

1 HB866
2 91038-3
3 By Representative Holmes (N & P)
4 RFD: Montgomery County Legislation
5 First Read: 09-MAY-07

1 91038-3:n:04/12/2007:MF/11 LRS2007-2200R2
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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Amending Act 618, H. 796, 1973 Regular Session,
14 insofar as relating to dates of elections and related election
15 matters in municipalities that heretofore adopted or hereafter
16 adopted a municipal form of government under Act 618; amending
17 Sections 3.01, 3.02, 3.03, 3.12, 4.01, and 4.02 of Act 618, H.
18 796, 1973 Regular Session of the Legislature, as last amended,
19 so as to provide further for the dates of elections for
20 council members and the mayor; date for filing statement of
21 candidacy; date for qualifying; date for induction into
22 office; carryover of current officeholders; and related
23 matters.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Section 3.01 of Act 618 of the 1973
26 Regular Session (Acts 1973, p. 879), is amended to read as
27 follows:

1 "Section 3.01. Number, election, term. The council
2 shall consist of nine members who shall be known as district
3 councilmen. Subsequent to the election of the first council,
4 all regular general municipal elections of councilmen shall be
5 held on the first Tuesday in October in the year during which
6 its next municipal election is to be held and quadrennially
7 thereafter, and when necessary, a second or runoff election
8 shall be held on the sixth Tuesday next thereafter following
9 the regular election. Except as otherwise provided in this
10 act, the calling of such elections, notice of such elections,
11 qualifications of candidates, and all other matters concerning
12 such elections shall be in the same manner as provided by law
13 in respect to municipal elections in cities of this state
14 which have a population of its size according to the latest
15 Federal Decennial Census for cities not organized under a
16 commission form of government. The terms of councilmen so
17 elected shall be four years commencing on the date that they
18 shall take office which date shall be the third Tuesday in
19 November following their election. Those individuals serving
20 as a member of the council on the effective date of this 2007
21 amendatory act shall serve until the third Tuesday in November
22 following the effective date of this amendatory act.

23 "Nothing contained in this amendatory act shall have
24 the effect of changing the year during which a regular
25 municipal election is to be held, or the qualifications or
26 requirements of candidates for election to the office of

1 council member. Provisions of this act and other laws shall be
2 read in pari materia with this amendatory act."

3 Section 2. Section 3.02 of Act 618 of the 1973
4 Regular Session, as amended by Act 81-835 of the 1981 Regular
5 Session (Acts 1981, p. 1484), Act 87-97 of the 1987 Regular
6 Session (Acts 1978, p. 103), and Act 2001-547 of the 2001
7 Regular Session (Acts 2001, p. 1101), is amended further to
8 read as follows:

9 "Section 3.02. STATEMENT OF CANDIDACY. Any person
10 desiring to become a candidate at any election for the offices
11 of councilperson may become such a candidate by filing in the
12 office of the judge of probate of the county in which such
13 city is situated, a statement in writing of such candidacy,
14 accompanied by an affidavit taken and certified by such judge
15 of probate or by a notary public that such person is duly
16 qualified to hold the office for which he/she desires to be a
17 candidate. Such statement shall be filed no earlier than the
18 fourth Tuesday in July, and no later than the third Tuesday in
19 August preceding the regular municipal election, and shall be
20 in substantially the following form:

21 "'State of Alabama, _____ County. I, the
22 undersigned, being first duly sworn, depose and say that I am
23 a citizen of the City of _____, in said State and County
24 and reside at _____ in said City of
25 _____, that I desire to become a candidate for the office
26 of district councilman for the _____ district, in said city
27 at the election for said office to be held on the _____ day

1 of October next and that I am duly qualified to hold said
2 office if elected thereto and I hereby request that my name be
3 printed upon the official ballot at said election. Signed
4 _____. Subscribed and sworn to before me by said
5 _____ on this _____ day of _____, 2____, and filed in
6 this office for record on said day. _____, Judge
7 of Probate.' Said statement shall be accompanied by a
8 qualifying fee in the amount of \$100, (which fee shall be paid
9 over by the judge of probate to the general fund of the city),
10 or a petition of at least 200 signatures of registered voters
11 in said council district. At every such election all ballots
12 to be used by voters shall be printed and prepared by the
13 election commission or other body or official charged by law
14 with the duty of conducting elections and at the expense of
15 said city, and shall contain the names of all candidates
16 directly underneath the words 'For Members of the Council.' No
17 name shall appear upon said ballot as a candidate for election
18 except the names of such persons as have become candidates
19 according to provisions as above set forth. No ballot shall be
20 used at any such election except the official ballot prepared
21 by the election commission or other body or official charged
22 by law with the duty of conducting elections, except that the
23 names of candidates may be suitably placed on voting machines
24 if such machines are used to conduct such election. No primary
25 election shall be held for the nomination of candidates for
26 the office of councilman and candidates shall be nominated
27 only as hereinabove provided."

1 Section 3. Section 3.03 of Act 618 of the 1973
2 Regular Session (Acts 1973, p. 879), is amended to read as
3 follows:

4 "Section 3.03. Qualification. Every person who shall
5 be elected or appointed to the office of member of the
6 council, shall, on or before the third Tuesday of November
7 following his or her election or before the Tuesday following
8 the date of his or her appointment qualify by making oath that
9 he or she is eligible for the office and will execute the
10 duties of same according to the best of his or her knowledge
11 and ability. The oath may be administered by any person
12 authorized to administer an oath under the laws of Alabama."

13 Section 4. Section 3.12 of Act 618 of the 1973
14 Regular Session (Acts 1973, p. 879), as amended by Act 81-835
15 of the 1981 Regular Session (Acts 1981, p. 1484), is further
16 amended as follows:

17 "Section 3.12. Induction of council into office;
18 meetings of council. The first meeting of each newly elected
19 council for induction into office, shall be held at two
20 o'clock on the third Tuesday in November next following its
21 election, after which the council shall meet regularly at such
22 times as may be prescribed by its rules. All meetings of the
23 council shall be open to the public."

24 Section 5. Section 4.01 of Act 618 of the 1973
25 Regular Session (Acts 1973, p. 879), is amended to read as
26 follows:

1 "Section 4.01. Election; term; qualification. The
2 first mayor shall be elected at the same election at which the
3 councilmen are elected under the provisions of Section 1.07 of
4 Article I of this act and shall hold office until the second
5 Tuesday in November of that year ending in an odd number which
6 would give him or her a term of office most closely
7 approximating four years and until his or her successor is
8 elected and qualified. The first mayor shall qualify and take
9 office in the manner hereinafter prescribed on the second
10 Monday following the date the election of all nine councilmen
11 is completed or on the second Monday following the election of
12 such mayor whichever last occurs.

13 "The regular general municipal election for mayor
14 shall be held on the first Tuesday in October of the year
15 during which its next municipal election is to be held and
16 quadrennially thereafter. The mayor elected at any such
17 regular election shall, on or before the third Tuesday of
18 November following his or her election, qualify by making oath
19 that he or she is eligible for the office and will execute the
20 duties of same according to the best of his or her knowledge
21 and ability. The oath may be administered by any person
22 authorized to administer an oath under the laws of Alabama.

23 "At any election for mayor, the candidate receiving
24 the highest number of votes for the office shall be elected
25 thereto, provided such candidate receives a majority of all
26 votes cast for such office. If at the first election a
27 majority is not received by any candidate for the office of

1 mayor, then a second election shall be held on the sixth
2 Tuesday thereafter in the same mode and manner and under the
3 same rules and regulations provided in Section 1.07 of Article
4 I hereof with respect to the election of the first mayor. The
5 individual serving as mayor on the effective date of this 2007
6 amendatory act shall serve until the third Tuesday in November
7 following the effective date of this amendatory act.

8 "Nothing contained in this amendatory act shall have
9 the effect of changing the year during which a regular
10 municipal election is to be held, or the qualifications or
11 requirements of candidates for election to the office of
12 mayor. Other provisions of this act and other laws shall be
13 read in pari materia with this amendatory act."

14 Section 6. Section 4.02 of Act 618 of the 1973
15 Regular Session (Acts 1973, p. 879), as amended by Act 713 of
16 the 1977 Regular Session (Acts 1977, p. 1255), Act 87-97 of
17 the 1987 Regular Session (Acts 1987, p. 103), and Act 2001-547
18 of the 2001 Regular Session (Acts 2001, p. 1101), is further
19 amended as follows:

20 "Section 4.02. Statement of Candidacy. Any person
21 desiring to become a candidate at any election for the office
22 of mayor may become such candidate by filing in the office of
23 the judge of probate of the county in which such city is
24 situated, a statement in writing of such candidacy,
25 accompanied by a petition signed by one-fourth of one percent
26 of the registered voters of such city endorsing the candidacy
27 of such candidate and by an affidavit taken and certified by

1 such judge of probate or by a notary public that such person
2 is duly qualified to hold the office for which he/she desires
3 to be a candidate. Such statement shall be filed no earlier
4 than the fourth Tuesday in July and no later than the third
5 Tuesday in August preceding the election, and shall be in
6 substantially the following form:

7 "'State of Alabama, _____ County. I, the
8 undersigned, being first duly sworn, depose and say that I am
9 a citizen of the City of _____, in said State and
10 County, and reside at _____ in said City of _____,
11 that I desire to become a candidate for the office of mayor in
12 said city at the election for said office to be held on the
13 _____ day of October next and that I am duly qualified to
14 hold said office if elected thereto and I hereby request that
15 my name be printed upon the official ballot at said election.
16 Signed _____; subscribed and sworn to before me by
17 said _____ on this _____ day of _____,
18 2_____. _____, Judge of Probate.' Said statement
19 shall be accompanied by a qualifying fee in an amount equal to
20 \$300.00 which qualifying fee shall be paid over by the judge
21 of probate to the general fund of the city; provided, however,
22 that if a person desiring to qualify as a candidate cannot
23 afford to pay the qualifying fee, he/she may submit, in lieu
24 of said fee, a signed affidavit to that affect accompanied by
25 a petition requesting his/her candidacy signed by not less
26 than 1/4 of one percent of the registered voters qualified to
27 vote in the mayoral election, as determined by the judge of

1 probate. At every such election on ballots to be used by
2 voters shall be printed and prepared by the election
3 commission or other body or official charged by law with the
4 duty of conducting elections and at the expense of said city,
5 and shall contain the names of all candidates directly
6 underneath the words 'For Mayor.' No names shall appear upon
7 said ballot as a candidate for election except the names of
8 such persons as have been candidates according to provision as
9 above set forth; no ballot shall be used at any such election
10 except the official ballot prepared by the election commission
11 or other body or official charged by law with the duty of
12 conducting elections, except that the names of candidates may
13 be suitably placed on voting machines if such machines are
14 used to conduct such election. No primary election shall be
15 held for the nominations of candidates for the office of mayor
16 and candidates shall be nominated only as hereinabove
17 provided."

18 Section 7. This act shall become effective
19 immediately following its passage and approval by the
20 Governor, or its otherwise becoming law.