

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
91st General Assembly
Regular Session, 2017

A Bill

HOUSE BILL 1734

By: Representative Lynch

For An Act To Be Entitled

AN ACT TO UPDATE LOCAL GOVERNMENT TERMINOLOGY
CONCERNING FORM OF GOVERNMENT; AND FOR OTHER
PURPOSES.

Subtitle

TO UPDATE LOCAL GOVERNMENT TERMINOLOGY
CONCERNING FORM OF GOVERNMENT.

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

SECTION 1. Arkansas Code § 14-37-110 is amended to read as follows:

14-37-110. Return of enumerators.

(a)(1) Before the enumerators shall enter upon their duties, they shall make and subscribe to an oath to well and faithfully perform their duties, and their return shall be taken as true.

(2)(A) However, the returns so made by the census enumerators shall be filed in the office of the mayor and shall be subject to examination of the public for thirty (30) days.

(B) Any correction ~~thereof~~ of the returns may be made if proper proof is made before the ~~board of aldermen to their~~ city or town council to its satisfaction authorizing the correction sought to be made.

(b) The enumerators shall be entitled to and receive two and one-half cents (2½¢) per name for all names found to be authentic by the ~~board of aldermen~~ city or town council, to be paid by the ~~town or~~ city or incorporated town.

SECTION 2. Arkansas Code § 14-38-113(a)(1), including the introductory



language of subsection (a), concerning reorganization of form of government, is amended to read as follows:

(a) When any municipality of this state is entitled by law to become reorganized under a different form of municipal government than that under which the municipality is operating, whether the form is the ~~aldermanic~~ mayor-council form of government, the city manager form of government, or the commission form of government, upon the approval of a majority of the qualified electors of the municipality voting on the issue at an election called therefor, an election to submit the question of becoming organized under any such form of municipal government shall be called and conducted in the manner provided in this section:

(1) When petitions ~~shall be~~ are filed with the mayor containing the signatures of qualified electors of the municipality equal in number to fifteen percent (15%) of the aggregate number of votes cast at the preceding general municipal election of all candidates for mayor in the case of a municipality operating under the ~~aldermanic~~ mayor-council form of government or the commission form of government, and for all candidates for the office of director for the director position for which the greatest number of votes were cast in the case of a municipality operating under the manager form of government, requesting that an election be called to submit the proposition of organizing the municipality under any other form of municipal government authorized by the laws of this state, a special election shall be called by the mayor by proclamation, to be held in accordance with § 7-11-201 et seq. The proclamation shall be published one (1) time at length in a newspaper having a general circulation in the municipality, and notice of the election shall be published in the newspaper one (1) time a week for two (2) weeks, with the first publication to be not less than fifteen (15) days before the date set for the election;

SECTION 3. Arkansas Code § 14-47-105(b), concerning governmental forms, is amended to read as follows:

(b) The form of government of a municipality operating under the control of a municipal council, ~~pursuant to~~ under either § 14-43-201 et seq. or § 14-44-101 et seq., is called the ~~aldermanic~~ mayor-council form of government.

SECTION 4. Arkansas Code § 14-47-107 is amended to read as follows:

14-47-107. Subsequent election on ~~aldermanic~~ mayor-council form of government.

(a)(1) After the expiration of six (6) years after the date on which the first board of directors takes office in a city organized under this chapter, a petition may be presented to the mayor. It shall be signed by electors equal in number to fifteen percent (15%) of the aggregate number of ballots cast for the position of mayor in the immediately preceding mayoral general election. Whereupon, the mayor by proclamation shall submit the question of organization of the city under the ~~aldermanic~~ mayor-council form of government at a special election to be held in accordance with § 7-11-201 et seq.

(2) The proclamation shall be published at length one (1) time in some newspaper published in the city. Notice of the election shall be published in some newspaper published in the city one (1) time a week for two (2) weeks, the first publication to be not less than fifteen (15) days before the date set for the election. No other notice of the election shall be necessary.

(b) If the plan is not adopted by a majority of the voters voting upon that issue at the special election called, the question of adopting the ~~aldermanic~~ mayor-council form of government shall not be resubmitted to the voters of the city for adoption within four (4) years thereafter. Then the question to adopt shall be resubmitted upon the presentation to the mayor of a petition signed by electors equal in number to fifteen percent (15%) of the aggregate number of votes cast for the position of mayor in the immediately preceding mayoral general election.

(c) At the special election for the submission or resubmission of the proposition, the ballots shall read:

“FOR the proposition to organize this city under the ~~aldermanic~~ mayor-council form of government

AGAINST the proposition to organize this city under the ~~aldermanic~~ mayor-council form of government”

(d)(1) The election thereupon shall be conducted, the votes canvassed,

and the result declared in the same manner as provided by law in respect to other city elections.

(2)(A) The county board of election commissioners shall certify the result to the mayor.

(B) The result shall be conclusive and not subject to attack unless suit is brought within thirty (30) days after the certification by the county board of election commissioners in the circuit court of the county in which the city is situated to contest the certification.

(e) If the majority of the votes cast on the issue ~~shall be~~ are in favor thereof, the city shall thereupon proceed to the election of all of the city officials who were subject to election in the city immediately prior to the date on which the city was organized under the management form of city government.

(f) If no suit is brought to contest the certification of the results of the election within the thirty-day period after the certification, the mayor shall file certificates stating that the proposition was adopted with the Secretary of State and county clerk of the county in which the city is situated.

(g)(1) The election of the city officials shall be held at the next time provided for the election of city officials under the statutes then in effect pertaining to the ~~aldermanic~~ mayor-council form of government pertaining to the class of cities to which the particular city belongs.

(2)(A) All laws pertaining to the ~~aldermanic~~ mayor-council form of government for such class of cities shall apply.

(B)(i) On the date as prescribed by such laws when newly elected city officials take office, the term of office of all members of the board of directors shall terminate, and the transition to the ~~aldermanic~~ mayor-council form of government shall be completed.

(ii) If, under the ~~aldermanic~~ mayor-council form of government, the terms of ~~aldermen~~ council members are staggered, determination shall be made by lot and the length of the terms fixed accordingly.

(h) The provisions of this section for converting to the ~~aldermanic~~ mayor-council form of government shall be in addition to the right to change to the ~~aldermanic~~ mayor-council or any other form of municipal government that may exist under present law.

(i)(1) When a municipality elects to adopt the ~~aldermanic~~ mayor-council form of government in the manner provided in this section, the question of reorganizing the municipality under the manager form shall not be submitted to the electors within a period of six (6) years, and thereafter only in the manner provided in § 14-47-106.

(2) If the qualified electors of the municipality do not approve the organization of the municipality under the manager form of government at the election, the proposition shall not again be submitted to the electors of the city for a period of four (4) years, and then only in the manner provided in § 14-47-106.

SECTION 5. Arkansas Code § 14-47-108(a)(2)(A), concerning effect of reorganization, is amended to read as follows:

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

SECTION 6. Arkansas Code § 14-47-120(4)(B)(i), concerning powers and duties of a city manager, is amended to read as follows:

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

SECTION 7. Arkansas Code § 14-47-120(10), concerning powers of a city manager, is amended to read as follows:

(10) He or she shall have all powers, except those involving the exercise of sovereign authority, which, under statutes applicable to municipalities under the ~~aldermanic~~ mayor-council form of government or under ordinances and resolutions of the city in effect at the time of its reorganization, may be vested in the mayor; and

SECTION 8. Arkansas Code § 14-47-133(b), concerning appointees, is amended to read as follows:

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

SECTION 9. Arkansas Code § 14-48-102(c), concerning savings provisions, is amended to read as follows:

(c) In cities having the commission form of government immediately preceding the adoption of the city administrator form of government, the board of directors elected under the authority of this chapter may organize or reorganize by ordinance duly adopted any municipal board, commission, authority, agency, or department ~~pursuant to the authority provided in~~ under the general laws of the state for municipalities having the ~~mayor-aldermanic~~ mayor-council form of government. However, no reorganization shall be lawful which impairs the validity of existing contracts.

SECTION 10. Arkansas Code § 14-48-104(a), concerning election on governmental organization, is amended to read as follows:

(a) When petitions ~~shall be~~ are filed with the county clerk containing the signatures of qualified electors of a municipality equal in number to fifteen percent (15%) of the aggregate number of votes cast at the preceding general municipal election for all candidates for mayor in cases ~~where~~ in which a municipality operates under the ~~aldermanic~~ mayor-council form of government or the commission form of government and, for all candidates for the office of director, then for the director position for which the greatest number of votes were cast in the case of a municipality operating under the city manager form of government, and the petition requests that an election be called to submit the proposition of organizing the municipality under the city administrator form of municipal government authorized by this chapter, then within ten (10) days after the filing of the petition, the county clerk shall certify to the Secretary of State the number of qualified electors whose signatures appear on the petitions.

SECTION 11. Arkansas Code § 14-48-106(a)(2)(A), concerning effect of reorganization, is amended to read as follows:

(A) The office of mayor and the offices of the members of

the city council in the case of the ~~mayor-aldermanic~~ mayor-council form of government, the office of mayor and the offices of the other members of the board of commissioners in the case of the commission form of government, and the office of the mayor, the board of directors, and the city manager in the case of the city manager form of government shall become vacant;

SECTION 12. Arkansas Code § 14-48-117(4), concerning powers and duties of a city administrator, is amended to read as follows:

(4)(A) He or she shall nominate, subject to confirmation by the board, persons to fill all vacancies at any time occurring in any office, employment, board, authority, or commission to which the board's appointive power extends.

(B)(i) He or she may remove from office all officials and employees, including, ~~but not limited to~~ without limitation, members of any board, authority, or commission who, under existing or future laws, whether applicable to cities under the ~~aldermanic~~ mayor-council, manager, or commission form of government, may be removed by the city's legislative body.

(ii)(a) Removal by the city administrator shall be approved by the board.

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

(C) ~~However, the provisions of this subdivision (4) shall have no application~~ does not apply to offices and employments controlled by any civil service or merit plan lawfully in effect in the city;

SECTION 13. Arkansas Code § 14-48-117(10), concerning powers and duties of a city administrator, is amended to read as follows:

(10) He or she shall have all powers except those involving the exercise of sovereign authority, which under statutes applicable to municipalities under the ~~aldermanic~~ mayor-council form of government or under ordinances and resolutions of the city in effect at the time of its reorganization may be vested in the mayor;

SECTION 14. Arkansas Code § 14-48-120(f), concerning board meetings, is amended to read as follows:

(f) All laws in effect on February 2, 1967, regarding the proceedings of the city council of a city operating under the ~~mayor-aldermanic~~ mayor-council form of government and not inconsistent with the provisions of this chapter, including those laws prescribing the procedure for the adoption, enactment, and publication of ordinances and resolutions, shall govern the proceedings of the board provided for in this section.

SECTION 15. Arkansas Code § 14-186-402 is amended to read as follows:
14-186-402. Definitions.

As used in this subchapter, ~~unless the context otherwise requires:~~

~~(1) "Municipality" means any city of the first or second class, or any incorporated town in the State of Arkansas;~~

~~(2) "Mayor" means the mayor of municipalities having the mayor-aldermanic form of government and the presiding officer of municipalities having a commission or other form of government;~~

~~(3) "Legislative body" means the council of municipalities having the mayor-aldermanic form of government and the commission, or other governing body, of municipalities having a commission or other form of government;~~

(1) "Legislative body" means the council of municipalities having the mayor-council form of government and the commission, or other governing body, of municipalities having a commission or other form of government;

(2) "Mayor" means the mayor of municipalities having the mayor-council form of government and the presiding officer of municipalities having a commission or other form of government;

(3) "Municipality" means a city of the first class, a city of the second class, or an incorporated town in the State of Arkansas; and

(4) "Port" means ports, harbors, and river-rail barge terminals, together with wharves, docks, piers, quays, elevators, compresses, refrigeration storage plants, warehouses, landing places and basins, and other structures, and ~~any and~~ all facilities needful for the convenient use of them, including:

(A) The dredging of approaches to them and the

construction of belt line roads and highways and bridges and causeways on them;

(B) Other bridges and causeways necessary or useful in connection with them; and

(C) Shipyards, shipping facilities, and transportation facilities incident to them and useful or convenient for the use of them, including terminal railroads, in their entirety, or any integral part of them.

SECTION 16. Arkansas Code § 14-234-501 is amended to read as follows:
14-234-501. Definitions.

As used in this subchapter, ~~unless the context requires otherwise:~~

~~(1) "Municipality" means any city of the first or second class or any incorporated town in the State of Arkansas;~~

~~(2) "Waterworks system" means and includes the waterworks system in its entirety or any integral part thereof including mains, hydrants, meters, valves, standpipes, storage tanks, pumping plants, intakes, wells, impounding reservoirs, or purification plants;~~

~~(3) "Mayor" means the mayor of municipalities having the mayor-aldermanic form of government and the presiding officer of municipalities having a commission or other form of government;~~

~~(4) "Net revenues" means the revenues of the waterworks system remaining after the payment of the reasonable costs of operation, repair, maintenance, and depreciation~~

(1) "Mayor" means the mayor of municipalities having the mayor-council form of government and the presiding officer of municipalities having a commission or other form of government;

(2) "Municipality" means a city of the first class, a city of the second class, or an incorporated town in the State of Arkansas;

(3) "Net revenues" means the revenues of the waterworks system remaining after the payment of the reasonable costs of operation, repair, maintenance, and depreciation; and

(4) "Waterworks system" means and includes the waterworks system in its entirety or any integral part thereof, including mains, hydrants, meters, valves, standpipes, storage tanks, pumping plants, intakes, wells, impounding reservoirs, or purification plants.

SECTION 17. Arkansas Code § 14-301-114(a), concerning certain deeds, is amended to read as follows:

(a) All deeds or conveyances of any street, alley, or public ground, or any portion of streets, alleys, or public grounds, executed by any city of the first class, city of the second class, or incorporated town in the State of Arkansas, conveying all or any portion of the street, alley, or public ground which before the making of the deed had been dedicated to public use, and made by authority of the city or town council ~~or board of aldermen~~ of the city or incorporated town named as grantor in the deed, prior to 1960, shall be validated.

SECTION 18. Arkansas Code § 26-77-102(a), concerning license taxes, is amended to read as follows:

(a) Any city council, or board of commissioners, ~~or board of aldermen~~ of any municipal corporation in this state shall have the power to enact by a two-thirds ~~(2/3)~~ vote of all members elected thereto ordinances requiring any person, firm, individual, or corporation ~~who~~ that shall engage in, carry on, or follow any trade, business, profession, vocation, or calling, within the corporate limits of the city or town, to pay a license fee or tax, except such persons, firms, individuals, or corporations ~~who~~ that pay a tax to the city, town, or state on gross incomes or premium incomes and except their agents.

SECTION 19. Arkansas Code § 26-77-103(a), concerning liability, is amended to read as follows:

(a) In ascertaining the persons, firms, individuals, or corporations liable to pay license for the privilege of engaging in any trade, business, profession, vocation, or calling in any city or town, the city council, or board of commissioners, ~~or board of aldermen~~ may be governed by the list of persons, firms, individuals, or corporations as shown by the latest records of the county assessor of the county where the city or town is situated.

SECTION 20. Arkansas Code § 26-77-105(a), concerning rules and regulations, is amended to read as follows:

(a) The city council, or board of commissioners, ~~or board of aldermen~~

of any city or town by ordinance shall provide all rules and regulations for the payment of a license for the privilege of engaging in any trade, business, profession, vocation, or calling in the city or town.