

1 HB520
2 164211-8
3 By Representative Vance (N & P)
4 RFD: Local Legislation
5 First Read: 21-APR-15

1 ENGROSSED

2
3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 Relating to any Class 5 municipality organized under
9 the provisions of Act 71, 1977 Regular Session (Acts 1977, p.
10 78), as amended; to amend Act 71, 1977 Regular Session (Acts
11 1977, p. 78), as amended, to further provide for the operation
12 of the council-manager form of government; and in connection
13 therewith would have as its purpose or effect the requirement
14 of a new or increased expenditure of local funds within the
15 meaning of Amendment 621 of the Constitution of Alabama of
16 1901, now appearing as Section 111.05 of the Official
17 Recompilation of the Constitution of Alabama of 1901, as
18 amended.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. This act shall apply in any Class 5
21 municipality organized under the provisions of Act 71, 1977
22 Regular Session (Acts 1977, p. 78), as amended.

23 Section 2. Sections 1.01, 3.01, 3.10, 3.14, 3.18,
24 4.03, 4.04, 6.13, and 6.18 of Act 71, 1977 Regular Session
25 (Acts 1977, p. 78), as amended, are amended to read as
26 follows:

1 "Section 1.01. (a) Cities to which Act applies.—Any
2 city in the State of Alabama, which has a population of not
3 less than 23,000 nor more than 27,000 inhabitants according to
4 the 1970 or any subsequent federal decennial census, may adopt
5 the council-manager form of government by proceeding in the
6 manner hereafter in this Act provided.

7 "(b) The Legislature finds that the council-manager
8 form of government has been adopted pursuant to this act and
9 is operative in a Class 5 municipality. It is the intent of
10 this act to further provide for the council-manager form of
11 government under this act.

12 "Section 3.01. (a) Number, election, term.—The
13 council shall have five members with two elected at-large by
14 all of the voters of the city and three elected from districts
15 by voters within each district, the council elected in the
16 manner prescribed in Section 1.07 of this Act. An election of
17 councilmen shall be held on the ~~first Tuesday in September~~
18 ~~every three years~~ the date provided by general law. Each
19 councilman shall hold office for ~~three years~~ terms as provided
20 by general law, but shall serve until his or her successor
21 shall have qualified. A councilman may succeed himself or
22 herself in office. Each of the three district councilmen shall
23 reside within the limits of his or her district during the
24 term of his or her office and if any district councilman shall
25 remove from within the limits of his or her district for 60
26 consecutive days his or her office shall become vacant.

1 ~~"(b) Effective beginning the next term of office~~
2 ~~after the effective date of the act adding this subsection, no~~
3 ~~member of the council may hold the same office for more than~~
4 ~~two consecutive terms.~~

5 "c (b) Any member of the council shall attain Basic
6 Certified Municipal Officials Certification through the
7 Alabama League of Municipalities within 30 months of taking
8 office.

9 "Section 3.10. Council not to interfere in
10 appointments or removals.

11 "(a) Neither the council nor any of its members
12 shall direct or request the appointment of any person to, or
13 his or her removal from, office by the city manager or by any
14 of his or her subordinates, or in any manner take part in the
15 appointment or removal of officers and employees in the
16 administrative service of the City. Except for the purpose of
17 inquiry, the council and its members shall deal with the
18 administrative service solely through the city manager and
19 neither the council nor any member thereof shall give orders
20 to any subordinates of the city manager, either publicly or
21 privately.

22 "(b) Any council member who violates subsection (a)
23 shall be punished as follows:

24 "(1) On the first offense, upon conviction, the
25 council member shall be guilty of a Class A misdemeanor
26 punishable as provided by law.

1 "(2) Upon conviction of a second offense, the
2 council member shall be guilty of a Class C felony punishable
3 as provided by law and shall be removed from office.

4 "(c) Any person who attends an executive session of
5 the council and thereafter violates the executive session
6 privilege by divulging any part of a lawful discussion at the
7 executive sessions, upon conviction, shall be guilty of a
8 Class B misdemeanor punishable as provided by law. This
9 subsection shall not apply to any enforcement action brought
10 pursuant to Section 36-25A-9.

11 "(d) Any complaints regarding the above listed
12 violations shall be referred by the city manager and city
13 attorney to the district attorney for investigation.

14 "Section 3.14. Induction of council into office;
15 meetings of council.—The first meeting of each newly elected
16 council for induction into office shall be held at ten o'clock
17 in the morning on the first Monday in ~~October~~ November next
18 following its election, after which the council shall meet
19 regularly at such times as may be prescribed by its rules, but
20 not less frequently than once each month. All meetings of the
21 council shall be open to the public.

22 "Section 3.18. Granting of franchises.—~~No~~ Subject to
23 any state law applicable to all municipalities or any federal
24 law that provides otherwise, no resolution or ordinance,
25 granting to any person, firm, or corporation any franchise,
26 lease, or right to use the streets, public highways,
27 thoroughfares, or public property of the City, either in,

1 under, upon, along, through, or over same shall take effect
2 and be enforced until thirty days after the final enactment of
3 same by the council and publication of ~~said~~ the resolution or
4 ordinance in full once a week for three consecutive weeks in
5 some newspaper published in ~~said~~ the City, which publication
6 shall be made at the expense of the persons, firm, or
7 corporation applying for ~~said~~ the grant. Pending the passage
8 of any such resolution or ordinance or during the time
9 intervening between its final passage, and the expiration of
10 the thirty days during which publication shall be made as
11 above provided, the legally qualified voters of ~~said~~ the City
12 may, by written petition or petitions addressed to ~~said~~ the
13 council object to such grant, and if during such period such
14 written petition or petitions signed by at least five percent
15 ~~(5%)~~ of the legally qualified voters of the City shall be
16 filed with ~~said~~ the council, ~~said~~ the council shall forthwith
17 order an election, which shall be conducted by the election
18 commission of the City or other body having charge of the
19 conduct of municipal elections of the City at which election
20 the legally qualified voters of ~~said~~ the City shall vote for
21 or against the proposed grant. In the call for ~~said~~ the
22 election, the ~~said~~ the resolution or ordinance making such
23 grant shall be published one time at length and in full at the
24 expense of the City in a newspaper published in ~~said~~ the City.
25 If a majority of the votes cast at such election shall be
26 against the proposed grant, then and in those events, ~~said~~ the
27 resolution or ordinance shall not become effective nor shall

1 it confer any rights, powers, or privileges of any kind;
2 otherwise, ~~said the~~ resolution or ordinance and ~~said the~~ grant
3 shall thereupon become effective as fully and to the same
4 extent as if ~~said the~~ election had not been called or held.
5 If, as the result of ~~said the~~ election, ~~said the~~ resolution or
6 ordinance shall be disapproved, then it shall be deemed null
7 and void. But if as a result of ~~said the~~ election the proposed
8 grant shall be approved, the council shall adopt a resolution
9 stating the fact of such approval, and such resolution shall,
10 without further proceedings or advertisement, operate as the
11 adoption of the proposed grant. No grant of any franchise or
12 lease or right of user, or any other right in, under, upon,
13 along, through, or over the streets, public highways,
14 thoroughfares, or public property of any such City, shall be
15 made or given nor shall any such rights of any kind whatever
16 be conferred upon any person, firm, or corporation, except by
17 a resolution or ordinance duly passed by the council at some
18 regular or adjourned meeting and published as above provided
19 for in this section; nor shall any extension or enlargement of
20 any such rights or powers previously granted be made or given
21 except in the manner and subject to all conditions herein
22 provided for as to the original grant of same. It is expressly
23 provided, however, that the provisions of this section shall
24 not apply to the grant of side track or switching privileges
25 to any railroad or street car company for the purpose of
26 reaching and affording railway connections, and switch
27 privileges to the owners or users of any industrial plant,

1 store, or warehouse; provided further that ~~said~~ the side track
2 or switch shall not extend for a greater distance than one
3 thousand, three hundred twenty feet, measured along ~~said~~ the
4 track or switch.

5 "Section 3.20. Examination of books and publication
6 of accounts.-The council shall each month make available in
7 the office of the city manager a detailed statement of all
8 receipts and expenses of the City, and a summary of its
9 proceedings during the preceding month. At the end of each
10 year, the council shall cause a full and complete examination
11 of all the books and accounts of the City to be made by a
12 qualified public accountant, and shall cause the result of
13 such examination to be placed in the office of the city clerk
14 and the office of the city manager, to be open for inspection
15 by all persons. Such examination shall not be made more than
16 ~~two~~ four years in succession by the same accountant or firm.

17 "Section 4.03. The assistant city manager. Absence
18 of city manager.-~~To~~ There shall be employed an assistant city
19 manager. The assistant city manager shall perform his ~~the~~
20 duties of the city manager during ~~his~~ the temporary absence or
21 temporary disability, ~~the manager may designate by letter~~
22 ~~filed with the city clerk a qualified administrative officer~~
23 ~~of the city. In the event of failure of the manager to make~~
24 ~~such designation, the~~ of the city manager. The council may by
25 resolution appoint a qualified administrative officer of the
26 City to perform the duties of the city manager ~~until he shall~~
27 ~~return or his disability shall cease~~ in the event of the

1 temporary absence of the city manager and assistant city
2 manager.

3 "Section 4.04. Administrative ~~department~~
4 departments.-(a) There shall be a department of finance, and
5 such other departments as may be established by ordinance upon
6 the recommendation of the manager. In addition, the position
7 of city planner shall be established.

8 "(b) Prior to any employee disciplinary action, the
9 city manager shall consult with the city attorney if possible.

10 "(c) The council may enter into an employment
11 contract only with the city manager. Any other department head
12 shall receive a six month severance package if the department
13 head is removed without cause.

14 "Section 6.13. Competitive bidding.~~Before the city~~
15 ~~makes any purchase of supplies, materials or equipment,~~
16 ~~costing \$1,500 or more, ample opportunity shall be given for~~
17 ~~competitive bidding, under such rules and regulations, and with~~
18 ~~such exceptions, as the council may prescribe by ordinance;~~
19 ~~provided, however, that the council shall not except~~
20 ~~individual purchases or sales from the requirement of~~
21 ~~competitive bidding.~~All rules relating to a competitive
22 bidding adopted by the council shall meet the minimum
23 requirements of Title 41 of the Code of Alabama 1975.

24 "Section 6.14. Contracts for ~~city improvements.~~Any
25 ~~city improvement costing more than \$1,500 shall be executed by~~
26 ~~contract. All such contracts for more than \$1,500 shall be~~
27 ~~awarded to the lowest responsible bidder after such public~~

1 ~~notice and competition as may be prescribed by ordinance,~~
2 ~~provided the city manager shall have the power to reject all~~
3 ~~bids and advertise again. Alterations of any contract may be~~
4 ~~made when authorized by the council upon the written~~
5 ~~recommendation of the city manager. The council shall adopt~~
6 ~~standards for competitive bids under this act. All standards~~
7 ~~shall meet the minimum requirements of Title 41 of the Code of~~
8 ~~Alabama 1975.~~"

9 Section 3. Although this bill would have as its
10 purpose or effect the requirement of a new or increased
11 expenditure of local funds, the bill is excluded from further
12 requirements and application under Amendment 621, now
13 appearing as Section 111.05 of the Official Recompilation of
14 the Constitution of Alabama of 1901, as amended, because the
15 bill defines a new crime or amends the definition of an
16 existing crime.

17 Section 4. With the exception of Section 1 and the
18 amendment of Section 3.20. Examination of books and
19 publication of accounts, in Section 2 which shall be effective
20 immediately upon its approval by the Governor, or its
21 otherwise becoming law, the remainder of this act shall be
22 effective commencing on the next term of office of the city
23 council.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Local Legisla-
tion..... 21-APR-15

Read for the second time and placed
on the calendar..... 21-MAY-15

Read for the third time and passed
as amended..... 26-MAY-15

Yeas 27, Nays 1, Abstains 56

Jeff Woodard
Clerk