

1 SB5
2 125780-1
3 By Senator Brewbaker
4 RFD: Governmental Affairs
5 First Read: 05-FEB-13
6 PFD: 07/09/2012

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8 SYNOPSIS: Under existing law, Section 11-44G-2 of the
9 Code of Alabama 1975, relates to Class 7 and 8
10 municipalities, which generally applies by class to
11 municipalities with less than 12,000 inhabitants
12 according to the 1970 federal census, and to
13 municipalities incorporated after 1979 under
14 certain conditions. Section 11-44G-2 provides that
15 vacancies in the office of mayor are filled by
16 appointment of the council, or, if the council does
17 not act, by appointment of the Governor or by a
18 special election. A potential conflict exists in
19 the procedure for filling the vacancy in the office
20 of mayor in Class 7 or 8 municipalities having
21 12,000 or more inhabitants according to the most
22 recent federal decennial census. Section
23 11-43-42(a) of the Code of Alabama 1975, provides
24 that in municipalities having a population of
25 12,000 or more, absences and vacancies in the

1 office of mayor are filled by the council
2 president.

3 This bill would specify that Section
4 11-44G-2 would not apply to municipalities which
5 have a population of 12,000 or more. The council
6 president would succeed to any vacancy in the
7 office of mayor in these municipalities as provided
8 in Section 11-43-42(a).

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10 A BILL
11 TO BE ENTITLED
12 AN ACT

13
14 Relating to municipalities; to amend Section
15 11-44G-2 of the Code of Alabama 1975, relating to the filling
16 of a vacancy in the office of mayor in Class 7 and 8
17 municipalities; to provide that this section would not apply
18 to vacancies in the office of mayor in municipalities having a
19 population of 12,000 or more inhabitants according to the most
20 recent federal decennial census, which would fill vacancies in
21 the office of mayor pursuant to Section 11-43-42(a), Code of
22 Alabama 1975, providing that the council president shall
23 succeed the mayor in the event of a vacancy in the office of
24 mayor.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 11-44G-2 of the Code of Alabama
2 1975, is amended to read as follows:

3 "§11-44G-2.

4 "(a) (1) In the event of the absence or disability of
5 the mayor in any Class 7 or Class 8 municipality, the
6 functions of the office shall be exercised by the chair pro
7 tempore of the city council and, during his or her absence or
8 disability, by such person as the city council may appoint
9 from its membership, which appointment shall be entered upon
10 the minutes of the city council.

11 "(2) In the event of a vacancy from any cause in the
12 office of mayor, the city council shall fill the vacancy
13 either from its own membership or from without the membership
14 of the city council. The person elected by the city council to
15 fill the vacancy in the office of mayor shall be a qualified
16 elector in the municipality and shall meet all other legal
17 qualifications required by law for the performance of the
18 duties of the office to which elected.

19 "(3)a. In the event a vacancy in the office of mayor
20 is not filled within 60 days after it occurs in a Class 7 or
21 Class 8 municipality, each existing city council member may
22 submit a name to the Governor for appointment. If the Governor
23 fails to make an appointment from any submitted names within
24 90 days after the vacancy occurs, the judge of probate shall
25 call a special election to fill the vacancy.

1 "b. In the event the Governor is unable or unwilling
2 to make the appointment within the time period provided, he or
3 she shall immediately notify the judge of probate of the
4 county.

5 "c. Any election called pursuant to this section
6 shall be conducted pursuant to Chapter 46 of this title.

7 "d. In the event more than one vacancy exists in the
8 office of city council member or in the office of mayor, or
9 both, all vacancies shall be filled in the same manner.

10 " (4) In any election held pursuant to this
11 subsection, only qualified electors who are residents of the
12 municipality shall be eligible to vote and shall present proof
13 of identification to the pollworkers before casting a vote.
14 The identification may be in the form of a valid Alabama
15 driver's license or some other form of identification that
16 confirms a permanent address in the city where the vote is to
17 be cast. Other forms of identification may include, but are
18 not limited to, a credit card, birth certificate, food stamp
19 card, Social Security card, check cashing card, library card,
20 passport, school record, work identification record, school
21 identification, certified copy of a marriage license, any form
22 of governmentally-issued identification, or Medicaid,
23 Medicare, or welfare identification.

24 "(b) This section shall not apply to cities
25 operating under commission form of government.

1 "(c) This section shall not apply to Class 7 or 8
2 municipalities which have a population of 12,000 or more
3 inhabitants according to the most recent federal decennial
4 census. These municipalities shall fill vacancies in the
5 office of mayor pursuant to subsection (a) of Section
6 11-43-42."

7 Section 2. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.