

1 HB470  
2 117282-1  
3 By Representatives Canfield, Williams (J) and DeMarco  
4 RFD: County and Municipal Government  
5 First Read: 28-JAN-10

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8 SYNOPSIS: Under existing law, municipalities in  
9 Classes 2 through 8 may opt to adopt a  
10 council-manager form of government that provides  
11 for a five-member council with the mayor and one  
12 council member elected at large and the remaining  
13 three council members elected from districts. This  
14 change must be initiated by petition of qualified  
15 electors and requires a referendum. At various  
16 times, existing law has provided alternate methods  
17 of limited duration for adopting a council-manager  
18 form of government in Class 6 municipalities.

19 This bill would provide an alternate method  
20 by which a Class 7 municipality could convert to a  
21 council-manager form of government. This bill would  
22 authorize the governing body of a Class 7  
23 municipality, by resolution and without the  
24 requirement of a petition, to call an election on  
25 the adoption of a council-manager form of  
26 government with a five-member council consisting of  
27 a mayor and four council members elected at large.

1 This bill would provide a specific time period in  
2 which a municipality could call an election on the  
3 adoption of a council-manager form of government  
4 using this method. This bill would provide that in  
5 municipalities adopting the alternate form of  
6 government the change would become effective the  
7 first Monday in November 2012.

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9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
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13 Relating to the council-manager form of government,  
14 to amend Sections 11-43A-16, 11-43A-18, and 11-43A-32, Code of  
15 Alabama 1975; to add Section 11-43A-3.3 to the Code of Alabama  
16 1975; to provide an alternate method for adopting a  
17 council-manager form of government in certain Class 7  
18 municipalities; to provide for a five-member council with a  
19 mayor and four council members elected at large; to provide  
20 that the governing body of certain Class 7 municipalities, by  
21 resolution and without petition, could call for an election on  
22 the adoption of a council-manager form of government using the  
23 alternate method; to provide a limited period of time in which  
24 the alternate method may be used; and to provide when the  
25 change to the alternate method would be effective.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1                   Section 1. Section 11-43A-3.3 is added to the Code  
2 of Alabama 1975, to read as follows:

3                   §11-43A-3.3.

4                   (a) In addition to any mayor-council form of  
5 government authorized in Chapter 43A of Title 11, Code of  
6 Alabama 1975, the governing body of a Class 7 municipality may  
7 elect by resolution to adopt a council-manager form of  
8 government comprised of a mayor and four council members  
9 elected at-large. No petition of qualified electors is  
10 required to initiate such an election by the governing body  
11 pursuant to this section. If the governing body elects to  
12 adopt a council-manager form of government pursuant to this  
13 section, an election on the question shall be submitted to the  
14 qualified electors of the municipality. The governing body  
15 shall hold the election before January 1, 2011. The question  
16 submitted at the election shall be:

17                   "Shall the municipality of \_\_\_\_\_ adopt a  
18 council-manager form of government consisting of a mayor and  
19 four council members elected in an at-large election to become  
20 operative on the first Monday in November 2012?" The governing  
21 body of the municipality shall call the election and the  
22 election shall be conducted pursuant to general municipal  
23 election laws.

24                   (b) The mayor of any Class 7 municipality in which  
25 an election pursuant to this section is required, by  
26 proclamation, within 10 days of the adoption of the resolution  
27 by the governing body, shall call an election on the question

1 of the adoption of the council-manager form of government  
2 pursuant to this section. The election shall be held before  
3 January 1, 2011. If the mayor fails, by proclamation, to call  
4 the election within the 10-day period, the majority of the  
5 council, by resolution, shall call the election.

6 (c) A change in the form of government adopted  
7 pursuant to this section shall become effective on the first  
8 Monday in November 2012.

9 (d) This section supersedes all other laws in  
10 conflict only for the purpose of holding the election in 2010  
11 and making the change in the form of government approved at  
12 the election. When these purposes have been effectuated, this  
13 section shall have no further force or effect.

14 Section 2. Sections 11-43A-16, 11-43A-18, and  
15 11-43A-32, Code of Alabama 1975, are amended to read as  
16 follows:

17 "§11-43A-16.

18 "(a) The mayor shall preside at the meetings of the  
19 council and shall be recognized as the head of the municipal  
20 government for all ceremonial purposes and by the governor for  
21 purpose of military law, but shall have no other  
22 administrative duties. In all cities to which this section  
23 applies, except Class 6 cities wherein the municipal governing  
24 body has elected to have a nine-member council, as authorized  
25 in Section 11-43A-8, ~~supra~~, the councilman-at-large shall be  
26 assistant mayor and shall act as mayor during the absence or  
27 disability of the mayor. Any vacancy in the office of the

1 mayor shall be filled by the councilman-at-large. In such  
2 Class 6 cities, a mayor pro tem shall be elected from the  
3 membership by a majority vote of the council at its first  
4 meeting following its election. The mayor pro tem shall act as  
5 mayor during the absence or disability of the mayor. Any  
6 vacancy in the office of the mayor shall be filled by the  
7 mayor pro tem. Any vacancies on the council, except that of  
8 the office of mayor, shall be filled by the council at the  
9 next regular meeting of the council following the date of the  
10 vacancy. The election of a new councilman shall require the  
11 affirmative vote of at least three members in all cities to  
12 which this section applies, except Class 6 cities wherein the  
13 municipal governing body has elected to have a nine-member  
14 council, as authorized in Section 11-43A-8, ~~supra~~, and in such  
15 Class 6 cities such election shall require the affirmative  
16 vote of five members. A vacancy in one of the district council  
17 seats shall be filled by a person who shall reside within the  
18 district from whence the vacancy arose.

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

1 be filled by the council at its next regular meeting following  
2 the vacancy. An affirmative vote of three members of the  
3 council is required to fill the vacancy.

4 "§11-43A-18.

5 "The council, by a majority vote of the whole  
6 qualified membership of the council, shall appoint a city  
7 manager, who shall be an officer of the city, and shall have  
8 the powers to perform the duties in this article provided. No  
9 councilman shall receive such appointment during the term for  
10 which ~~he~~ the council member shall have been elected nor within  
11 one year after expiration of ~~his~~ the term. Any civil service  
12 act, applicable to the municipality, shall not apply to the  
13 appointment or the removal of the city manager.

14 "A temporary acting city manager may be designated  
15 by the council to serve for not more than four months in these  
16 events, but only in these events: (1) When the first council  
17 takes office after adoption of this article or (2) following  
18 the removal of any permanent city manager.

19 "Such temporary acting city manager shall perform  
20 the duties and assume the obligations of the office of city  
21 manager and may be removed by the council at any time. If the  
22 council shall permit the temporary acting manager to serve for  
23 longer than four months, he or she shall become the permanent  
24 city manager.

25 "Any person appointed as acting city manager or as  
26 city manager need not be a resident of the city nor a resident  
27 of the State of Alabama at the time of ~~his~~ appointment.

1           "The council shall appoint the city manager for an  
2 indefinite term, but the council may remove ~~him~~ the manager at  
3 any time by a majority vote of the whole qualified membership  
4 of the council. However, in any Class 6 city in which the  
5 governing body has elected to have a nine-member council, as  
6 authorized in Section 11-43A-8, ~~supra~~, any such removal shall  
7 be subject to any agreements contained in a contract between  
8 the council and the city manager. In any Class 7 city in which  
9 the governing body is organized as provided in Section  
10 11-43A-3.3, removal of the city manager shall be subject to  
11 the contract between the governing body and the city manager.

12           "Neither the council nor any of its members shall  
13 direct or request the appointment of any person to, or ~~his~~  
14 removal from, office by the city manager, or in any manner  
15 take part in the appointment or removal of officers and  
16 employees in the administrative service to the city. Except  
17 for the purpose of inquiry, the mayor and the members of the  
18 council shall deal with the administrative service only  
19 through the city manager and neither the mayor nor any member  
20 of the council shall give orders to any subordinates of the  
21 city manager, either publicly or privately. The mayor or any  
22 member of the council violating the provisions of this section  
23 or voting for a resolution or ordinance in violation of this  
24 section shall be guilty of a Class C misdemeanor. Upon  
25 conviction of a second violation of this section, the person  
26 so convicted shall forfeit his office.

27           "§11-43A-32.



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

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

25           Section 3. This act shall become effective  
26 immediately following its passage and approval by the  
27 Governor, or its otherwise becoming law.

