

1 HB147  
2 188464-3  
3 By Representative Faulkner  
4 RFD: County and Municipal Government  
5 First Read: 09-JAN-18



1  
2       ENROLLED, An Act,

3               To add Section 11-43A-1.1 to the Code of Alabama  
4       1975, the Council-Manager Act of 1982; to authorize certain  
5       municipalities having the mayor-council form of government to  
6       adopt alternate forms of organization for the council-manager  
7       form of government and to provide for the election of the  
8       members of the council; and to amend Section 11-43A-16, Code  
9       of Alabama 1975, to further provide for the election of a  
10      mayor pro tempore and for the filling of vacancies in the  
11      office of mayor and members of the council, and to amend  
12      Sections 11-43A-8, 11-43A-9, 11-43A-14, and 11-43A-32 of the  
13      Code of Alabama 1975, to conform to this act and to further  
14      specify exceptions to the number of members on the  
15      council-manager form of government under existing law.

16      BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17               Section 1. Section 11-43A-1.1 is added to the Code  
18       of Alabama 1975, to read as follows:

19               \$11-43A-1.1

20               Notwithstanding any other provision of this article,  
21       any Class 4, 5, 6, 7, or 8 municipality having the  
22       mayor-council form of government, by resolution of the  
23       council, may provide for the adoption of the council-manager  
24       form of government under this article having a council  
25       composed of either five or seven members. One member shall be

1 the mayor elected at large, who shall be a voting member of  
2 the council. Either four or six members shall be council  
3 members elected either at large or from single-member  
4 districts, as the resolution shall provide. If a municipality  
5 has single-member districts for the election of council  
6 members when the council-manager form of government is adopted  
7 in the municipality, the municipality shall continue with  
8 either four or six council members elected from single-member  
9 districts and the mayor shall be elected at large. After the  
10 adoption of the resolution by the council, the adoption of the  
11 council-manager form of government shall be governed by this  
12 article, except to the extent of any direct conflict in this  
13 article concerning the number and election of members of the  
14 council and as subject to the resolution of the council  
15 providing for the adoption of the council-manager form of  
16 government.

17 Section 2. Sections 11-43A-8, 11-43A-9, 11-43A-14,  
18 11-43A-16, and 11-43A-32 of the Code of Alabama 1975, are  
19 amended to read as follows:

20 "§11-43A-8.

21 " (a) The governing body provided for herein shall be  
22 known collectively as the "Council of the City (Town) of \_\_\_\_\_  
23 (name of city or town to be inserted)" and shall have the  
24 powers and duties hereinafter provided. Except as hereinafter  
25 provided and as otherwise provided for in Section 11-43A-1.1,

1 the council shall have five members. One member shall be the  
2 mayor, elected by the voters at large, to preside over the  
3 deliberations of the council. One member shall be a council  
4 member elected by the voters at large. Three members shall be  
5 council members elected by the voters from each of three  
6 single-member districts. The council first elected shall  
7 qualify and take office on the first Monday in October  
8 following the date of the next ensuing municipal election held  
9 for the election of members of a municipal governing body  
10 during a general municipal election year.

11                 "(b) In Class 6 cities the municipal governing body,  
12 by resolution, may elect to have the council composed and  
13 elected as above prescribed or to have the alternate form as  
14 hereinafter prescribed. If the municipal governing body, by  
15 resolution, elects to have the alternate form, it shall  
16 immediately notify the judge of probate, who shall have the  
17 ballots for the election, authorized in section 11-43A-3,  
18 prepared to pose the question of the adoption of the alternate  
19 form of government authorized in this section. The council  
20 shall have nine members. One member shall be the mayor, who  
21 shall be a voting member, elected by the voters at large, to  
22 preside over the deliberations of the council. Eight members  
23 shall be council members elected by the voters, two from each  
24 of four dual-member districts. The council first elected shall  
25 qualify and take office on the first Monday in October in an

1 even-numbered year designated by the municipal governing body  
2 unless the election approving the change in the form of  
3 government was held in 1983, in which case such council shall  
4 qualify and take office on the first Monday in October 1986.

5                 "(c) Subsequent to the seating of the initial  
6 council, the next council shall be elected at an election to  
7 be held in accordance with provisions of the general municipal  
8 election laws.

9                 "§11-43A-9.

10                 "(a) In all cities to which this section applies,  
11 except Class 6 cities wherein the municipal governing body has  
12 elected to have a nine-member council, as authorized in  
13 Section 11-43A-8, the election for the first officers of the  
14 municipality shall be held on the same date as the date of  
15 election for the next ensuing general municipal election.

16 ~~Before Except as otherwise provided for in Section 11-43A-1.1,~~  
17 ~~such the election of~~ the governing body of the municipality  
18 shall cause the municipality to be divided into three  
19 districts containing as nearly an equal number of people as  
20 possible. Candidates shall qualify in the manner prescribed in  
21 the general municipal election laws and shall have the  
22 qualifications and eligibility set forth therein. Each  
23 candidate shall announce that he or she is to become a  
24 candidate for mayor, or councilman-at-large, or if he or she  
25 desires to become a candidate for one of the three district

1 posts, either district post 1, district post 2, or district  
2 post 3. A candidate for a district position shall reside in  
3 his or her district. Each voter in the election may cast one  
4 vote for a candidate for mayor, one vote for a  
5 councilman-at-large, and one vote for the candidate from the  
6 district in which he or she resides. Any candidate receiving a  
7 majority of the total votes cast for mayor,  
8 councilman-at-large, district post 1, district post 2, and  
9 district post 3 shall be elected. In the event no candidate  
10 receives a majority for a place on the council there shall be  
11 a runoff election for such place held in the manner prescribed  
12 by the general municipal election laws. The councilmen elected  
13 shall take office as herein provided. Each councilman shall  
14 hold office for four years and shall serve until his or her  
15 successor shall have been elected and qualified.

16                 "(b) In Class 6 cities wherein the municipal  
17 governing body has elected to have a nine-member council as  
18 authorized in Section 11-43A-8, the election for the first  
19 officers of the municipality shall be held on the same date as  
20 the date of election for the next ensuing general municipal  
21 election. Before such election the governing body of the  
22 municipality shall cause the municipality to be divided into  
23 four districts containing as nearly an equal number of people  
24 as possible. Candidates shall qualify in the manner prescribed  
25 in the general municipal election laws and shall have the

1 qualifications and eligibility set forth therein. Each  
2 candidate shall announce that he or she is to become a  
3 candidate for mayor, or if he or she desires to become a  
4 candidate for one of the eight district posts, either district  
5 1 post 1, district 1 post 2, district 2 post 1, district 2  
6 post 2, district 3 post 1, district 3 post 2, district 4 post  
7 1, or district 4 post 2. A candidate for a district position  
8 shall reside in his or her district. The municipal governing  
9 body shall have the authority by ordinance to establish  
10 geographic boundaries of approximately equal population for  
11 each of the two posts in any or all of the four districts. The  
12 ordinance of the city required by the preceding sentence shall  
13 be adopted no later than 75 days prior to the date of the  
14 election with respect to which the establishment of districts  
15 is to be effective. In establishing any such posts within a  
16 district, the city shall not be required to comply with  
17 Section 11-43A-33 except with respect to elections held  
18 subsequent to the publication of a federal census or  
19 population subsequent to the 1990 federal census of  
20 population. Each voter in the election may cast one vote for a  
21 candidate for mayor and one vote for a candidate for each of  
22 the two posts for the district in which he or she resides  
23 unless the municipal governing body has designated geographic  
24 boundaries for the two posts in a district. If the governing  
25 body has designated by ordinance geographic post boundaries

1 for a district, then each voter within that district may cast  
2 one vote for a candidate for the post position within the  
3 district geographic boundaries where he or she resides. Any  
4 candidate receiving a majority of the total votes cast for  
5 mayor, or for a district post shall be elected. In the event  
6 no candidate receives a majority for a place on the council  
7 there shall be a runoff election for such place held in the  
8 manner prescribed by the general municipal election laws. The  
9 councilmen elected shall take office as herein provided.  
10 Councilmen elected hereunder, each, shall hold office for four  
11 years and shall serve until his or her successor shall have  
12 been elected and qualified.

13 "§11-43A-14.

14         "(a) At every such election all ballots to be used  
15 by the voters shall be printed and prepared by the  
16 municipality and shall contain the names of all candidates  
17 seeking election to the office of mayor, ~~councilman at large~~,  
18 ~~or one of the three district council seats except that in all~~  
19 ~~Class 6 cities wherein the municipal governing body has~~  
20 ~~elected to have a nine member council as authorized in Section~~  
21 ~~11-43A-8, supra, the ballot shall contain the names of all~~  
22 ~~candidates seeking election to the office of mayor, or to each~~  
23 ~~post in one of the four council districts. or to a position as~~  
24 a member of the council.

1                   "(b) The ballot shall conform, as nearly as can be,  
2 to the ballot prescribed in the general municipal election  
3 laws and the election shall be conducted as nearly as can be  
4 as prescribed by such laws.

5                   "§11-43A-16.

6                   "(a) The mayor shall preside at the meetings of the  
7 council and shall be recognized as the head of the municipal  
8 government for all ceremonial purposes and by the Governor for  
9 purpose of military law, but shall have no other  
10 administrative duties.

11                  "(b) In all cities to which this section applies,  
12 except Class 6 cities wherein the municipal governing body has  
13 elected to have a nine-member council, as authorized in  
14 Section 11-43A-8, and except in municipalities organized under  
15 Section 11-43A-1.1, the councilman-at-large shall be assistant  
16 mayor and shall act as mayor during the absence or disability  
17 of the mayor. Any vacancy in the office of the mayor shall be  
18 filled by the councilman-at-large. In such the Class 6 cities  
19 and municipalities organized under Section 11-43A-1.1, a mayor  
20 pro tem tempore shall be elected from the membership by a  
21 majority vote of the council at its first meeting following  
22 its election. The mayor pro tem tempore shall act as mayor  
23 during the absence or disability of the mayor. Any vacancy in  
24 the office of the mayor shall be filled by the mayor pro tem  
25 tempore. Any vacancies on the council, except that of the

1 office of mayor, shall be filled by the council at the next  
2 regular meeting of the council following the date of the  
3 vacancy. The election of a new councilman shall require the  
4 affirmative vote of at least three members in all cities to  
5 which this section applies, except in Class 6 cities wherein  
6 the municipal governing body has elected to have a nine-member  
7 council, as authorized in Section 11-43A-8, and in such the  
8 Class 6 cities such the election shall require the affirmative  
9 vote of five members and in municipalities organized under  
10 Section 11-43A-1.1, the election shall require an affirmative  
11 vote of a majority of the elected members of the council. A  
12 vacancy in one of the district council seats shall be filled  
13 by a person who shall reside within the district from whence  
14 the vacancy arose.

15 " (b) (c) Notwithstanding subsection at (b), in Class  
16 7 municipalities that have adopted a council-manager form of  
17 government consisting of a mayor and four council members  
18 elected at-large, the council, at its first meeting after  
19 election, by majority vote, shall elect a mayor pro tempore  
20 from its membership. The mayor pro tempore shall preside  
21 during the absence or disability of the mayor. Any vacancy in  
22 the office of the mayor shall be filled by the mayor pro  
23 tempore. Any vacancy on the council, except for the office of  
24 mayor, shall be filled by the council at its next regular

1 meeting following the vacancy. An affirmative vote of the  
2 council is required to fill the vacancy.

3 "§11-43A-32.

4         "(a) ~~There Except as otherwise provided in~~  
5 Section 11-43A-1.1 and subject to subsection (b), there shall  
6 be established three council districts to be designated  
7 respectively as district post 1, district post 2, and district  
8 post 3, and in such Class 6 cities, there shall be established  
9 four council districts with eight district posts to be  
10 designated district 1 post 1, district 1 post 2, district 2  
11 post 1, district 2 post 2, district 3 post 1, district 3 post  
12 2, district 4 post 1, and district 4 post 2. Such districts  
13 shall have, as nearly as is reasonable, the same population.  
14 The designation and boundaries of the initial council  
15 districts shall be specifically described and set forth. In  
16 all cities to which this section applies, except the  
17 above-described Class 6 cities, the two at-large posts on the  
18 council shall be designated as mayor and councilman-at-large;  
19 and in such Class 6 cities the one at-large post on the  
20 council shall be designated as mayor.

21         "(b) This section shall not apply to a Class 6  
22 municipality with a nine-member council authorized pursuant to  
23 Section 11-43A-8 or a Class 7 municipality with a five-member  
24 council elected at-large authorized pursuant to Section  
25 11-43A-3.3."

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.

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Mac McFadden

Speaker of the House of Representatives

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Dale Mal

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President and Presiding Officer of the Senate

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House of Representatives

8

I hereby certify that the within Act originated in  
and was passed by the House 08-MAR-18, as amended.

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Jeff Woodard  
Clerk

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Senate

28-MAR-18

Passed

17

**APPROVED** 4-6-18

**TIME** 2:35 pm

Kay Ivey  
**GOVERNOR**

Alabama Secretary Of State

Act Num....: 2018-569  
Bill Num....: H-147

**SENATE ACTION**  
(Continued)

DATE: <u>3-28-18</u>	RD 3 at length
PASSED <input checked="" type="checkbox"/>	PASSED AS AMENDED <input type="checkbox"/>
YEAS <u>26</u>	NAYS <u>1</u>
And was ordered returned forthwith to the House. <b>PATRICK HARRIS,</b> Secretary	

DATE: <u>20-</u>	20 —
INDEFINITELY POSTPONED YEAS NAYS	

DATE: <u>RECONSIDERED</u>	20 —
YEAS NAYS	

<b>CONFERENCE COMMITTEE</b>	
Senate Conferencees _____	
_____	
_____	

This bill having been referred to the Committee on Rules pursuant to Senate Rule 23 is reported to the Senate for assignment to the Committee on:

This \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, Chairperson \_\_\_\_\_

Date: \_\_\_\_\_ Rerferred \_\_\_\_\_  
Committee: \_\_\_\_\_