

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

HOUSE BILL 1734

5 By: Representative Lynch
6

For An Act To Be Entitled

8 AN ACT TO UPDATE LOCAL GOVERNMENT TERMINOLOGY
9 CONCERNING FORM OF GOVERNMENT; AND FOR OTHER
10 PURPOSES.
11

Subtitle

12 TO UPDATE LOCAL GOVERNMENT TERMINOLOGY
13 CONCERNING FORM OF GOVERNMENT.
14

15
16
17
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

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

21 14-37-110. Return of enumerators.

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

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

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

31 (b) The enumerators shall be entitled to and receive two and one-half
32 cents (2½¢) per name for all names found to be authentic by the ~~board of~~
33 ~~aldermen~~ city or town council, to be paid by the ~~town or~~ city or incorporated
34 town.
35

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



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

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

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

29
30 SECTION 3. Arkansas Code § 14-47-105(b), concerning governmental
31 forms, is amended to read as follows:

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

36

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,

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

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

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

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

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

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

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

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

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

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

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

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

11
12 SECTION 5. Arkansas Code § 14-47-108(a)(2)(A), concerning effect of
13 reorganization, is amended to read as follows:

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

18
19 SECTION 6. Arkansas Code § 14-47-120(4)(B)(i), concerning powers and
20 duties of a city manager, is amended to read as follows:

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

26
27 SECTION 7. Arkansas Code § 14-47-120(10), concerning powers of a city
28 manager, is amended to read as follows:

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

34
35 SECTION 8. Arkansas Code § 14-47-133(b), concerning appointees, is
36 amended to read as follows:

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

5
6 SECTION 9. Arkansas Code § 14-48-102(c), concerning savings
7 provisions, is amended to read as follows:

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

16
17 SECTION 10. Arkansas Code § 14-48-104(a), concerning election on
18 governmental organization, is amended to read as follows:

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

33
34 SECTION 11. Arkansas Code § 14-48-106(a)(2)(A), concerning effect of
35 reorganization, is amended to read as follows:

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

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

6
 7 SECTION 12. Arkansas Code § 14-48-117(4), concerning powers and duties
 8 of a city administrator, is amended to read as follows:

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

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

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

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

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

28
 29 SECTION 13. Arkansas Code § 14-48-117(10), concerning powers and
 30 duties of a city administrator, is amended to read as follows:

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

36

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

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

9
 10 SECTION 15. Arkansas Code § 14-186-402 is amended to read as follows:
 11 14-186-402. Definitions.

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

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

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

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

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

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

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

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

36 (A) The dredging of approaches to them and the

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

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

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

9
 10 SECTION 16. Arkansas Code § 14-234-501 is amended to read as follows:
 11 14-234-501. Definitions.

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

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

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

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

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

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

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

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

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

1
2 SECTION 17. Arkansas Code § 14-301-114(a), concerning certain deeds,
3 is amended to read as follows:

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

12
13 SECTION 18. Arkansas Code § 26-77-102(a), concerning license taxes, is
14 amended to read as follows:

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

24
25 SECTION 19. Arkansas Code § 26-77-103(a), concerning liability, is
26 amended to read as follows:

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

33
34 SECTION 20. Arkansas Code § 26-77-105(a), concerning rules and
35 regulations, is amended to read as follows:

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

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

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36