~~Such~~ Except as provided in subsection (b), the  
5 council, may by a two-thirds vote of the members elected, by  
6 and with the consent of the mayor, may consolidate two or more  
7 of the offices and may abolish any ~~such~~ of the offices;  
8 provided, that the term of office of no incumbent shall be  
9 diminished.

10 "(b) The consent of the mayor is not necessary to  
11 consolidate or abolish offices pursuant to subsection (a) if  
12 the mayor is operating pursuant to Section 11-43-2 as it  
13 relates to the legislative functions of the mayor in cities  
14 and towns having a population of 12,000 or more but less than  
15 25,000 inhabitants according to the last or any subsequent  
16 federal decennial census.

17 "§11-43-40.

18 "(a) ~~In~~ Except as provided in Section 11-43-2 as it  
19 relates to the legislative functions of the mayor in cities  
20 and towns having a population of 12,000 or more but less than  
21 25,000 inhabitants according to the last or any subsequent  
22 federal decennial census, in cities having a population of  
23 12,000 or more, the following officers shall be elected at  
24 each general municipal election, who shall compose the city  
25 council for ~~such~~ the cities and who shall hold office for four  
26 years and until their successors are elected and qualified,  
27 and who shall exercise the legislative functions of city

1 government and any other powers and duties which are or may be  
2 vested by law in the city council or its members:

3 "(1) In cities having seven wards or less, a  
4 president of the city council and two aldermen from each ward,  
5 to be elected by the qualified voters of the several wards  
6 voting separately in every ward; except, that in ~~such~~ cities  
7 having a population of less than 20,000, the two aldermen from  
8 each ward shall be elected by the electors of the city at  
9 large.

10 "(2) In cities having more than seven wards, one  
11 alderman from each ward, and a sufficient number of aldermen  
12 from the city at large to make the total number of aldermen 14  
13 exclusive of the president of the council; provided, that in  
14 cities having a population of 50,000 or more, the city council  
15 may create not more than 20 wards.

16 "(3) In cities having a population of more than  
17 30,000 according to the most recent federal decennial census  
18 or according to any census of ~~such~~ the city made pursuant to  
19 Sections 11-47-90 through 11-47-95, and having only five  
20 wards, a president of the council and five aldermen, if the  
21 governing body shall so provide by ordinance or resolution  
22 adopted by two-thirds vote of the governing body at least six  
23 months prior to a general municipal election. If ~~such~~ an  
24 ordinance or resolution is adopted, one alderman shall reside  
25 in each of the respective wards of the city, the president and  
26 all of the aldermen shall be elected by the voters of the city  
27 at large, and the president shall vote only in case of a tie.

1           "(4) Notwithstanding ~~the provisions of~~ subdivisions  
2       (1), (2), and (3) ~~of this section~~, the governing body of any  
3       city having a population of 12,000 or more may by ordinance or  
4       resolution, if adopted by two-thirds vote of the governing  
5       body more than six months prior to any general municipal  
6       election, provide that the city council of ~~said~~ the city shall  
7       consist of five aldermen to be elected from the city at large.

8           "(5) Notwithstanding ~~the provisions of~~ subdivisions  
9       (1), (2), (3), and (4) ~~of this section~~, the governing body of  
10      any city having a population of 12,000 or more which does now  
11      elect council members from single-member districts or cities  
12      presently operating with five single-member districts as  
13      established under a federal court order ~~may~~, by ordinance or  
14      resolution, if adopted by two-thirds vote of the governing  
15      body more than six months prior to any general municipal  
16      election, may provide that the city council of ~~said~~ the city  
17      shall consist of eight aldermen to be elected from  
18      single-member districts (wards) with the president of the city  
19      council to be elected by the qualified voters of the several  
20      wards voting separately in every ward.

21          "(6) Notwithstanding ~~any conflicting provision of~~  
22      subdivisions (1), (2), (3), (4), and (5), the city council of  
23      any Class 6 municipality, having a population of 19,000 or  
24      more, operating under a mayor-council form of government  
25      elected on a citywide basis, by ordinance adopted by a  
26      majority vote of the city council more than four months prior  
27      to the general municipal election for which the ordinance is



1 to take effect, may provide for staggered terms of office for  
2 the city council as follows:

3 "a. Each of the council seats established for the  
4 city shall be designated by separate number or place.

5 "b. The initial term of office for persons holding  
6 the odd-numbered council seats shall be established at two  
7 years and the initial terms of office for persons holding the  
8 even-numbered council seats and that of the mayor of the city  
9 shall remain at four years.

10 "c. Upon expiration of the initial two-year terms of  
11 office to be served by the council members holding  
12 odd-numbered seats, each council member elected to the seats  
13 shall thereafter hold office for a term of four years so that  
14 the mayor and all council members are elected for four-year  
15 terms of office with the terms to be staggered as provided.

16 "d. This subdivision ~~shall~~ may not be construed to  
17 authorize the governing body of any municipality to which it  
18 applies by ordinance or otherwise to shorten the term of any  
19 elected official serving on April 15, 2004.

20 "(7) Notwithstanding ~~any conflicting provision of~~  
21 subdivisions (1), (2), (3), (4), and (5), the city council of  
22 any Class 8 municipality having a population of 60,000 or more  
23 inhabitants elected by the qualified voters operating under a  
24 mayor-council form of government on a citywide basis, by  
25 ordinance adopted by a two-thirds vote of the city council  
26 more than three months prior to the general municipal election  
27 for which the ordinance is to take effect, may provide for the

1 city council to consist of either five or seven aldermen to be  
2 elected from the municipality at large.

3 "(b) Unless provided otherwise in this section, the  
4 president of the council shall have the right to vote on all  
5 questions the same as any other member of the council.

6 "§11-45-4.

7 "(a) If Except as provided in subsection (b), if the  
8 mayor shall disapprove of any ordinance or resolution  
9 transmitted to him or her as provided in Section 11-45-3, ~~he~~  
10 ~~shall~~, within 10 days of the time of its passage by the  
11 council, he or she shall return the same to the clerk with his  
12 or her objections in writing, and the clerk shall make report  
13 thereof to the next regular meeting of the city council, ~~and,~~  
14 ~~if.~~ If two thirds of the members elected to the ~~said~~ council  
15 shall adhere to ~~said~~ the ordinance or resolution  
16 notwithstanding ~~said~~ the objections, ~~said~~ the vote being taken  
17 by yeas and nays and spread upon the minutes, then, ~~and not~~  
18 ~~otherwise,~~ ~~said~~ the ordinance or resolution ~~shall~~, after  
19 publication thereof, shall have the force of law, unless by  
20 its terms it was to take effect on its approval, in which  
21 event it shall take effect upon its passage over ~~such~~ the  
22 veto. The failure of the mayor to return to the clerk an  
23 ordinance or resolution with his or her veto within 10 days  
24 after its passage by the council shall operate and have the  
25 same effect as an approval of the same, and the clerk shall  
26 publish the same as is provided in subsection (b) of Section

1 11-45-8 for the publication of laws and ordinances of ~~said~~ the  
2 city.

3 "(b) The mayor of a city or town who operates  
4 pursuant to Section 11-43-2 as it relates to the legislative  
5 functions of the mayor in cities and towns having a population  
6 of 12,000 or more but less than 25,000 inhabitants according  
7 to the last or any subsequent federal decennial census, may  
8 not exercise veto power pursuant to this section and his or  
9 her signature as the mayor may not affect the validity of an  
10 ordinance or resolution passed by the council while the mayor  
11 is a voting member of the council.

12 "§11-45-5.

13 "(a) ~~Every~~ Except as provided in subsection (b),  
14 every ordinance and resolution fixing the salaries of  
15 employees and officers of ~~said~~ the city shall be submitted to  
16 the mayor as other ordinances and resolutions are to be  
17 submitted and may be approved in part and vetoed as to  
18 specific items, to be mentioned by the mayor in his or her  
19 veto message, in which case there shall first be submitted to  
20 the council at its next regular meeting the question: "Shall  
21 the ordinance pass, the veto of the mayor notwithstanding?"  
22 and, in the event that two thirds of the members elected to  
23 the council do not vote for the passage of the ordinance, the  
24 veto notwithstanding, there shall then be submitted the  
25 question: "Shall the ordinance stand as approved by the  
26 mayor?" and if a majority of those elected to the council vote  
27 in the affirmative, the law as amended and approved by the

1 mayor shall have the force and effect of law as in other  
2 cases; otherwise, ~~such~~ the salary ordinance shall be defeated.

3 "(b) The mayor of a city or town who operates  
4 pursuant to Section 11-43-2 as it relates to the legislative  
5 functions of the mayor in cities and towns having a population  
6 of 12,000 or more but less than 25,000 inhabitants according  
7 to the last or any subsequent federal decennial census, may  
8 not exercise veto power pursuant to this section and his or  
9 her signature as the mayor may not affect the validity of an  
10 ordinance or resolution passed by the council while the mayor  
11 is a voting member of the council."

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