

1 HB777
2 115589-1
3 By Representatives Moore (M), McAdory, Hilliard, Coleman,
4 Scott and Todd (N & P)
5 RFD: Jefferson County Legislation
6 First Read: 25-MAR-10

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to the City of Birmingham in Jefferson
14 County; to amend further Sections 3.02, 4.02, and 4.05 of Act
15 452, 1955 Regular Session (Acts 1955, p. 1004), as amended, to
16 provide further for the deadline for filing a statement of
17 candidacy in city elections and the scheduling of a special
18 election to fill a vacancy in the office of the Mayor of the
19 City of Birmingham.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 3.02, 4.02, and 4.05 of Act 452,
22 1955 Regular Session (Acts 1955, p. 1004), as amended, is
23 hereby amended further to read as follows:

24 "3.02 Statement of candidacy. - Any person desiring
25 to become a candidate in any election for the office of
26 councilman may become such candidate by filing in the office
27 of the Judge of Probate of the county in which such city is

1 situated, a statement in writing of such candidacy and an
2 affidavit taken and certified by such judge of probate or by a
3 ~~notary~~ Notary Public that such person is duly qualified to
4 hold the office for which he desires to be a candidate. Such
5 statement shall be filed at least ~~21~~ 45 days before the day
6 set for such election and shall be substantially the following
7 form: State of Alabama, _____ County. I, the undersigned,
8 being first duly sworn, depose and say that I am a citizen of
9 the City of _____ in said State and County, and reside at
10 _____ in said City of _____, that I am a member of
11 the _____ party (or if not a member of the party then, I
12 am an independent candidate), that I desire to become a
13 candidate for the office of Councilman, place number _____, in
14 said City at the election for said office to be held on the
15 _____ day of October next and that I am duly qualified to
16 hold said office if elected thereto and I hereby request that
17 my name be printed upon the official ballot at said election.
18 Signed _____; Subscribed and sworn to before me by said
19 _____ on this ____ day of _____, 19____, 2____, and filed
20 in this office for record on said day. _____, Judge of
21 Probate. Said statement shall be accompanied by a qualifying
22 fee in the amount of \$50.00, which fee shall be paid over by
23 the judge of probate to the general fund of the city. At every
24 such election all ballots to be used by voters shall be
25 printed and prepared by the election commission or other body
26 or official charged by law with the duty of conducting
27 elections and at the expense of said city, and shall contain

1 the names of all candidates directly underneath the words 'For
2 members of the council.' No name shall appear upon said ballot
3 as a candidate for election except the names of such persons
4 as have become candidates according to provisions as above set
5 forth; no ballot shall be used at any such election except the
6 official ballot prepared by the election commission or other
7 body or official charged by law with the duty of conducting
8 elections, except that the names of candidates may be suitably
9 placed on voting machines if such machines are used to conduct
10 such election. No primary election shall be held for the
11 nomination of candidates for the office of councilman and
12 candidates shall be nominated only as hereinabove provided.

13 "4.02. Statement of candidacy. Any person desiring
14 to become a candidate at any election for the office of mayor
15 may become such candidate by filing in the office of the judge
16 of probate of the county in which such city is situated, a
17 statement in writing of such candidacy, accompanied by an
18 affidavit taken and certified by such judge of probate or by a
19 notary public that such person is duly qualified to hold the
20 office for which he desires to be a candidate. Such statement
21 shall be filed at least ~~twenty-one~~ 45 days before the day set
22 for such election and shall be in substantially the following
23 form: 'State of Alabama, _____ County. I, the undersigned,
24 being first duly sworn, depose and say that I am a citizen of
25 the City of _____, in said State and County, and reside at
26 _____ in said City of _____, that I am a member of the
27 _____ party (or if not a member of a political party then, I

1 am an independent candidate), that I desire to become a
2 candidate for the office of mayor in said city at the election
3 of said office to be held on the _____ day of October, next
4 and that I am duly qualified to hold said office if elected
5 thereto, and I hereby request that my name be printed upon the
6 official ballot at said election. Signed _____; Subscribed
7 and sworn to before me by said _____, on this _____ day of
8 _____, 19 2_____, and filed in this office for record on said
9 day. _____, Judge of Probate.' Said statement shall be
10 accompanied by a qualifying fee in an amount equal to \$300.00
11 which qualifying fee shall be paid over by the judge of
12 probate to the general fund of the city. At every such
13 election all ballots to be used by voters shall be printed and
14 prepared by the election commission or other body or official
15 charged by law with the duty of conducting elections and at
16 the expense of said city, and shall contain the names of all
17 candidates directly underneath the words 'For Mayor'. No names
18 shall appear upon said ballot as a candidate for election
19 except the names of such persons as have become candidates
20 according to provisions as above set forth; no ballot shall be
21 used at any such election except the official ballot prepared
22 by the election commission or other body or official charged
23 by law with the duty of conducting elections, except that the
24 names of candidates may be suitably placed on voting machines
25 if such machines are used to conduct such election."

26 "Sec. 4.05 Vacancy in office of mayor. Whenever any
27 vacancy in the office of mayor shall occur by reason of death,

1 resignation, removal or any other cause, the president of the
2 council shall assume the duties of the office of mayor
3 effective on the date such vacancy occurs and shall serve as
4 acting mayor until a new mayor is elected and qualified as
5 hereinafter provided. The acting mayor shall receive no
6 compensation, expenses or allowances as a councilman while
7 acting as mayor, but he will receive the same rate of pay and
8 allowances provided for the mayor whose vacated office he
9 fills, and the compensation received for days of service as
10 acting mayor shall not be counted in determining the maximum
11 annual per diem compensation permitted council members. While
12 the president of the council is serving as acting mayor he
13 shall not sit with the council or vote on any matters before
14 the council. The election commission of the city, if there be
15 one, and if not then the council thereof, shall within five
16 (5) days of the occurrence of a vacancy in the office of the
17 mayor call a special election to fill such vacancy, such
18 election to be held on a Tuesday not less than ~~thirty (30)~~
19 ~~days and not more than forty-five (45)~~ 45 days from the
20 occurrence of such vacancy; provided, however, if a regular or
21 special election is scheduled or required to be held within
22 ~~ninety (90)~~ 90 days after the occurrence of such vacancy but
23 more than ~~thirty (30)~~ 30 days after such occurrence, then the
24 vacancy in the office of mayor will be filled at such regular
25 or special election. Notice of such election shall be given at
26 the expense of the city by one publication at least ~~eighteen~~
27 ~~(18)~~ 18 days in advance of the same in one or more newspapers

1 published in such city. The method, procedure and requirements
2 of qualifying, voting upon and determining the successful
3 candidate shall be the same as is provided herein relative to
4 the election of the mayor at regular elections, except that
5 statements of candidacy must be filed at least ~~twenty (20)~~ 45
6 days before the date set for such election. The successor to
7 the mayor chosen at any such election shall qualify for office
8 as soon as practical thereafter, and shall be clothed with and
9 assume the duties, responsibilities and powers of such office
10 immediately upon such qualification, and shall hold office for
11 the unexpired term of his predecessor and until his successor
12 is elected and qualified."

13 Section 2. This act shall become effective
14 immediately following its passage and approval by the
15 Governor, or its otherwise becoming law.