SB31
208741-2
By Senator Roberts
RFD: Governmental Affairs
First Read: 02-FEB-21
PFD: 01/04/2021
ENROLLED, An Act,

Relating to runoff elections; to amend Sections 11-46-6, 11-46-21, and 11-46-55 and Section 17-13-3, as last amended by Act 2019-318, 2019 Regular Session, Code of Alabama 1975; to provide that all runoff municipal and runoff special primary elections be held four weeks after the previous election; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 11-46-6, 11-46-21, and 11-46-55 and Section 17-13-3, as last amended by Act 2019-318, 2019 Regular Session, Code of Alabama 1975, are amended to read as follows:

"§11-46-6.

"(a) The provisions of this section shall apply to all Class 5 cities, according to Section 11-40-12.

"(b) Any Class 5 city may hold its city election on the second Tuesday in July, 1980, and the runoff election three four weeks after said that second Tuesday, with the city election every three years thereafter to be held at the same appointed time, upon adoption of a resolution to such effect by the city governing body."
"(c) The provisions of this section are cumulative and shall not be construed to repeal or supersede any laws or parts of laws not directly inconsistent herewith.

§11-46-21.

"(a) The regular municipal elections in cities and towns shall be held on the fourth Tuesday in August 1984, and quadrennially thereafter, and, when necessary as provided in subsection (d) of Section 11-46-55, a second or runoff election shall be held on the sixth fourth Tuesday next thereafter following the regular election.

"(b) Special elections shall be held on the second or fourth Tuesday of any month when ordered by the municipal governing body; provided, that notice of such the election shall be published in the manner prescribed in Section 11-46-22 on or before the corresponding Tuesday of the second month preceding the month in which the special election is to be held.

"(c) Municipal officers elected at regular elections shall assume the duties of their respective offices on the first Monday in November following their election unless otherwise provided in this article and shall serve until their successors are elected and qualified.

§11-46-55.

"(a) Commencing at 12:00 noon on the first Tuesday next after the election, the municipal governing body shall
proceed to open the envelopes addressed to the governing body which have been delivered by the several returning officers to the municipal clerk, canvass the returns, and ascertain and determine the number of votes received by each candidate and for and against each proposition submitted at the election. If it appears that any candidate or any proposition in the election has received a majority of the votes cast for that office or on that question, the municipal governing body shall declare the candidate elected to the office or the question carried, and a certificate of election shall be given to the persons individuals by the municipal governing body or a majority of them, which shall entitle the persons individuals so certified to the possession of their respective offices immediately upon the expiration of the terms of their predecessors as provided by law. If the certification results of provisional ballots cast at the election have been received from the board of registrars prior to the first Tuesday next after the election, or if no provisional votes were cast in the election, the municipal governing body, at any special or regular meeting, may canvass the results before the first Tuesday next after the election.

"(b) If a single office is to be filled at the election and there is more than one candidate running, then the majority of the votes cast for the office in the election shall be ascertained by dividing the total votes
cast for all candidates for the office by two, and any number of votes in excess of one half of the total votes cast for all candidates for the office shall be a majority within the meaning of subsection (a).

"(c) If two or more offices constituting a group are to be filled and there are more candidates for election than there are offices, then the majority of the votes cast for the office in the election shall be ascertained by dividing the total vote cast for all candidates for the offices by the number of positions to be filled and then dividing the result by two. Any number of votes in excess of the number ascertained by the last division shall be the majority prescribed in subsection (a) as necessary for election. If in ascertaining the result in this way it appears that more candidates have obtained this majority than there are positions to be filled, then those having the highest vote, if beyond the majority just defined, shall be declared elected to fill such the positions.

"(d) If no candidate receives a majority of all the votes cast in such the election for any one office or offices for the election to which there were more than two candidates, then the municipal governing body shall order a second or runoff election to be held on the sixth fourth Tuesday next thereafter following the regular election, at which election the two candidates having received the most and the second
most votes, respectively, shall be candidates, and the individual receiving the highest number of votes for that office in the runoff election shall be declared elected. If only two candidates are standing for election for any one office or offices and neither candidate receives a majority, then the municipal governing body shall order a second or runoff election to be held on the sixth fourth Tuesday next thereafter following the regular election, at which election the two candidates shall be candidates, and the individual receiving the highest number of votes for that office in the runoff election shall be declared elected. In the event one of the candidates for a particular office in the runoff election withdraws, then there need not be a second election to fill the office nor shall the name of either the party so withdrawing or the remaining candidate be printed on the ballot of any second election held under this article. This second election shall be held by the same election officers who held the first election and at the same places the first election was held. If there should be a tie vote cast at any runoff election, then in that event the tie shall be decided by the municipal governing body no later than 12:00 noon on the first Tuesday following the second or runoff election. A vote for a particular candidate by a majority of those members eligible to vote of the governing body shall be necessary to decide the election in his or her favor. If the
municipal governing body fails to break the tie, the elected
candidate shall be decided by lot by the judge of probate of
the county no later than 5:00 P.M. on the first Tuesday
following the second or runoff election in the presence of the
candidates and other electors who choose to be present. No Any
probate judge of probate who openly participated in the
promotion of candidates in the election which resulted in a
tie shall may not decide the outcome of the election and shall
be disqualified to do so. The presiding circuit court judge in
the county in which the election was held shall replace the
disqualified probate judge of probate and shall conduct the
duties required herein. The municipal clerk shall file a copy
of each certificate of election in the office of the judge of
probate of the county in which the city or town is situated,
and the judge shall file the certificate in the same manner
that he or she files the declaration of the result of
elections to county offices.

"§17-13-3.

"(a) Except as otherwise provided in subsection
subsections (b) and (d), primary elections, except special
primary elections and presidential preference primaries, held
at the expense of the state or counties, shall be held on the
fourth Tuesday in May. When necessary, as provided in this
chapter, a second or runoff primary election shall be held on
the fourth Tuesday following the primary election. Any second
primary shall be held by the same election officers who held
the first primary election, and be held at the same places as
the first primary election. No primary election shall be held
by any political party except as herein provided in this
subsection. Primary elections herein provided for shall be
held at the regular polling places established for the purpose
of holding general elections.

"(b) In years in which a presidential primary is
conducted, the primary election shall be the first Tuesday in
March.

"(c) Notwithstanding any other provision of law, in
any year in which the primary election is held in March and
the primary election is held in conjunction with the
presidential preference primary election, as provided in this
section and Section 17-13-100, any reference in any existing
statutes to a primary election being held in June or May shall
be construed to refer to the primary election in March.

"(d) Special primary elections, held at the expense
of the state or counties, shall be held following the issuance
of a proclamation by the Governor or as otherwise provided by
law. When necessary, as provided in this chapter, a second or
runoff special primary election shall be held on the fourth
Tuesday following the special primary election. Any second
special primary election shall be held by the same election
officers who held the first special primary election, and be
held at the same places as the first special primary election. No special primary election shall be held by any political party, except as provided in this subsection. Special primary elections shall be held at the regular polling places established for the purpose of holding general elections."

Section 2. This act shall become effective on January 1, 2022, following its passage and approval by the Governor, or its otherwise becoming law.
SB31

President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB31
Senate 09-FEB-21
I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris,
Secretary.

House of Representatives
Passed: 01-APR-21

By: Senator Roberts