

1 State of Arkansas
2 92nd General Assembly
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4

A Bill

HOUSE BILL 1875

5 By: Representative A. Davis
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING THE CITY MANAGER
9 FORM OF GOVERNMENT; AND FOR OTHER PURPOSES.
10

Subtitle

11 TO AMEND THE LAW CONCERNING THE CITY
12 MANAGER FORM OF GOVERNMENT.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code § 14-47-140 is amended to read as follows:

20 14-47-140. ~~Authorization for election concerning~~ Powers and duties of
21 mayor.

22 (a)(1) Any municipality organized and operating under the city manager
23 form of government may authorize the mayor of the municipality to have the
24 following duties and powers ~~if approved by the qualified electors of the~~
25 ~~municipality at an election called by the municipal board of directors by~~
26 ~~referendum~~ by ordinance or by a majority of the qualified electors of the
27 municipality by ~~initiative~~ petition:

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

30 (ii)(a) The municipal board of directors may
31 override the veto by a two-thirds vote of the number of members of the board.

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

35 (B) The power to appoint, subject to confirmation by a
36 majority of the members of the municipal board of directors, persons to fill



1 vacancies on any board, authority, or commission of the municipality;

2 (C)(i) The power to hire the city manager, ~~subject to the~~
 3 ~~approval of a majority of members of the municipal board of directors,~~ and to
 4 designate the city manager to serve in the mayor's stead on any board or
 5 commission that requires the service of the chief executive officer of the
 6 city.

7 (ii) The power to hire the city manager under
 8 subdivision (a)(1)(C)(i) of this section is subject to the approval of a
 9 majority of the members of the municipal board of directors or to the
 10 override of a three-fourths vote of the members of the municipal board of
 11 directors;

12 (D) The power to remove the city manager, subject to the
 13 approval of a majority of the members of the municipal board of directors or
 14 to the override of a three-fourths vote of the members of the municipal board
 15 of directors;

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

18 (F) The power to hire the city attorney, subject to the
 19 approval of a majority of members of the municipal board of directors or to
 20 the override of a three-fourths vote of the members of the municipal board of
 21 directors; and

22 (G) The power to remove the city attorney, subject to the
 23 approval of a majority of members of the municipal board of directors or to
 24 the override of a three-fourths vote of the members of the municipal board of
 25 directors.

26 (2) If the ordinance under subdivision (a)(1) of this section is
 27 adopted by a two-thirds vote of the members of the municipal board of
 28 directors or the petition under subdivision (a)(1) of this section is
 29 approved by a majority of the qualified electors of the municipality, the
 30 mayor shall have the powers and duties authorized under subdivision (a)(1) of
 31 this section.

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

35 (B) In municipalities that maintain district courts, the
 36 district court judge and the district court clerk shall be elected and

1 appointed in the manner prescribed by law.

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

6 (b) If called by ~~initiative~~ petition of the qualified electors of the
7 municipality, the special election under this section shall comply with the
8 following:

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

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

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

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

22 (A) The clerk of the city shall verify the number of
23 signatures and the authenticity of the signatures on the petition within ten
24 (10) days of the date they are filed;

25 (B) If there are insufficient signatures on the petition,
26 the petitioners shall not receive an extension for the petition; and

27 (C) If there is a sufficient number of signatures on the
28 petition but the clerk of the city is unable to verify the required number of
29 signatures and the authenticity of the signatures, then the petitioners shall
30 be given ten (10) days to provide a sufficient number of verified signatures.

31 (c) The proclamation submitting the question under subsection (a) of
32 this section to the qualified electors of the municipality shall be issued
33 within three (3) working days of the date the clerk of the city verifies the
34 number of signatures on the petition or within three (3) working days of the
35 date a referendum ordinance is passed by the municipal board of directors.

36 (d) The special election shall be held not less than thirty (30) days

1 nor more than one hundred twenty (120) days after the proclamation.

2 (e)(1) ~~If both a petition is filed by the qualified electors of the~~
3 ~~municipality and the number of signatures and the authenticity of the~~
4 ~~signatures are verified under subdivision (b)(4) of this section and a~~
5 ~~referendum ordinance is passed by the board of directors referring the~~
6 ~~question under subsection (a) of this section to the qualified electors of~~
7 ~~the municipality, the event that occurs last in time is moot and void.~~

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

12 (3)(2) Upon a declaration that a petition is sufficient and
13 first in time, then a petition filed after the first sufficient petition and
14 before the special election shall be deemed moot and shall be destroyed.

15 (f) If an election held under subsection (a) of this section results
16 in the adoption of the question under subsection (a) of this section, then
17 the adopted question shall not be presented again to the electors for a
18 period of four (4) years from the date of the election.

19 (g) If an election held under subsection (a) of this section results
20 in the failure to adopt the question under subsection (a) of this section,
21 then the failed question shall not be presented again to the electors for a
22 period of two (2) years from the date of the election.

23 (h) Notice of the election shall be given by the clerk of the city by
24 one (1) publication in a newspaper having general circulation within the city
25 not less than ten (10) calendar days before the election.

26 (i) Within thirty (30) calendar days after completion of the
27 tabulation of the votes, the mayor of the city shall proclaim the results of
28 the election by issuing a proclamation and publishing it one (1) time in a
29 newspaper having general circulation within the city.

30 (j) The results of the election as stated in the proclamation shall be
31 conclusive unless a suit contesting the proclamation is filed in the circuit
32 court in the county where the election took place within thirty (30) calendar
33 days after the date of publication of the proclamation.

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

1 (1) The mayor shall continue to be selected under § 14-61-111.

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

5

6 SECTION 2. Arkansas Code § 14-61-107 is amended to read as follows:

7 14-61-107. Methods of selecting directors.

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

11 (1) All members of the board of directors being elected ~~at-large~~
 12 at-large;

13 (2) An odd number of directors, including the mayor, with any
 14 combination of directors being elected at large and from wards, whether the
 15 position designated as mayor is appointed or directly elected;

16 (3) An odd number of directors, including the mayor, with any
 17 combination of directors being elected from wards and from larger designated
 18 districts that overlap wards, whether the position designated as mayor is
 19 appointed or directly elected;

20 ~~(3)~~(4) All members of the board of directors but one (1) being
 21 elected from wards, with one (1) member elected at large who shall be the
 22 mayor; or

23 ~~(4)~~(5) All members of the board of directors being elected from
 24 wards.

25

26 SECTION 3. Arkansas Code § 14-61-108 is amended to read as follows:

27 14-61-108. Designation of positions.

28 ~~If a A~~ city affected by this chapter ~~chooses to select some of its~~
 29 ~~members at large, it~~ shall provide for ~~their~~ election of the city's directors
 30 on the ballot as follows:

31 (1) If a city chooses to select all members of its board of
 32 directors at-large, or chooses to select all of its members by ward, each
 33 position shall be numbered sequentially and candidates shall file for a
 34 numbered position, e.g., Director Position 1, Director Position 2, etc.;

35 (2) If a city chooses to select some of its members of the board
 36 of directors by ward, each ward position shall be numbered sequentially

1 beginning with the number one (1) and candidates shall file for the numbered
 2 position, e.g., in a city with four (4) ward positions Director Ward 1,
 3 Director Ward 2, etc.;

4 (3) If a city chooses to select some members of the board of
 5 directors at-large, each at-large position for director shall be numbered
 6 sequentially beginning with the first number after the last designated ward
 7 position, and candidates shall file for the numbered position, e.g., Director
 8 Position 5, Director Position 6, etc.;

9 (4) If a city chooses to select some members of the board of
 10 directors from larger designated districts that overlap wards, each district
 11 position for director shall be numbered sequentially, beginning with the
 12 number one (1) and candidates shall file for the number position, e.g., in a
 13 city with four (4) district positions Director District 1, Director District
 14 2, etc.; and

15 ~~(4)~~(5) Notwithstanding the foregoing, if the city provides for
 16 the direct election of the mayor from an at-large position, candidates for
 17 the position of mayor shall file for the position entitled "Mayor".
 18

19 SECTION 4. Arkansas Code § 14-61-109 is amended to read as follows:
 20 14-61-109. Determination of ward and district positions.

21 ~~If a city affected by this chapter chooses to select some of its~~
 22 ~~members by ward, the ward~~ Ward positions and positions for larger designated
 23 districts that overlap wards shall be determined as follows:

24 (1) ~~The~~ If a city affected by this chapter chooses to select
 25 some of its members by ward, the governing body shall divide the territory of
 26 the city into the number of wards having substantially equal population,
 27 according to the most recently published federal decennial census of
 28 population in the city, equal to the number of members of the governing body
 29 to be elected from wards;

30 (2) If a city affected by this chapter chooses to select some of
 31 its members by larger designated districts that overlap wards, the governing
 32 body shall divide the territory of the city into the number of districts
 33 having substantially equal population, according to the most federal
 34 decennial census, equal to the number of members of the governing body to be
 35 elected from districts;

36 ~~(2)~~(3) The governing body shall complete its apportionment of

1 the respective districts or wards from which members of the governing body of
 2 the cities shall be elected and shall file it with the county clerk of the
 3 county and with the city clerk of the applicable city;

4 ~~(3)~~(4) The districts or wards so established, unless changed or
 5 modified by order of a court of competent jurisdiction or by ordinance
 6 approved by a two-thirds vote of the governing body of the city under § 14-
 7 61-107, shall be the districts or wards of the city from which each of the
 8 respective members of the governing body of the city are to be elected;

9 ~~(4)~~(5) Following each federal decennial census of population and
 10 following any special federal census of population within a particular city,
 11 if there has been a substantial change in the population of the districts and
 12 wards from the preceding federal census, the governing body shall reapportion
 13 the districts and wards in each city in the manner and procedure as provided
 14 in this ~~subsection~~ section from which the members of the governing body are
 15 to be elected; and

16 ~~(5)~~(6)(A) Notwithstanding the provisions of any other act,
 17 candidates for ward positions shall be residents of the ward they wish to
 18 represent, and candidates for district positions shall be residents of the
 19 district they wish to represent.

20 (B) Unless the electors choose otherwise, only those
 21 qualified electors residing in a ward may vote on a candidate from that ward.

22 (C) Unless the electors choose otherwise, all qualified
 23 electors of the city may vote on candidates for each larger designated
 24 district that overlaps a ward.

25
 26 SECTION 5. Arkansas Code § 14-61-111(b)(2)(B), concerning the
 27 selection of a mayor, is amended to read as follows:

28 (B) The minimum percentage necessary for election without
 29 a runoff shall be determined by ordinance approved by a two-thirds vote of
 30 the governing body ~~and~~ or referred to the electors for their approval.

31
 32 SECTION 6. Arkansas Code § 14-61-112 is amended to read as follows:

33 14-61-112. ~~Directors~~ Selection of directors and mayor ~~selected by~~
 34 ~~plurality vote.~~

35 (a) Unless special provisions for the position of mayor are
 36 implemented pursuant to § 14-61-111, the candidate for ~~any designated~~

1 ~~position on the board of directors of a city affected by this chapter,~~
 2 ~~including the mayor, who in any special or general election shall receive a~~
 3 ~~majority of the votes greater in number than those cast in favor of any other~~
 4 ~~another candidate for the position, shall be deemed to be elected.~~

5 (b) If special provisions for the election of the mayor are
 6 implemented pursuant to § 14-61-111, then those special provisions will
 7 control the election of the mayor, unless those special provisions are
 8 amended by ordinance approved by a two-thirds vote of the governing body of
 9 the city.

10 (c)(1) The candidate for a designated position on the board of
 11 directors of a city affected by this chapter who in a special or general
 12 election receives votes greater in number than those cast in favor of another
 13 candidate for the position and who receives at least forty percent (40%) of
 14 the votes cast, shall be deemed elected.

15 (2) Subdivision (c)(1) of this section may be amended by
 16 ordinance approved by a two-thirds vote of the governing body of the city or
 17 by the approval of a majority of the qualified electors of the municipality
 18 by petition.

19
 20 SECTION 7. Arkansas Code § 14-61-115(c), concerning the initial
 21 organization as a management form of government, is amended to read as
 22 follows:

23 (c) In the area of the ballot immediately below the questions set
 24 forth in subsection (a) of this section one (1) of the following explanations
 25 will be provided:

26 (1) For options where all directors are elected at large:

27 (A) A city manager government with a (number) member board
 28 of directors elected at large. The mayor shall be selected from among the
 29 directors; or

30 (B) A city manager government with a (number) member
 31 board of directors elected at large. The mayor shall be directly elected.

32 (2) For options where a majority of directors are elected from
 33 wards and the remaining directors are elected at large:

34 (A) A city manager government with (majority plus one)
 35 members of the board of directors from wards and (remaining number) members
 36 of the board of directors at-large. The mayor shall be selected from among

1 the directors.

2 (B) A city manager government with (majority plus one)
 3 members of the board of directors from wards and (remaining number) members
 4 of the board of directors at-large. The mayor shall be directly elected.

5 (3) For options in which the directors are elected from a
 6 combination of wards and from larger designated districts that overlap wards:

7 (A) A city manager form of government with (number)
 8 members of the board of directors from wards and (number) members of the
 9 board of directors from larger designated districts that overlap wards. The
 10 mayor shall be elected from among the directors.

11 (B) A city manager government with (number) members of the
 12 board of directors from wards and (number) members of the board of directors
 13 from larger designated districts that overlap wards. The mayor shall be
 14 directly elected.

15 ~~(3)~~(4) For options ~~where~~ in which all members of the board of
 16 directors are elected from wards, but the mayor is elected at large:

17 (A) A city manager government with a (number) member board
 18 of directors all elected from wards. The mayor shall be directly elected at
 19 large.

20 (B) If ~~and only if~~ a city affected by this chapter votes
 21 on an option under this subsection, then the following question shall also
 22 appear on the ballot:

23 FOR giving the mayor a veto power but no vote unless there is a tie ""
 24 AGAINST giving the mayor a veto power but no vote unless there is a tie ""

25 (C) Notwithstanding any other provision of this chapter,
 26 if the vote ~~pursuant to~~ under this subdivision (c)(4) to provide the mayor
 27 with a veto power is unsuccessful, the issue shall not be submitted again for
 28 a period of two (2) years after the date of the certification of the
 29 unsuccessful election.

30

31 SECTION 8. Arkansas Code § 14-61-116 is amended to read as follows:

32 14-61-116. Reorganization election by city with management form of
 33 government.

34 (a) A city affected by this chapter that is already organized under
 35 the management form of government shall hold a special election on petitions
 36 calling for a reorganization under this chapter in accordance with the

1 provisions of § 14-61-114 provided that, no special election shall be held on
2 the option already being utilized by the city.

3 (b) A city affected by this chapter that has held a special election
4 on petitions calling for a reorganization under this chapter may, by
5 ordinance approved by a two-thirds vote of the municipal board of directors:

6 (1) Choose a different method by which to select a municipal
7 board of directors under § 14-61-107; and

8 (2) Determine the minimum percentage a special candidate for
9 mayor shall receive in order to be elected without a runoff under § 14-61-
10 111.

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