

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

State of Arkansas
92nd General Assembly
Regular Session, 2019

As Engrossed: H3/28/19
A Bill

HOUSE BILL 1875

By: Representative A. Davis

For An Act To Be Entitled

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

Subtitle

TO AMEND THE LAW CONCERNING THE CITY
MANAGER FORM OF GOVERNMENT.

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

SECTION 1. Arkansas Code § 14-47-140 is amended to read as follows:

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

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

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

(ii)(a) The municipal board of directors may override the veto by a two-thirds 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 quorum for the conduct of business;

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



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

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

(ii) The power to hire the city manager under subdivision (a)(1)(C)(i) of this section is subject to:

(a) The approval of a majority of the members of the municipal board of directors; or

(b) Override by a two-thirds vote of the members of the municipal board of directors;

(D) ~~The power to remove the city manager, subject to the approval:~~

(i) The approval of a majority of the members of the municipal board of directors; or

(ii) Override by a two-thirds vote of the members of the municipal board of directors;

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

(F) ~~The power to hire the city attorney, subject to the approval:~~

(i) The approval of a majority of the members of the municipal board of directors; or

(ii) Override by a two-thirds vote of the members of the municipal board of directors; and

(G) ~~The power to remove the city attorney, subject to the approval:~~

(i) The approval of a majority of the members of the municipal board of directors; or

(ii) Override by a two-thirds vote of the members of the municipal board of directors.

(2) If the ordinance under subdivision (a)(1) of this section is adopted by a two-thirds vote of the members of the municipal board of directors or the petition under subdivision (a)(1) of this section is approved by a majority of the qualified electors of the municipality, the

mayor shall have the powers and duties authorized under subdivision (a)(1) of this section.

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

(B) In municipalities that maintain district courts, the district court judge and the district court clerk shall be elected and appointed in the manner prescribed by law.

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

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

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

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

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

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

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

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

(C) If there is a sufficient number of signatures on the petition but the clerk of the city is unable to verify the required number of signatures and the authenticity of the signatures, then the petitioners shall

be given ten (10) days to provide a sufficient number of verified signatures.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14-61-107. Methods of selecting directors.

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

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

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

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

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

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

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

14-61-108. Designation of positions.

~~If a~~ A city affected by this chapter ~~chooses to select some of its members at large, it~~ shall provide for ~~their~~ election of the city's directors

on the ballot as follows:

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

(2) If a city chooses to select some of its members of the board of directors by ward, each ward position shall be numbered sequentially beginning with the number one (1) and candidates shall file for the numbered position, e.g., in a city with four (4) ward positions Director Ward 1, Director Ward 2, etc.;

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

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

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

SECTION 4. Arkansas Code § 14-61-109 is amended to read as follows:

14-61-109. Determination of ward and district positions.

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

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

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

~~(2)~~(3) The governing body shall complete its apportionment of the respective districts or wards from which members of the governing body of the cities shall be elected and shall file it with the county clerk of the county and with the city clerk of the applicable city;

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

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

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

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

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

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

(B) The minimum percentage necessary for election without a runoff shall be determined by ordinance approved by a two-thirds vote of

the governing body ~~and~~ or referred to the electors for their approval.

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

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

(a) Unless special provisions for the position of mayor are implemented pursuant to § 14-61-111, the candidate for ~~any designated position on the board of directors of a city affected by this chapter, including the~~ mayor, who in any special or general election shall receive a majority of the votes greater in number than those cast in favor of any other another candidate for the position, shall be deemed to be elected.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) A city affected by this chapter that is already organized under the management form of government shall hold a special election on petitions calling for a reorganization under this chapter in accordance with the provisions of § 14-61-114 provided that, no special election shall be held on the option already being utilized by the city.

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

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

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

/s/A. Davis