

1 SB5
2 125780-1
3 By Senator Brewbaker
4 RFD: Governmental Affairs
5 First Read: 05-FEB-13
6 PFD: 07/09/2012

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8 SYNOPSIS: Under existing law, Section 11-44G-2 of the
9 Code of Alabama 1975, relates to Class 7 and 8
10 municipalities, which generally applies by class to
11 municipalities with less than 12,000 inhabitants
12 according to the 1970 federal census, and to
13 municipalities incorporated after 1979 under
14 certain conditions. Section 11-44G-2 provides that
15 vacancies in the office of mayor are filled by
16 appointment of the council, or, if the council does
17 not act, by appointment of the Governor or by a
18 special election. A potential conflict exists in
19 the procedure for filling the vacancy in the office
20 of mayor in Class 7 or 8 municipalities having
21 12,000 or more inhabitants according to the most
22 recent federal decennial census. Section
23 11-43-42(a) of the Code of Alabama 1975, provides
24 that in municipalities having a population of
25 12,000 or more, absences and vacancies in the
26 office of mayor are filled by the council
27 president.

1 This bill would specify that Section
2 11-44G-2 would not apply to municipalities which
3 have a population of 12,000 or more. The council
4 president would succeed to any vacancy in the
5 office of mayor in these municipalities as provided
6 in Section 11-43-42(a).

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8 A BILL
9 TO BE ENTITLED
10 AN ACT

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12 Relating to municipalities; to amend Section
13 11-44G-2 of the Code of Alabama 1975, relating to the filling
14 of a vacancy in the office of mayor in Class 7 and 8
15 municipalities; to provide that this section would not apply
16 to vacancies in the office of mayor in municipalities having a
17 population of 12,000 or more inhabitants according to the most
18 recent federal decennial census, which would fill vacancies in
19 the office of mayor pursuant to Section 11-43-42(a), Code of
20 Alabama 1975, providing that the council president shall
21 succeed the mayor in the event of a vacancy in the office of
22 mayor.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Section 11-44G-2 of the Code of Alabama
25 1975, is amended to read as follows:

26 "§11-44G-2.

1 "(a) (1) In the event of the absence or disability of
2 the mayor in any Class 7 or Class 8 municipality, the
3 functions of the office shall be exercised by the chair pro
4 tempore of the city council and, during his or her absence or
5 disability, by such person as the city council may appoint
6 from its membership, which appointment shall be entered upon
7 the minutes of the city council.

8 "(2) In the event of a vacancy from any cause in the
9 office of mayor, the city council shall fill the vacancy
10 either from its own membership or from without the membership
11 of the city council. The person elected by the city council to
12 fill the vacancy in the office of mayor shall be a qualified
13 elector in the municipality and shall meet all other legal
14 qualifications required by law for the performance of the
15 duties of the office to which elected.

16 "(3)a. In the event a vacancy in the office of mayor
17 is not filled within 60 days after it occurs in a Class 7 or
18 Class 8 municipality, each existing city council member may
19 submit a name to the Governor for appointment. If the Governor
20 fails to make an appointment from any submitted names within
21 90 days after the vacancy occurs, the judge of probate shall
22 call a special election to fill the vacancy.

23 "b. In the event the Governor is unable or unwilling
24 to make the appointment within the time period provided, he or
25 she shall immediately notify the judge of probate of the
26 county.

1 "c. Any election called pursuant to this section
2 shall be conducted pursuant to Chapter 46 of this title.

3 "d. In the event more than one vacancy exists in the
4 office of city council member or in the office of mayor, or
5 both, all vacancies shall be filled in the same manner.

6 "(4) In any election held pursuant to this
7 subsection, only qualified electors who are residents of the
8 municipality shall be eligible to vote and shall present proof
9 of identification to the pollworkers before casting a vote.
10 The identification may be in the form of a valid Alabama
11 driver's license or some other form of identification that
12 confirms a permanent address in the city where the vote is to
13 be cast. Other forms of identification may include, but are
14 not limited to, a credit card, birth certificate, food stamp
15 card, Social Security card, check cashing card, library card,
16 passport, school record, work identification record, school
17 identification, certified copy of a marriage license, any form
18 of governmentally-issued identification, or Medicaid,
19 Medicare, or welfare identification.

20 "(b) This section shall not apply to cities
21 operating under commission form of government.

22 "(c) This section shall not apply to Class 7 or 8
23 municipalities which have a population of 12,000 or more
24 inhabitants according to the most recent federal decennial
25 census. These municipalities shall fill vacancies in the
26 office of mayor pursuant to subsection (a) of Section
27 11-43-42."

1 Section 2. 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.