

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.

State of Arkansas
86th General Assembly
Regular Session, 2007

As Engrossed: H3/13/07

A Bill

HOUSE BILL 2658

By: Representative D. Johnson
By: Senator Steele

For An Act To Be Entitled

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

Subtitle

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

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

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

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

(a)(1) The board of directors by referendum or the qualified electors
by initiative may call a special election in the municipality for the purpose
of authorizing the mayor of the municipality to have the following powers and
duties:

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

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

(b) The mayor shall be entitled to vote only
in case of a tie vote, and his or her presence may be counted to establish a



1 quorum for the conduct of business;

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

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

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

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

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

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

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

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

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

24 (b) The special election under this section shall comply with the
25 following:

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

28 (2) Each signature on a petition filed shall have been signed
29 within one hundred eighty (180) days prior to filing;

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

32 (4) If a petition contains the signatures of electors equal in
33 number to fifteen percent (15%) of the number of ballots cast for the
34 mayor in the last mayoral election, or if the mayor is not directly elected,
35 for the director position receiving the highest number of votes in the
36 last general election, then the clerk of the city shall deliver the

1 petitions to the mayor who shall by proclamation submit the question to
2 the electors at a special election, provided that:

3 (i) The clerk of the city shall verify the number
4 of signatures on the petition within ten (10) days of the date they are
5 filed;

6 (ii) If there are insufficient signatures on the
7 petition, the petitioners shall not receive an extension for the petition;

8 (iii) If there are a sufficient number of
9 signatures on the petition but the clerk of the city is unable to verify
10 the required number of signatures, then the petitioners shall be given ten
11 (10) days to provide a sufficient number of verified signatures; and

12 (iv) The proclamation shall be issued within three
13 (3) working days of the date the clerk of the city verifies the number of
14 signatures on the petition;

15 (5) The special election shall be held not less than thirty
16 (30) days nor more than sixty (60) days after the proclamation, provided
17 that if the county board of election commissioners certifies in writing that
18 it cannot prepare the ballots because of other pending elections, then the
19 election can be held not more than seventy-five (75) days after the
20 proclamation;

21 (6)(A) If two (2) or more groups file petitions seeking a
22 special election under subsection (a) of this section and the petition
23 filed first is declared insufficient, then the city clerk shall
24 determine the sufficiency of the petition that was filed next in time.

25 (B) Upon a declaration that a petition is sufficient and
26 first in time, then a petition filed after the first sufficient petition
27 and before the special election shall be deemed moot and shall be destroyed;

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

32 (8) If an election held under subsection (a) of this section
33 results in the failure to adopt the question under subsection (a) of this
34 section, then the failed question shall not be presented again to the
35 electors for a period of two (2) years from the date of the election;

36 (9) An election held under subsection (a) of this section may be

1 held during any one (1) or more calendar years, but not more than one (1)
2 special election shall be held under subsection (a) of this section during
3 any particular calendar year;

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

7 (11) The election shall be held no earlier than thirty-one (31)
8 calendar days and no later than one hundred twenty (120) days after the
9 effective date of the passage of this section;

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

14 (13) The results of the election as stated in the proclamation
15 shall be conclusive unless a suit contesting the proclamation is filed in the
16 circuit court in the county where the election took place within twenty (20)
17 calendar days after the date of publication of the proclamation;

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

21 (15) The mayor shall continue to be selected under § 14-61-111;
22 and

23 (16) At the time of a transition after an election as provided
24 in this section, the current mayor shall continue to serve until the end of
25 his or her elected term.

26
27 *SECTION 2. Arkansas Code § 14-47-108(a), concerning the effect of*
28 *reorganization of a city manager form of government on other city offices, is*
29 *amended to read as follows:*

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

34 *(2) Concurrent with the commencement of the terms of the*
35 *directors:*

36 *(A) The office of mayor, as existing under the aldermanic*

1 form of government, all memberships on the city council, and all memberships
 2 on the board of public affairs shall become vacant, each of these offices
 3 being abolished as to cities reorganized under this chapter;

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

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

20 ~~(a)(1)~~ An ordinance of the board of
 21 directors; or

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

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

27 (iii) In cities with the city manager form of
 28 government having a population of more than one hundred thousand (100,000)
 29 persons according to the most recent federal decennial census, the statutory
 30 term of office of the city attorney shall cease and terminate, and the
 31 incumbent city attorney shall remain in office subject to removal and
 32 replacement at any time by the mayor if the authority is vested in the mayor
 33 under § 14-47-140; and

34 (C)(i) Every other executive officer or executive employee
 35 of the city, including, without limiting the foregoing, the city purchasing
 36 agent and the members hereinafter called "board members" of every other

1 municipal board, authority, or commission, whether the office, employment,
2 board, authority, or commission exists under statute or under any ordinance
3 or resolution, whose official term of office or employment is fixed by
4 statute, ordinance, or resolution, shall serve until the expiration of the
5 term so fixed, after which the position held by each such executive officer,
6 executive employee, or board member shall be filled through appointment by
7 the board of directors, the appointees to hold at the will of the board.
8 However, in cities with the city manager form of government having a
9 population of more than one hundred thousand (100,000) persons, according to
10 the most recent federal decennial census, the appointments shall be made by
11 the mayor and appointees shall hold at the will of the mayor, if the mayor is
12 authorized to make the appointments by:

13 (a) The board of directors, by ordinance; or
14 (b) An initiated measure, adopted pursuant to
15 Arkansas Constitution, Amendment 7. If the authority is vested by an
16 initiated measure, the board of directors shall not have the power to rescind
17 the authority.

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

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

27
28 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
29 General Assembly of the State of Arkansas that Arkansas cities are faced with
30 ever-increasing problems of providing services to their citizens caused by a
31 combination of globalization, rapid technological change, rising citizen
32 expectations, mandates from higher levels of government, and a constrained
33 tax base which together have created a context in which more effective and
34 efficient methods of governance have become mandatory; and that this act is
35 immediately necessary to meet these needs and for the efficiency of
36 government. Therefore, an emergency is declared to exist and this act being

1 immediately necessary for the preservation of the public peace, health, and
2 safety shall become effective on:

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

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

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

9
10 */s/ D. Johnson*
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