

1 HB515
2 177539-3
3 By Representative Robinson (N & P)
4 RFD: Jefferson County Legislation
5 First Read: 07-APR-16

1
2 ENROLLED, An Act,

3 Relating to any Class 1 municipality; to amend
4 Sections 45-37A-52.55, 45-37A-52.56, 45-37A-52.59,
5 45-37A-52.95, 45-37A-52.128, 45-37A-52.134, 45-37A-52.198,
6 45-37A-52.200, and 45-37A-52.270 of the Code of Alabama 1975,
7 relating to the mayor-council form of government; to further
8 provide for the powers and duties of the mayor and the
9 council.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Sections 45-37A-52.55, 45-37A-52.56,
12 45-37A-52.59, 45-37A-52.95, 45-37A-52.128, 45-37A-52.134,
13 45-37A-52.198, 45-37A-52.200, and 45-37A-52.270 of the Code of
14 Alabama 1975, are amended to read as follows:

15 "§45-37A-52.55.

16 ~~The~~ At the first meeting, which shall be held
17 immediately following the effective date of the act adding
18 this amendatory language, and then subsequently at the first
19 meeting held after the election of the council after the
20 effective date of the act adding this amendatory language and
21 every two years thereafter, the council shall elect an officer
22 of the city who shall have the title of president of the
23 council and shall preside at meetings of the council. ~~The~~
24 ~~council shall also elect~~ and a president pro tem, who shall
25 act as president of the council during the absence or

1 disability of the president. The terms of office of the
2 president and the president pro tem shall be two years and
3 ~~until the council members shall qualify following the next~~
4 ~~succeeding biennial election~~ successors are elected and
5 qualified. If a vacancy shall occur in the office of president
6 of the council, the council shall elect a successor for the
7 completion of the unexpired term. Both the president of the
8 council and the president pro tem shall be elected from among
9 the council members.

10 "§45-37A-52.56.

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

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

20 "~~(2)~~ (1) Adopt the budget of the city.

21 "~~(3)~~ (2) Authorize the issuance of bonds or
22 warrants.

23 "~~(4)~~ (3) Inquire into the conduct of any office,
24 department, or agency of the city and make investigations as
25 to municipal affairs.

1 "(4) (5) Appoint Except as otherwise provided by law
2 or this amendatory act, appoint the members of all boards,
3 commissions, or other bodies authorized hereunder or by law.
4 This provision for appointment of members of boards,
5 commissions, or other bodies authorized hereunder or by law
6 shall supersede any different provision for appointment of
7 such members contained in any statute or ordinance in effect
8 at the time of adoption by the city of the mayor-council form
9 of government set up by this part, and shall include power to
10 remove any member of any board, commission, or body to the
11 same extent as might be done by the governing body of the city
12 at the time of adoption by the city of the mayor-council form
13 of government set up by this part and to appoint another in
14 his or her stead. And wherever in any statute in effect at the
15 time of adoption by the city of the mayor-council form of
16 government the chief executive officer of the city is
17 designated to act in any capacity ex officio, the mayor shall
18 act. This subdivision shall not override the express terms of
19 the Lewis Spratt Act, Subpart 1, commencing with Section
20 45-37A-50, Part 1 of this article.

21 "~~(6)~~(5) Succeed to all the powers, rights, and
22 privileges conferred upon the former governing body of the
23 city by statutes in effect at the time of adoption by the city
24 of the mayor-council form of government and not in conflict
25 with this part.

1 "~~(7)~~(6) Levy property and license taxes and local
2 improvement assessments.

3 "~~(8)~~(7) Employ for and on behalf of the city such
4 employees as the council may deem necessary to assist the
5 council and perform such duties relating to the work of the
6 council as the president of the council may assign. Each such
7 employee shall serve at the pleasure of the council at such
8 compensation as the council may set, and shall not be under
9 any merit or civil service system. Each such employee shall by
10 reason of such employment become a member of the pension
11 system covering the general employees of such city, if there
12 be such a system, to the same extent and in the same manner as
13 other general employees of the city; provided, application for
14 such inclusion in such pension system be made to the board or
15 other authority administering such pension system within 30
16 days of May 31, 1984, or, thereafter, within 30 days of their
17 appointment. If no such application be made within such time,
18 such council employees shall not hereafter be a member of such
19 system.

20 "§45-37A-52.59.

21 "~~The~~ Upon the written approval of the mayor, the
22 council by ordinance may create, change, and abolish offices,
23 departments, or agencies, other than the offices, departments,
24 and agencies established by this part. ~~The~~ Upon the written
25 approval of the mayor, the council by ordinance may assign

1 additional functions or duties to offices, departments, or
 2 agencies established by this part, but may not discontinue or
 3 assign to any other office, department, or agency any function
 4 or duty assigned by this part to a particular office,
 5 department, or agency.

6 "§45-37A-52.95.

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

16 "(1) Enforce all law and ordinances.

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

24 "~~a. Any library board of the city.~~

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

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

9 "~~d.~~ c. Any nonelected school board of the city.

10 "~~e.~~ d. Any planning board or zoning board of the
 11 city.

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

18 "(4) Shall keep the council fully advised as to the
 19 financial conditions and needs of the city; prepare and submit
 20 the budget annually to the council and be responsible for its
 21 administration after its adoption; prepare and submit, as of
 22 the end of the fiscal year, a complete report on the financial
 23 and administrative activities of the city for such year and
 24 prepare a detailed report within 10 days of the council's

1 request except the mayor shall have an extension of five
2 additional days if the information is not readily available.

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

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

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

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

13 "(9) Employ as members of his or her staff such
14 employees as the mayor may deem necessary for and on behalf of
15 the city to assist the mayor and perform such duties relating
16 to the mayor as the mayor may assign. Each such employee shall
17 serve at the pleasure of the mayor for such compensation as
18 the mayor may set. Such staff members shall not be under any
19 merit or civil service system, but, should a member of the
20 classified service under any merit or civil service system
21 applicable to the city be appointed hereunder, the provisions
22 of this section notwithstanding, he or she may be paid at the
23 salary established for his or her classification at the time
24 of appointment and such person shall not lose any rights under
25 such merit or civil service system by reason of his or her

1 appointment hereunder, and shall, upon termination of service
2 on the mayor's staff, have the right to return to the
3 classified service, with full credit for time served on the
4 mayor's staff, at the same or higher classification as that
5 held upon appointment hereunder. Each such employee shall by
6 reason of such employment become a member of the pension
7 system covering the general employees of the city, if there be
8 such a system, to the same extent and in the same manner as
9 other general employees of the city, provided such employee
10 apply to the board or other authority administering such
11 pension system within 30 days of appointment; otherwise, such
12 employee shall not be a member of the system. This section
13 shall not limit the authority of the mayor to appoint other
14 staff under the merit system or as otherwise authorized by
15 law. No person employed in one of these staff positions shall
16 run for elected office while so employed.

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

22 "§45-37A-52.128.

23 "After the conclusion of the public hearing, the
24 council, by an affirmative vote of five members and only if
25 approved in writing by the mayor, may insert new items of

1 expenditures or may increase, decrease, or strike out items of
2 expenditure in the general fund budget, except that no item of
3 expenditure for debt service, or any other item required to be
4 included by this part or other provision of law, shall be
5 reduced or stricken out. The council shall not alter the
6 estimates of receipts contained in the budget except to
7 correct omissions or mathematical errors and it shall not
8 cause the total of expenditures as recommended by the mayor to
9 be increased without a public hearing on such increase, which
10 shall be held not less than three days after notice thereof by
11 publication in a newspaper of general circulation published in
12 the city. The council shall in no event adopt a general fund
13 budget in which the total of expenditures exceeds the receipts
14 and available surplus, estimated as provided in Section
15 45-37A-52.123, unless at the same time it adopts measures for
16 providing additional revenue in the ensuing fiscal year,
17 estimated as provided in Sections 45-37A-52.121 and
18 45-37A-52.124, sufficient to make up the difference.

19 "§45-37A-52.134.

20 "Appropriations in addition to those contained in
21 the original general fund budget ordinance, may be made by the
22 council by not less than five affirmative votes, but only on
23 the recommendation of the mayor in writing, copies of which he
24 or she shall provide to the director of finance, and only if
25 the director of finance certifies in writing that there is

1 available in the general fund a sum unencumbered and
2 unappropriated sufficient to meet such appropriation.
3 Additional appropriations may be made by the council, by not
4 less than five affirmative votes, from the funds of any
5 utility for the operation of that utility, but only if the
6 director of finance certifies in writing that there is
7 available in the funds of the utility, a sum unencumbered and
8 unappropriated sufficient to meet such appropriation.

9 "§45-37A-52.198.

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

25 "§45-37A-52.200.

1 ~~"All~~ To the extent consistent with the terms of this
2 part, all ordinances and resolutions of the city in effect at
3 the time of adoption by the city of the mayor-council form of
4 government herein set up shall continue in effect unless and
5 until changed or repealed by the council. To the extent any
6 current or future ordinance or resolution of the city is
7 inconsistent with the express terms of this part, the
8 ordinance or resolution shall be void and of no effect to the
9 extent of its inconsistency.

10 "§45-37A-52.270.

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

20 Section 2. This act shall become effective
21 immediately following its passage and approval by the
22 Governor, or its otherwise becoming law.

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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	<hr/> 04-MAY-16 <hr/>	Amended and Passed
House	<hr/> 04-MAY-16 <hr/>	Concurred in Senate Amendment