HB515

177539-3

By Representative Robinson (N & P)

RFD: Jefferson County Legislation

First Read: 07-APR-16
ENROLLED, An Act,

Relating to any Class 1 municipality; to amend Sections 45-37A-52.55, 45-37A-52.56, 45-37A-52.59, 45-37A-52.95, 45-37A-52.128, 45-37A-52.134, 45-37A-52.198, 45-37A-52.200, and 45-37A-52.270 of the Code of Alabama 1975, relating to the mayor-council form of government; to further provide for the powers and duties of the mayor and the council.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 45-37A-52.55, 45-37A-52.56, 45-37A-52.59, 45-37A-52.95, 45-37A-52.128, 45-37A-52.134, 45-37A-52.198, 45-37A-52.200, and 45-37A-52.270 of the Code of Alabama 1975, are amended to read as follows:

"§45-37A-52.55.

"The At the first meeting, which shall be held immediately following the effective date of the act adding this amendatory language, and then subsequently at the first meeting held after the election of the council after the effective date of the act adding this amendatory language and every two years thereafter, the council shall elect an officer of the city who shall have the title of president of the council and shall preside at meetings of the council. The council shall also elect and a president pro tem, who shall act as president of the council during the absence or
disability of the president. The terms of office of the
president and the president pro tem shall be two years and
until the council members shall qualify following the next
succeeding biennial election successors are elected and
qualified. If a vacancy shall occur in the office of president
of the council, the council shall elect a successor for the
completion of the unexpired term. Both the president of the
council and the president pro tem shall be elected from among
the council members.

"§45-37A-52.56.

"All Except those powers specifically granted by
this part to the mayor or as otherwise granted to the mayor by
law, all powers of the city, including all powers vested in it
by this part, by the laws, general and local, of the state,
and the determination of all matters of policy, shall be
vested in the council. Without limitation of the foregoing,
the council shall have power to:

"(1) Establish administrative departments and
distribute the work of divisions.

"(2) (1) Adopt the budget of the city.

"(3) (2) Authorize the issuance of bonds or
warrants.

"(4) (3) Inquire into the conduct of any office,
department, or agency of the city and make investigations as
to municipal affairs.
"(4) (5) Appoint Except as otherwise provided by law or this amendatory act, appoint the members of all boards, commissions, or other bodies authorized hereunder or by law. This provision for appointment of members of boards, commissions, or other bodies authorized hereunder or by law shall supersede any different provision for appointment of such members contained in any statute or ordinance in effect at the time of adoption by the city of the mayor-council form of government set up by this part, and shall include power to remove any member of any board, commission, or body to the same extent as might be done by the governing body of the city at the time of adoption by the city of the mayor-council form of government set up by this part and to appoint another in his or her stead. And wherever in any statute in effect at the time of adoption by the city of the mayor-council form of government the chief executive officer of the city is designated to act in any capacity ex officio, the mayor shall act. This subdivision shall not override the express terms of the Lewis Spratt Act, Subpart 1, commencing with Section 45-37A-50, Part 1 of this article.

"(6) (5) Succeed to all the powers, rights, and privileges conferred upon the former governing body of the city by statutes in effect at the time of adoption by the city of the mayor-council form of government and not in conflict with this part."
"(6) Levy property and license taxes and local improvement assessments.

"(7) Employ for and on behalf of the city such employees as the council may deem necessary to assist the council and perform such duties relating to the work of the council as the president of the council may assign. Each such employee shall serve at the pleasure of the council at such compensation as the council may set, and shall not be under any merit or civil service system. Each such employee shall by reason of such employment become a member of the pension system covering the general employees of such city, if there be such a system to the same extent and in the same manner as other general employees of the city; provided, application for such inclusion in such pension system be made to the board or other authority administering such pension system within 30 days of May 31, 1984, or, thereafter, within 30 days of their appointment. If no such application be made within such time, such council employees shall not hereafter be a member of such system.

"§45-37A-52.59.

"The Upon the written approval of the mayor, the council by ordinance may create, change, and abolish offices, departments, or agencies, other than the offices, departments, and agencies established by this part. The Upon the written approval of the mayor, the council by ordinance may assign
additional functions or duties to offices, departments, or
agencies established by this part, but may not discontinue or
assign to any other office, department, or agency any function
or duty assigned by this part to a particular office,
department, or agency.

"§45-37A-52.95.

"The mayor shall be the head of the administrative
branch of the city government. The mayor shall not sit with
the council nor shall he or she have a vote in its proceedings
and he or she shall have the power and duties herein
conferred. The mayor shall be responsible for the proper
administration of all affairs of the city and, subject to any
civil service or merit system law applicable to such city and
except as otherwise provided herein, he or she shall have
power and shall be required to:

"(1) Enforce all law and ordinances.

"(2) Appoint and, when necessary for the good of the
service, remove all officers and employees of the city except
as otherwise provided by this part and except as he or she may
authorize the head of a department or office to appoint and
remove subordinates in such department or office; provided
that he or she shall not appoint or remove officers and
employees of:

"a. Any library board of the city."
b. Any board of the city having control over any
park, recreation facility, fair, or exhibit, or any library
board of the city.

c. Any municipally-owned public utility,
including electric, gas, and water systems, while such utility
is operating under a board constituted by law or required by
the terms of any indenture, mortgage, or deed of trust
providing for employment by other authority.

d. Any nonelected school board of the city.

e. Any planning board or zoning board of the

(3) Exercise administrative supervision and control
over all departments created by this part or by law or
hereafter created by the council except those enumerated in
paragraphs a. to e., inclusive, of subdivision (2) and
except those otherwise given independent status under this
part.

(4) Shall keep the council fully advised as to the
financial conditions and needs of the city; prepare and submit
the budget annually to the council and be responsible for its
administration after its adoption; prepare and submit, as of
the end of the fiscal year, a complete report on the financial
and administrative activities of the city for such year and
prepare a detailed report within 10 days of the council's
request except the mayor shall have an extension of five additional days if the information is not readily available.

"(5) Recommend to the council such actions as he or she may deem desirable.

"(6) Prepare and submit to the council such reports as may be required of him or her.

"(7) Perform such other duties as may be prescribed by this part.

"(8) Fix the salaries or compensation of all officers and employees of the city who are appointable by him or her, subject, however, to any civil service or merit law applicable to the city.

"(9) Employ as members of his or her staff such employees as the mayor may deem necessary for and on behalf of the city to assist the mayor and perform such duties relating to the mayor as the mayor may assign. Each such employee shall serve at the pleasure of the mayor for such compensation as the mayor may set. Such staff members shall not be under any merit or civil service system, but, should a member of the classified service under any merit or civil service system applicable to the city be appointed hereunder, the provisions of this section notwithstanding, he or she may be paid at the salary established for his or her classification at the time of appointment and such person shall not lose any rights under such merit or civil service system by reason of his or her
appointment hereunder, and shall, upon termination of service
on the mayor's staff, have the right to return to the
classified service, with full credit for time served on the
mayor's staff, at the same or higher classification as that
held upon appointment hereunder. Each such employee shall by
reason of such employment become a member of the pension
system covering the general employees of the city, if there be
such a system, to the same extent and in the same manner as
other general employees of the city, provided such employee
apply to the board or other authority administering such
pension system within 30 days of appointment; otherwise, such
employee shall not be a member of the system. This section
shall not limit the authority of the mayor to appoint other
staff under the merit system or as otherwise authorized by
law. No person employed in one of these staff positions shall
run for elected office while so employed.

"(10) Retain the services of outside counsel and
other professional services, to the extent that it is in the
budget, and will not impact the budget, to meet the needs of
the city when, in the opinion of the mayor, such action would
best serve the interests of the city.

"§45-37A-52.128.

"After the conclusion of the public hearing, the
council, by an affirmative vote of five members and only if
approved in writing by the mayor, may insert new items of
expenditures or may increase, decrease, or strike out items of expenditure in the general fund budget, except that no item of expenditure for debt service, or any other item required to be included by this part or other provision of law, shall be reduced or stricken out. The council shall not alter the estimates of receipts contained in the budget except to correct omissions or mathematical errors and it shall not cause the total of expenditures as recommended by the mayor to be increased without a public hearing on such increase, which shall be held not less than three days after notice thereof by publication in a newspaper of general circulation published in the city. The council shall in no event adopt a general fund budget in which the total of expenditures exceeds the receipts and available surplus, estimated as provided in Section 45-37A-52.123, unless at the same time it adopts measures for providing additional revenue in the ensuing fiscal year, estimated as provided in Sections 45-37A-52.121 and 45-37A-52.124, sufficient to make up the difference.

"§45-37A-52.134.

"Appropriations in addition to those contained in the original general fund budget ordinance, may be made by the council by not less than five affirmative votes, but only on the recommendation of the mayor in writing, copies of which he or she shall provide to the director of finance, and only if the director of finance certifies in writing that there is
available in the general fund a sum unencumbered and
unappropriated sufficient to meet such appropriation.
Additional appropriations may be made by the council, by not
less than five affirmative votes, from the funds of any
utility for the operation of that utility, but only if the
director of finance certifies in writing that there is
available in the funds of the utility, a sum unencumbered and
unappropriated sufficient to meet such appropriation.

"§45-37A-52.198.

"All Except as expressly provided by this part, all
laws and parts of laws relating to establishment of an
authority for fairgrounds, parks, exhibits, exhibitions, and
other installations, facilities, and places for the amusement,
entertainment, recreation, and cultural development of the
citizens of a city, and for the powers, authority, mode of
financing, and conduct of the same, contained in the general
or local laws of the state or in Title 62 of the Code of
Alabama of 1940, as amended, as the same may apply and be in
effect with respect to any city at the time when such city
shall elect to be governed by this part, shall continue in
full force and effect, and without interruption or change as
to the establishment or conduct of any authority created
thereunder, after adoption of the mayor-council form of
government by such city.

"§45-37A-52.200."
"All To the extent consistent with the terms of this part, all ordinances and resolutions of the city in effect at the time of adoption by the city of the mayor-council form of government herein set up shall continue in effect unless and until changed or repealed by the council. To the extent any current or future ordinance or resolution of the city is inconsistent with the express terms of this part, the ordinance or resolution shall be void and of no effect to the extent of its inconsistency.

§45-37A-52.270.

"All Except as otherwise provided by this part, all laws and parts of laws, general, local, or special, relating to or affecting the city, its powers, functions, duties, and property, in force on September 9, 1955, are hereby continued in effect; but all such laws relating to the exercise of powers, functions, and duties by the commission or council-manager or some other form of government shall be superseded to the extent that the same are inconsistent with this part."

Section 2. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.
Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 20-APR-16.

Jeff Woodard
Clerk

Senate 04-MAY-16  Amended and Passed
House 04-MAY-16  Concurred in Senate Amendment