

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.

Act 689 of the Regular Session

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007

As Engrossed: H3/13/07 H3/16/07

A Bill

HOUSE BILL 2658

4
5 By: Representatives D. Johnson, Allen, Chesterfield, Greenberg, W. Lewellen, Rosenbaum, Webb
6 By: Senator Steele

7
8
9 **For An Act To Be Entitled**

10 AN ACT TO AUTHORIZE AN ELECTION IN A MUNICIPALITY
11 WITH A CITY MANAGER FORM OF GOVERNMENT TO
12 INCREASE THE AUTHORITY OF THE MAYOR; AND FOR
13 OTHER PURPOSES.

14
15 **Subtitle**

16 TO AUTHORIZE AN ELECTION IN A
17 MUNICIPALITY WITH A CITY MANAGER FORM OF
18 GOVERNMENT TO INCREASE THE AUTHORITY OF
19 THE MAYOR.

20
21
22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

23
24 SECTION 1. Arkansas Code Title 14, Chapter 47, Subchapter 1 is amended
25 to add an additional section to read as follows:

26 14-47-140. Authorization for election concerning mayor.

27 (a)(1) Any municipality organized and operating under the city manager
28 form of government may authorize the mayor of the municipality to have the
29 following duties and powers if approved by the qualified electors of the
30 municipality at an election called by the board of directors by referendum or
31 by the qualified electors of the municipality by initiative:

32 (A)(i) The power to veto an ordinance, a resolution, or an order
33 adopted by the board of directors.

34 (ii)(a) The board of directors may override the veto
35 by a two-thirds (2/3) vote of the number of members of the board.



1 (b) The mayor shall be entitled to vote only
2 in case of a tie vote, and his or her presence may be counted to establish a
3 quorum for the conduct of business;

4 (B) The power to appoint, subject to confirmation by a
5 majority of the members of the board of directors, persons to fill vacancies
6 on any board, authority, or commission of the municipality;

7 (C) The power to hire the city manager, subject to the
8 approval of a majority of members of the board of directors;

9 (D) The power to remove the city manager, subject to the
10 approval of a majority of the members of the board of directors;

11 (E) The power to prepare and submit to the board of
12 directors for its approval the annual municipal budget;

13 (F) The power to hire the city attorney, subject to the
14 approval of a majority of members of the board of directors; and

15 (G) The power to remove the city attorney, subject to the
16 approval of a majority of members of the board of directors.

17 (2) If the petition under subdivision (a)(1) of this section is
18 approved by a majority of the qualified electors of the municipality, the
19 mayor shall have the powers and duties authorized under subdivision (a)(1) of
20 this section.

21 (3)(A) Subdivisions (a)(1) and (2) of this section shall not
22 apply to offices and employments controlled by any civil service or merit
23 plan lawfully in effect in the municipality.

24 (B) In municipalities that maintain municipal courts or
25 police courts, the municipal judge, police judge, and the clerk of both
26 courts shall be elected and appointed in the manner prescribed by law.

27 (4) A mayor who has the duties and powers authorized under
28 subdivision (a)(1) of this section shall be compensated with salary and
29 benefits comparable to the salary and benefits of an official or employee of
30 the municipality with similar executive duties and powers.

31 (b) If called by initiative of the qualified electors of the
32 municipality, the special election under this section shall comply with the
33 following:

34 (1) A petition under subsection (a) of this section shall be
35 filed with the clerk of the city;

36 (2) Each signature on a petition filed shall have been signed

1 within one hundred eighty (180) days prior to filing;

2 (3) The clerk of the city shall note on the petition the date
3 and time filed; and

4 (4) If a petition contains the signatures of electors equal in
5 number to fifteen percent (15%) of the number of ballots cast for the
6 mayor in the last mayoral election, or if the mayor is not directly elected,
7 for the director position receiving the highest number of votes in the
8 last general election, then the clerk of the city shall deliver the
9 petitions to the mayor who shall by proclamation submit the question to
10 the electors at a special election, provided that:

11 (i) The clerk of the city shall verify the number
12 of signatures and the authenticity of the signatures on the petition within
13 ten (10) days of the date they are filed;

14 (ii) If there are insufficient signatures on the
15 petition, the petitioners shall not receive an extension for the petition;
16 and

17 (iii) If there are a sufficient number of
18 signatures on the petition but the clerk of the city is unable to verify
19 the required number of signatures and the authenticity of the signatures,
20 then the petitioners shall be given ten (10) days to provide a sufficient
21 number of verified signatures;

22 (c) The proclamation submitting the question under subsection (a) of
23 this section to the qualified electors of the municipality shall be issued
24 within three (3) working days of the date the clerk of the city verifies
25 the number of signatures on the petition or within three (3) working days of
26 the date a referendum ordinance is passed by the board of directors;

27 (d) The special election shall be held not less than thirty
28 (30) days nor more than one hundred twenty (120) days after the proclamation.

29 (e)(1) If both a petition is filed by the qualified electors
30 of the municipality and the number of signatures and the authenticity of the
31 signatures are verified under subdivision (b)(4) of this section and a
32 referendum ordinance is passed by the board of directors referring the
33 question under subsection (a) of this section to the qualified electors of
34 the municipality, the event that occurs last in time is moot and void.

35 (2) If two (2) or more groups file petitions seeking a special
36 election under subsection (a) of this section and the petition filed first is

1 declared insufficient, then the city clerk shall determine the sufficiency of
2 the petition that was filed next in time.

3 (3) Upon a declaration that a petition is sufficient and
4 first in time, then a petition filed after the first sufficient petition
5 and before the special election shall be deemed moot and shall be destroyed;

6 (f) If an election held under subsection (a) of this section
7 results in the adoption of the question under subsection (a) of this section,
8 then the adopted question shall not be presented again to the electors for a
9 period of four (4) years from the date of the election;

10 (g) If an election held under subsection (a) of this section
11 results in the failure to adopt the question under subsection (a) of this
12 section, then the failed question shall not be presented again to the
13 electors for a period of two (2) years from the date of the election;

14 (h) Notice of the election shall be given by the clerk of the
15 city by one (1) publication in a newspaper having general circulation within
16 the city not less than ten (10) calendar days before the election;

17 (i) Within thirty (30) calendar days after completion of the
18 tabulation of the votes, the mayor of the city shall proclaim the results of
19 the election by issuing a proclamation and publishing it one (1) time in a
20 newspaper having general circulation within the city;

21 (j) The results of the election as stated in the proclamation
22 shall be conclusive unless a suit contesting the proclamation is filed in the
23 circuit court in the county where the election took place within thirty (30)
24 calendar days after the date of publication of the proclamation;

25 (k) If the question under subsection (a) of this section is
26 approved at an election as provided in this section, that approval shall be
27 final and shall continue in effect thereafter as long as authorized;

28 (l) The mayor shall continue to be selected under § 14-61-111;
29 and

30 (m) At the time of a transition after an election as provided in
31 this section, the current mayor shall continue to serve until the end of his
32 or her elected term.

33
34 *SECTION 2. Arkansas Code § 14-47-108(a), concerning the effect of*
35 *reorganization of a city manager form of government on other city offices, is*
36 *amended to read as follows:*

1 (a)(1) When, in connection with the reorganization of a municipality
 2 under this chapter, an initial board of directors shall be elected, the
 3 reorganization shall be deemed to be effective as of the time when the
 4 respective terms of office of the directors commence.

5 (2) Concurrent with the commencement of the terms of the
 6 directors:

7 (A) The office of mayor, as existing under the aldermanic
 8 form of government, all memberships on the city council, and all memberships
 9 on the board of public affairs shall become vacant, each of these offices
 10 being abolished as to cities reorganized under this chapter;

11 (B)(i) ~~Except~~ Subject to subdivision (a)(2)(B)(iii) of
 12 this section and except as is otherwise provided for city attorneys in cities
 13 with the city manager form of government having a population of more than one
 14 hundred thousand (100,000) persons according to the most recent federal
 15 decennial census, the statutory term of office of the city treasurer, city
 16 clerk, city attorney, city marshal, and recorder in cities of the second
 17 class shall cease and terminate, and the incumbent of each of these offices
 18 shall remain in office subject to removal and replacement at any time by the
 19 board of directors~~;~~.

20 (ii)(a) ~~In~~ Subject to subdivision (a)(2)(B)(iii) of
 21 this section, in cities with the city manager form of government having a
 22 population of more than one hundred thousand (100,000) persons according to
 23 the most recent federal decennial census, the statutory term of office of the
 24 city attorney shall cease and terminate, and the incumbent city attorney
 25 shall remain in office subject to removal and replacement at any time by the
 26 city manager, if the authority is vested in the city manager through:

27 ~~(a)(1)~~ An ordinance of the board of
 28 directors; or

29 ~~(b)(1)(2)~~ An initiated measure, adopted
 30 pursuant to Arkansas Constitution, Amendment 7.

31 ~~(2)(b)~~ If the authority is vested by an
 32 initiated measure, the board of directors shall not have the authority to
 33 rescind the authority~~;~~ ~~and~~.

34 (iii) In cities with the city manager form of
 35 government having a population of more than one hundred thousand (100,000)
 36 persons according to the most recent federal decennial census, the statutory

1 term of office of the city attorney shall cease and terminate, and the
2 incumbent city attorney shall remain in office subject to removal and
3 replacement at any time by the mayor if the authority is vested in the mayor
4 under § 14-47-140; and

5 (C)(i) Every other executive officer or executive employee
6 of the city, including, without limiting the foregoing, the city purchasing
7 agent and the members hereinafter called "board members" of every other
8 municipal board, authority, or commission, whether the office, employment,
9 board, authority, or commission exists under statute or under any ordinance
10 or resolution, whose official term of office or employment is fixed by
11 statute, ordinance, or resolution, shall serve until the expiration of the
12 term so fixed, after which the position held by each such executive officer,
13 executive employee, or board member shall be filled through appointment by
14 the board of directors, the appointees to hold at the will of the board.
15 However, in cities with the city manager form of government having a
16 population of more than one hundred thousand (100,000) persons, according to
17 the most recent federal decennial census, the appointments shall be made by
18 the mayor and appointees shall hold at the will of the mayor, if the mayor is
19 authorized to make the appointments by:

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

21 (b) An initiated measure, adopted pursuant to
22 Arkansas Constitution, Amendment 7. If the authority is vested by an
23 initiated measure, the board of directors shall not have the power to rescind
24 the authority.

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

31 (iii) However, the provisions of this subdivision
32 (a)(2)(C) shall be subject to the provisions of subsection (b) of this
33 section and to the exceptions therein contained.

34
35 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
36 General Assembly of the State of Arkansas that Arkansas cities are faced with

1 ever-increasing problems of providing services to their citizens caused by a
2 combination of globalization, rapid technological change, rising citizen
3 expectations, mandates from higher levels of government, and a constrained
4 tax base which together have created a context in which more effective and
5 efficient methods of governance have become mandatory; and that this act is
6 immediately necessary to meet these needs and for the efficiency of
7 government. Therefore, an emergency is declared to exist and this act being
8 immediately necessary for the preservation of the public peace, health, and
9 safety shall become effective on:

10 (1) The date of its approval by the Governor;

11 (2) If the bill is neither approved nor vetoed by the Governor,
12 the expiration of the period of time during which the Governor may veto the
13 bill; or

14 (3) If the bill is vetoed by the Governor and the veto is
15 overridden, the date the last house overrides the veto.

16
17 */s/ D. Johnson, et al*

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19 *APPROVED: 3/29/2007*