

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**

A Bill

HOUSE BILL

4 **By: Representatives Wyrick, Riable, and Argue**

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For An Act To Be Entitled

8 "AN ACT TO AMEND THE CITY MANAGER ENABLING ACT OF 1989 TO
9 PROVIDE OPTIONS TO ELECT THE MAYOR AND THE BOARD OF
10 DIRECTORS; AND FOR OTHER PURPOSES."

11

12

Subtitle

13 "TO PROVIDE OPTIONS TO ELECT THE MAYOR AND THE CITY BOARD OF
14 DIRECTORS."

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16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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18 SECTION 1. Arkansas Code Annotated § 14-61-107 is amended to read as
19 follows:

20 "14-61-107. Methods of selecting directors.

21 A city affected by this chapter may choose one (1) of the options
22 included within this chapter as the method by which to select a board of
23 directors. These options are:

24 (1) All members of the board of directors elected at large;

25 (2) An odd number of directors, including the mayor, with any
26 combination of directors being elected at-large and from wards, whether the
27 position designated mayor is appointed or directly elected;

28 (3) All members of the board of directors but one (1) elected from wards
29 with one (1) member elected at large who shall be the mayor;

30 (4) All members of the board of directors elected from wards."

31

32 SECTION 2. Arkansas Code Annotated § 14-61-111 is amended to read as
33 follows:

34 "14-61-111. Selection of mayor.

35 (a) Unless a majority of the qualified electors of the city voting on

1 the issue choose otherwise, the mayor will be selected by a majority vote of
2 the board of directors from among its members.

3 (b) (1) If a majority of the qualified electors of the city voting on the
4 issue vote to do so, the mayor shall be directly elected by the qualified
5 electors of the city. Any person so elected shall serve as mayor for a term of
6 four (4) years.

7 (2) At a special or general election on the question of whether to
8 directly elect the mayor, a majority of the qualified electors voting on the
9 issue may also vote to require that a successful candidate for mayor receive a
10 minimum percentage, less than fifty percent (50%) of the total votes cast for
11 the position of mayor in order to be elected mayor without a runoff. The
12 minimum percentage necessary for election without a runoff shall be determined
13 by the governing body and referred to the electors for their approval.

14 (3) If it is required that a candidate receive a minimum percentage,
15 less than fifty percent (50%), of the total votes cast for mayor in order to be
16 elected mayor without a runoff, and if no candidate for the position of mayor
17 receives at least the required percentage of the votes cast, then the two (2)
18 candidates receiving the highest number of votes shall be the nominees for the
19 position of mayor and shall be certified to a special runoff election which
20 shall be held two (2) weeks from the day on which the general election is held.
21 The special runoff election shall be conducted and the election results shall
22 be canvassed and certified in the manner prescribed by law for municipal runoff
23 elections.

24 (c) The question of whether to directly elect the mayor may be voted on
25 at a general or special election held:

26 (1) At the time the city seeks to organize, or reorganize, under this
27 chapter; or

28 (2) As the result of a properly presented petition filed pursuant to §
29 14-61-113; or

30 (3) As the result of the referral of an ordinance by the board of
31 directors calling for a reorganization under this chapter.

32 (d) If an election to provide for the direct election of the mayor is
33 unsuccessful, the issue shall not be submitted again for at least two (2) years
34 after the date of the unsuccessful election."

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1 SECTION 3. Arkansas Code Annotated § 14-61-112 is amended to read as
2 follows:

3 "14-61-112. Directors and mayor selected by plurality vote.

4 Unless special provisions for the position of mayor are implemented
5 pursuant to § 14-61-111, the candidate for any designated position on the board
6 of directors of a city affected by this chapter, including the mayor, who in
7 any special or general election shall receive votes greater in number than
8 those cast in favor of any other candidate for the position, shall be deemed to
9 be elected. If special provisions for the election of the mayor are implemented
10 pursuant to § 14-61-111, then those special provisions will control the
11 election of the mayor."

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13 SECTION 4. Arkansas Code Annotated § 14-61-113 is amended to read as
14 follows:

15 "14-61-113. Petition process for special elections.

16 Except for questions that may be referred to the voters by the board of
17 directors, options provided by this chapter shall be voted on at special
18 elections called as a result of a petition for the special election being filed
19 with the city clerk and provided to the mayor. The following procedure shall be
20 utilized for both initial elections to organize under the management form of
21 government and for reorganization elections by a city already operating under
22 the management form of government:

23 (1) A petition that calls for an election on one particular option for
24 selecting members of the board of directors using the form of the question
25 outlined in § 14-61-114(b) shall be filed with the city clerk, and provided to
26 the mayor. The city clerk shall note on the petitions the date and time that
27 they were filed. If such a petition contains the signatures of electors equal
28 in number to fifteen percent (15%) of the number of ballots cast for the mayor,
29 or if the mayor is not directly elected, for the director position receiving
30 the highest number of votes, in the last general election, then the mayor
31 shall, by proclamation, submit the question to the electors at a special
32 election, provided:

33 (A) The city clerk shall verify the number of signatures on the
34 petitions within ten (10) days of the date they are filed:

35 (i) If there are insufficient signatures on the petitions, the

1 petitioners shall not receive any extensions for the petition;

2 (ii) If, however, there are a sufficient number of signatures on the
3 petitions, but the city clerk is unable to verify the required number of
4 signatures as those of qualified electors, then the petitioners will be given
5 ten (10) days to provide a sufficient number of verified signatures;

6 (B) The proclamation calling the special election shall be issued within
7 three (3) working days of the date the city clerk verifies the number of
8 signatures on the petitions;

9 (C) The special election shall be held not less than thirty (30) nor
10 more than sixty (60) days after the proclamation calling the election, provided
11 that, if the county board of election commissioners certifies in writing that
12 it cannot prepare the ballots because of other pending elections, then the
13 election can be held not more than seventy-five (75) days after the
14 proclamation.

15 (2) Except for the provisions of subdivision (1)(A) of this section, if
16 petitions filed with the mayor that call for an election on one of the options
17 set forth in this chapter are found to be insufficient for any reason
18 whatsoever, then new petitions will have to be circulated and filed before the
19 question can be considered again.

20 (3) Notwithstanding subdivision (2) of this section, if two (2) or more
21 groups file petitions seeking a special election on one of the options set
22 forth in this chapter, and the first filed petitions are declared to be
23 insufficient, then the city clerk will determine the sufficiency of the
24 petitions that were filed next in time. Otherwise, upon a declaration that a
25 set of petitions is sufficient and the first in time, then all petitions filed
26 after the first sufficient petitions and before the special election shall be
27 deemed moot and may be destroyed.

28 (4) Once an election has been held pursuant to the provisions of any act
29 that results in a change in the manner of selecting the governing body of a
30 city with the manager form of government, or seeks to reorganize a manager
31 government city under any other form of government, then none of the options
32 presented by this chapter, or any act concerning the organization of the
33 government under any form of municipal government, may be submitted to the
34 voters for a period of four (4) years from the date of the election.

35 (5) Except as provided in § 14-61-114(a), if an election held pursuant

1 to the provisions of any act fails to result in a change in the manner of
2 selecting the governing body of a city with the manager form of government, or
3 fails to reorganize such a city under any other form of government, then no
4 other petitions seeking to adopt any of the options presented by this chapter,
5 or to reorganize the city under any form of municipal government, may be
6 submitted to the voters for a period of two (2) years from the date of the
7 election."

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9 SECTION 5. Arkansas Code Annotated § 14-61-114 (a) is amended to read as
10 follows:

11 "(a) Notwithstanding any other provision, the board of directors in a
12 city operating under the management form of government may, by two-thirds (2/3)
13 vote of all the members including the mayor, refer to a special or general
14 election for approval by a majority of the qualified electors voting on the
15 issue, one of the options set forth in § 14-61-107, provided no election on a
16 board referred option has been held within the previous two (2) years."

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18 SECTION 6. Arkansas Code Annotated § 14-61-117 is amended to read as
19 follows:

20 "14-61-117. Implementation of change in form of government under this
21 chapter.

22 The following procedure will be used to implement this chapter by cities
23 that have changed the manner by which directors and the mayor are selected:

24 (1) If an option is chosen in which the mayor is directly elected, the
25 position of mayor shall be elected at the first general election after the
26 organization, or reorganization, of the city under the management form of
27 government. Because of this fact, at the first meeting of the board of
28 directors after the special election results have been certified, the mayor
29 shall prepare slips of paper for each member of the board of directors whose
30 current terms expire soonest. One (1) of these slips of paper shall have the
31 word Mayor imprinted on it and the rest of the slips shall be blank. Each
32 member whose term will expire soonest after the reorganization will draw a slip
33 of paper and the director drawing the slip of paper with the word Mayor
34 imprinted on it will not draw again. The successor for this director will be
35 the elected mayor.

1 (2) The mayor shall then prepare slips of paper for each member of the
2 board of directors, except the one that has drawn the mayor's slip, upon which
3 will be imprinted the name of a director position, or ward position, as may be
4 needed. These members of the board of directors shall draw one (1) slip of
5 paper, and the words imprinted on the slip drawn by each member shall determine
6 the position and method of selection for such member's successor.

7 (3) Upon the expiration of the current term of a member, his successor
8 shall be elected in the manner designated under this section. For example, if a
9 member draws Director Ward 1, then that member's successor shall be selected
10 from the area designated as Ward 1 by the county board of election
11 commissioners.

12 (4) (A) If an option is selected that decreases the existing size of the
13 board of directors, including the position of mayor, then at the first meeting
14 after the results of the election have been certified, the mayor shall prepare
15 slips of paper for each member of the board of directors, upon which will be
16 imprinted the designation of the director positions that will remain after the
17 decrease, whether at-large or ward positions, or a directly elected mayor. The
18 remaining slips of paper shall remain blank. The members of the board of
19 directors shall draw one (1) slip of paper, and the words imprinted on the slip
20 drawn by each member shall determine the position for which that member's
21 successor will be selected. Directors drawing a blank slip of paper shall not
22 be succeeded upon the expiration of their term of office.

23 (B) (1) If an option is selected that increases the existing number of
24 directors, including the position of mayor, and the next general municipal
25 election is more than one year away, then a special election to fill the new
26 positions shall be held within a reasonable time. This special election shall
27 be conducted in accordance with the provisions of § 14-47-106 and § 14-47-110.
28 Persons elected at this special election shall serve until the next general
29 municipal election at which time the positions shall again be on the ballot for
30 a full four-year term.

31 (2) If an option is selected that increases the existing number of
32 directors, including the position of mayor, and the next general municipal
33 election is less than one year away, then the board of directors, by majority
34 vote, may:

35 (a) Conduct a special election, in accordance with the provisions

1 of § 14-47-106 and § 14-47-110, but declare that the initial term of office for
2 these positions shall be from the date the results of the special election are
3 certified until the end of the term for directors elected at the next general
4 municipal election, and that thereafter persons elected to fill these positions
5 will serve a term of four (4) years, or

6 (b) Choose to leave the positions vacant until the next general
7 municipal election, or

8 (c) Fill the vacancies in accordance with § 14-47-113 with the
9 persons appointed to serve until the next general municipal election.

10 (C) If an option is approved pursuant to § 14-61-107(2) that results in
11 a change in the number of directors selected from wards, the board of
12 directors, by majority vote, may determine how to select the positions as
13 follows:

14 (1) The board may designate any or all of the positions to be selected
15 at any special election called to implement the change, and at the succeeding
16 two general municipal elections, in order to fully implement the option
17 adopted.

18 (2)(a) In order to fully implement that option selected, the board may
19 draw lots to determine which positions will be elected at any special election
20 called to implement the change, and at the succeeding two general municipal
21 elections, in order to fully implement the option adopted. Each slip will be
22 imprinted with the name of a ward position, an at-large position, or the mayor,
23 as necessary, and the successor of the board member drawing a particular slip
24 of paper will be elected from the position. For purposes of illustration, the
25 director from Ward No. 1 will be elected at the general municipal election when
26 the position of the director drawing the slip marked Ward No. 1 is up for
27 election. If the option selected increases the size of the board of directors,
28 and if the board has not otherwise determined the positions to be selected,
29 then the mayor and one board member whose term expires at the general municipal
30 election before or after the mayor_s term expires, will draw an extra slip for
31 each necessary position. For example, if two new positions are authorized and
32 the mayor_s term expires at the next general municipal election, then the mayor
33 would draw one extra slip and a board member whose term expires two years after
34 the mayor_s term would draw one extra slip.

35 (b) Once the board has determined how successors, or new members, or

1 both, are to be selected, it may unanimously vote to fill all positions on the
2 board, including the position of mayor, at a special election, or no later than
3 the next general municipal election. If a decision is made to so expedite the
4 election of the board, the board may designate which positions will initially
5 be filled for two (2) year terms, with successors to be elected for four (4)
6 year terms thereafter, and which positions will be elected for four (4) year
7 terms, with successors to be elected for four (4) year terms thereafter."

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9 SECTION 7. Subchapter 1 of Chapter 61 of Title 14 of the Arkansas Code
10 is amended by adding a section at the end thereof to read as follows:

11 "14-61-120. A majority of the qualified electors voting on the issue may
12 vote to permit limited voting or cumulative voting for directors, other than
13 the mayor, elected at-large.

14 (a) Under a limited voting system, voters are restricted to casting only
15 one vote for any single candidate, but are not given as many votes as there are
16 at-large seats to fill.

17 (b) Cumulative voting shall be construed as allowing every voter to cast
18 as many votes as there are positions to be filled of the same category, without
19 restricting the voter to casting only one vote for any particular candidate.
20 This system permits voters to aggregate or cumulate their votes. For example,
21 in a three-seat, three-vote election, a voter may provide three candidates with
22 one vote each, or the voter may cast two votes for one candidate and one vote
23 for a second candidate, or the voter may cast all three votes for a single
24 candidate."

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26 SECTION 8. All provisions of this act of a general and permanent nature
27 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
28 Revision Commission shall incorporate the same in the Code.

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30 SECTION 9. If any provision of this act or the application thereof to
31 any person or circumstance is held invalid, such invalidity shall not affect
32 other provisions or applications of the act which can be given effect without
33 the invalid provision or application, and to this end the provisions of this
34 act are declared to be severable.

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1 SECTION 10. All laws and parts of laws in conflict with this act are
2 hereby repealed.

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4 SECTION 11. EMERGENCY. It is hereby found and determined by the General
5 Assembly that cities with the management form of government and at-large
6 elections face legal challenges to the method of selection of directors because
7 of potential violations of federal laws concerning the voting rights of
8 particular segments of a community; that in order to avoid problems under the
9 federal and state voting laws it is essential to provide cities with the
10 management form of government greater flexibility to implement governing plans
11 that best meet the needs of the citizens; that providing such flexibility is
12 essential to the public health, safety and welfare. Therefore, an emergency is
13 hereby declared to exist and this act being necessary for the preservation of
14 the public peace, health and safety shall be in full force and effect from and
15 after its passage and approval.

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