

**Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.**

1 State of Arkansas  
2 83rd General Assembly  
3 Regular Session, 2001  
4

*As Engrossed: H4/2/01*

# A Bill

**Act 1473 of 2001**  
SENATE BILL 803

5 By: Senator B. Walker  
6 By: *Representative Ledbetter*  
7

## **For An Act To Be Entitled**

8  
9  
10 AN ACT TO AMEND VARIOUS SECTIONS OF ARKANSAS CODE  
11 TITLE 14, CHAPTER 47, SUBCHAPTER 1, TO AUTHORIZE  
12 CERTAIN CITIES WITH THE CITY MANAGER FORM OF  
13 GOVERNMENT TO ALLOW THE MAYOR TO APPOINT MEMBERS  
14 OF CITY BOARDS AND COMMISSIONS; AND FOR OTHER  
15 PURPOSES.  
16

### **Subtitle**

17  
18 TO AUTHORIZE CERTAIN CITIES WITH THE  
19 CITY MANAGER FORM OF GOVERNMENT TO ALLOW  
20 THE MAYOR TO APPOINT MEMBERS OF CITY  
21 BOARDS AND COMMISSIONS.  
22  
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
25

26 SECTION 1. Arkansas Code 14-47-108(a)(2)(C) is amended to read as  
27 follows:

28 (C)(i) Every other executive officer or executive employee  
29 of the city, including, without limiting the foregoing, the city purchasing  
30 agent and the members hereinafter called "board members" of every other  
31 municipal board, authority, or commission, whether the office, employment,  
32 board, authority, or commission exists under statute or under any ordinance or  
33 resolution, whose official term of office or employment is fixed by statute,  
34 ordinance, or resolution, shall serve until the expiration of the term so  
35 fixed, after which the position held by each such executive officer, executive  
36 employee, or board member shall be filled through appointment by *the board of*

1 *directors, the appointees to hold at the will of the board. However, in*  
 2 *cities with the city manager form of government having a population of over*  
 3 *100,000 persons according to the most recent federal decennial census the*  
 4 *appointments shall be made by the mayor and appointees shall hold at the will*  
 5 *of the mayor, if the mayor is authorized to make the appointments by:*

6 *(a) The board of directors, by ordinance; or*

7 *(b) An initiated measure, adopted pursuant to*  
 8 *Amendment 7 to the Arkansas Constitution. If the authority is vested by an*  
 9 *initiated measure the board of directors shall not have the power to rescind*  
 10 *the authority.*

11 (ii) Each such executive officer, executive employee,  
 12 or board member serving on the effective date of the reorganization, and whose  
 13 office, employment, or board membership carries no fixed term created either  
 14 by statute, ordinance, or resolution shall be subject to removal and  
 15 replacement at any time by the board of directors or the mayor, if authorized.

16 (iii) However, the provisions of this subdivision  
 17 shall be subject to the provisions of subsection (b) of this section and to  
 18 the exceptions therein contained.

19  
 20 SECTION 2. Arkansas Code 14-47-108(b)(2)(B) is amended to read as  
 21 follows:

22 (B)(i) The reorganization shall not terminate, impair, or  
 23 otherwise affect the official status, tenure of office, or powers of the  
 24 persons serving as commissioners, committeemen, trustees, or members of any of  
 25 the boards, authorities, commissions, agencies or departments listed in this  
 26 subdivision or as judge or clerk of any municipal or police court listed.

27 (ii) This power, whether consisting of the power to  
 28 appoint or the power to confirm appointments or nominations, as may be vested  
 29 in the municipal council immediately prior to the reorganization in respect to  
 30 the filling of vacancies on the boards, authorities, commissions, agencies,  
 31 departments, or in the judgeships listed in this subdivision shall *be*  
 32 *transferred to, and vested in, the board of directors or the mayor, if the*  
 33 *mayor has appointment power pursuant to § 14-47-108(a)(2)(C). Each appointee*  
 34 *designated by the board or by the mayor, if authorized, to fill a vacancy in*  
 35 *any such position shall serve for the statutory term, if any, applicable to*  
 36 *the vacancy or, if there is no statutory term, shall serve at the will of the*

1 board or the mayor, if authorized. However, each judgeship, whether a  
2 judgeship on a municipal court or on a police court, which, on the effective  
3 date of the reorganization, is on an elective basis shall remain on an  
4 elective basis and shall not be subject to the appointive power of the board  
5 or the mayor.

6  
7 SECTION 3. Arkansas Code 14-47-120(4), concerning the powers and duties  
8 of the city manager, is amended to read as follows:

9 (4)(A)(i) ~~He~~ Except as provided in subdivision (4)(A)(ii), he or  
10 she shall nominate, subject to confirmation by the board, persons to fill all  
11 vacancies at any time occurring in any office, employment, board, authority,  
12 or commission to which the board's appointive power extends.

13 (ii) If the mayor has appointment power pursuant to §  
14 14-47-108(a)(2)(C), the nominations shall be made by the mayor.

15 (B)(i) He may remove from office all officials and  
16 employees including, without limiting the foregoing, members of any board,  
17 authority, or commission who under laws, whether applicable to cities under  
18 the aldermanic or management form of government, may be removed by the city's  
19 legislative body.

20 (ii)(a) Removal by the city manager shall be approved  
21 by the board.

22 (b) Where, under the statute applicable to any  
23 specific employment or office, the incumbent may be removed only upon the vote  
24 of a specified majority of the city's legislative body, the removal of the  
25 person by the city manager may be confirmed only upon the vote of the  
26 specified majority of the board members.

27 (C) The provisions of this subdivision (4) shall have no  
28 application to offices and employments controlled by any civil service or  
29 merit plan lawfully in effect in the city. Moreover, in cities maintaining  
30 municipal courts or police courts under the authority of any statute in  
31 effect, the municipal judge, police judge, and the clerk of any such court  
32 shall be elected and appointed in the manner prescribed by law;

33  
34 SECTION 4. Arkansas Code 14-47-131 is amended to read as follows:  
35 14-47-131. Creation of new departments, etc.

36 (a) The board of directors may from time to time by ordinance:

1 (1) Create any new municipal departments, offices, employments,  
2 boards, authorities, commissions, and agencies;

3 (2) Appoint the personnel to serve in the departments, offices,  
4 *employments, boards, authorities, commissions, and agencies. However, the*  
5 *appointment of personnel shall be by the mayor if the mayor has appointment*  
6 *power pursuant to § 14-47-108(a)(2)(C);*

7 (3) Fix the term of employment and compensation of each  
8 appointee; and

9 (4) Specify whether each appointee shall, or shall not, be  
10 subject to the city's civil service or merit system.

11 (b)(1) By ordinance, the board also, in the exercise of its discretion,  
12 may consolidate the office of city treasurer with the office of city clerk or  
13 such other office or position as the board may, by ordinance, charge with the  
14 responsibility of administering the financial affairs of the city.

15 (2) The board may:

16 (A) Delegate all of the duties of the city treasurer to the  
17 person holding that office or position in the city;

18 (B) Fill the consolidated office by appointment;

19 (C) Fix the term and compensation of the appointee; and

20 (D) Specify whether the appointee shall be subject to the  
21 city's civil service or merit system.

22  
23 SECTION 5. Arkansas Code 14-47-132 is amended to read as follows:

24 14-47-132. Vacancy on municipal board, etc.

25 (a) Any vacancy on any municipal board or commission of any city of the  
26 first class having a population of less than fifty thousand (50,000) and  
27 having a city manager form of government shall be filled by a majority vote *of*  
28 *the board of directors of the city or by the mayor if the mayor has*  
29 *appointment power pursuant to § 14-47-108(a)(2)(C).*

30 (b)(1) The provisions of this section shall apply to all existing  
31 boards and commissions and to all boards and commissions hereafter established  
32 in which vacancies are filled by the remaining members of the board or  
33 commission or by the city manager.

34 (2) The provisions of this section shall not be applicable to any  
35 Arkansas city which is divided by a state line from an incorporated city or  
36 town in an adjoining state.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36

SECTION 6. Arkansas Code 14-47-133 is amended to read follows:

14-47-133. Appointees generally.

(a) Subject to the exceptions contained in § 14-47-108, every person appointed by the board of directors or by the mayor, if authorized as provided in § 14-47-108(a)(2)(C), to any municipal office, employment, or position or to membership on any board, authority, or commission shall serve for such time and shall receive such compensation as the board may fix and determine by ordinance.

(b) This section shall be applicable even in respect to offices and employments which, under statutes applicable to the aldermanic form of government, were held for a fixed term or on a salary basis fixed by statute.

*/s/ B. Walker*

APPROVED: 4/11/2001