

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999  
4

*As Engrossed: S1/28/99*

## A Bill

SENATE BILL 184

5 By: Senator DeLay  
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### For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE TITLE 14, CHAPTER 48,  
10 REGARDING CITY ADMINISTRATOR GOVERNMENTS, TO MAKE THE  
11 CITY ATTORNEY AN ELECTIVE OFFICE IN CITIES WITH THE  
12 ADMINISTRATOR FORM OF GOVERNMENT AND WITH POPULATIONS  
13 OF OVER FIFTY THOUSAND (50,000) PERSONS; *TO DECLARE AN*  
14 *EMERGENCY* AND FOR OTHER PURPOSES. "

### Subtitle

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17 "TO MAKE THE CITY ATTORNEY AN ELECTIVE  
18 OFFICE IN CITIES WITH THE ADMINISTRATOR  
19 GOVERNMENT AND WITH POPULATIONS OF OVER  
20 50,000 PERSONS. "  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. Arkansas Code § 14-48-106(a)(2)(B), regarding the effect of  
26 reorganization on city officials in a city administrator form of government,  
27 is amended to read as follows:

28 "(B) The statutory term of office of the city treasurer, city clerk,  
29 city attorney in cities with a population of under fifty thousand (50,000)  
30 persons, city marshal, and recorder in cities of the second class shall cease  
31 and terminate. The incumbent of each of these offices shall remain in office  
32 subject to removal and replacement at any time by the city administrator, with  
33 the approval of the board of directors; and"  
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35 SECTION 2. Arkansas Code Title 14, Chapter 48, is amended by adding the  
36 following new section to be appropriately numbered by the Arkansas Code

1 Revision Commission:

2 "Election of city attorney.

3 (a) In any city with a city administrator form of government and with a  
4 population of over fifty thousand (50,000) persons, according to the latest  
5 federal decennial census, the office of city attorney shall be an elective  
6 office after the effective date of this section. The city attorney elected by  
7 a city under this section shall be vested with all powers and authority of a  
8 city attorney which, immediately prior to the effective date of this section,  
9 were vested under then-existing laws, ordinances, and resolutions in the  
10 governing body of the city. The city attorney shall serve a four (4) year  
11 term in office and his or her tenure in office shall be in accordance with the  
12 officials in Class 2 for city administrator cities as described in 14-48-  
13 110(g)(2).

14 (b)(1) At the same time as the election for mayor, the special primary  
15 and general elections shall be held in the municipality for the purpose of  
16 electing a city attorney.

17 (2) The petitions for nominations and the primary and election  
18 shall be called and conducted, and the results shall be determined and  
19 certified, in the same manner as provided for the nomination, primary and  
20 election of the mayor as provided in 14-48-109.

21 (3) The office of city attorney for cities with a population of  
22 over fifty thousand (50,000) persons, according to the latest federal  
23 decennial census, shall be filled initially by the board by a majority vote.  
24 If this section is effective less than six (6) months before the next general  
25 municipal election, then the board shall appoint someone to fill the office  
26 until the next general municipal election at which the remainder of an  
27 unexpired term shall be filled. If this section is effective more than six  
28 (6) months before the next general municipal election, then the board shall  
29 appoint someone to fill the office temporarily until a special election shall  
30 be called to fill the office for the remainder of the unexpired term.

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32 (4) All primary, general, and special elections of the city attorney  
33 shall be nonpartisan, and the ballots shall show no party designation.

34 (c)(1) The city attorney shall receive a compensation or salary not to  
35 exceed the amount fixed by the board and when once fixed, the salary shall not  
36 be increased or diminished during the term for which he may have been elected.

1           (2) The city attorney, before entering upon the discharge of his  
2 duties, shall take the oath of office required by Arkansas Constitution,  
3 Article 19, Section 20.

4           (3) And, if provided for by the board, the city attorney may  
5 appoint one (1) or more deputies who shall assist him or her with the duties  
6 of the office, who shall serve at the will of the city attorney, and whose  
7 compensation or salary shall be set by the board.

8           (d)(1) Any person holding the office of city attorney under the  
9 provisions of this section shall be subject to removal from the office by the  
10 electors qualified to vote for a successor of the incumbent.

11           (2) The procedure to effect the removal of a person holding the  
12 office of city attorney shall be the same as the procedure prescribed for the  
13 removal of the mayor under 14-48-114.

14           (3)(A) If a majority of the qualified electors voting on the  
15 question at the election shall vote for the removal of the city attorney, a  
16 vacancy shall exist in the office.

17           (B) If a majority of the qualified electors voting on the  
18 question at the election shall vote against the removal of the city attorney,  
19 he or she shall continue to serve during the term for which elected.

20           (4) No recall petition shall be filed against a city attorney  
21 until he or she shall have held the office for at least six (6) months.

22           (e) In the case of a vacancy in the office of city attorney as a result  
23 of death, resignation, a recall election as provided for in subsection (d) of  
24 this section, or for any other reason, the board, by majority vote, shall  
25 appoint a person to fill the vacancy if the vacancy occurs less than six (6)  
26 months before the next general municipal election at which the remainder of  
27 the unexpired term shall be filled. Otherwise, a special election shall be  
28 called to fill the vacancy."

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30           SECTION 3. All provisions of this act of a general and permanent nature  
31 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
32 Revision Commission shall incorporate the same in the Code.

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34           SECTION 4. If any provision of this act or the application thereof to  
35 any person or circumstance is held invalid, such invalidity shall not affect  
36 other provisions or applications of the act which can be given effect without

1 the invalid provision or application, and to this end the provisions of this  
2 act are declared to be severable.

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4 SECTION 5. All laws and parts of laws in conflict with this act are  
5 hereby repealed.

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7 SECTION 6. Emergency. It is found and determined by the Eighty-second  
8 General Assembly of the State of Arkansas that cities of over fifty thousand  
9 (50,000) persons and with city administrator governments do not elect the city  
10 attorney in those cities, that the office of city attorney is an important  
11 municipal office responsible for valuable advice to other city officials and  
12 legal matters for all citizens of the city, that citizens of city  
13 administrator cities of over fifty thousand (50,000) persons need to have the  
14 best possible leaders in elective offices to promote the best interests of all  
15 people within the city, and that can best be accomplished in city  
16 administrator cities of over fifty thousand (50,000) persons by making it an  
17 elective office which is directly responsible to all citizens through the  
18 election process and should be effective as quickly as possible. Therefore an  
19 emergency is declared to exist and this act being immediately necessary for  
20 the preservation of the public peace, health and safety shall become effective  
21 on the date of its approval by the Governor. If the bill is neither approved  
22 nor vetoed by the Governor, it shall become effective on the expiration of the  
23 period of time during which the Governor may veto the bill. If the bill is  
24 vetoed by the Governor and the veto is overridden, it shall become effective  
25 on the date the last house overrides the veto.

26 /s/ DeLay  
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