

1 SB19
2 168393-2
3 By Senator Ward
4 RFD: Constitution, Ethics and Elections
5 First Read: 03-MAR-15
6 PFD: 02/03/2015

1 SB19

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4 ENROLLED, An Act,

5 Relating to municipal elections conducted pursuant
6 to Chapter 46 of Title 11, Code of Alabama 1975; to amend
7 Section 11-46-32, Code of Alabama 1975, to change the deadline
8 requirement for delivery of absentee election supplies from 21
9 days to 35 days prior to the election date; to amend Section
10 11-46-33, Code of Alabama 1975, to distinguish the term voting
11 machines from electronic vote counting systems as defined in
12 Title 17, Code of Alabama 1975; and to amend Section 11-46-55,
13 Code of Alabama 1975, to provide the procedure to establish
14 the winner of a municipal election in the event of a tie after
15 the runoff election.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 11-46-32, 11-46-33, and
18 11-46-55, Code of Alabama 1975, are amended to read as
19 follows:

20 "§11-46-32.

21 "(a) The mayor or other chief executive officer of
22 the municipality shall at the expense of the municipality
23 procure and superintend and insure the delivery to the
24 election officers at each polling place within the corporate
25 limits of the municipality of the necessary election supplies

1 and shall also procure and deliver or cause to be delivered to
2 the municipal clerk ~~not less than 21 days prior to the holding~~
3 ~~of any election to which this article pertains~~ a sufficient
4 number of the absentee ballots and the envelopes therefor
5 prescribed by general laws and other supplies needed for the
6 handling of absentee ballots in such election in the manner
7 prescribed by general law. In the event the municipal clerk is
8 a candidate in the election, he shall immediately upon receipt
9 of the absentee ballots and other supplies deliver the same to
10 the person appointed pursuant to Section 11-46-55 to act in
11 his stead.

12 "(b) When paper ballots are used, such supplies
13 shall consist of: At least 100 ballots for each 50 registered
14 electors at each voting place; the same number of black seals,
15 two inches square, around the outer edge of which is a
16 mucilaginous surface one-fourth inch wide, so designed that a
17 seal may be placed securely over the square bearing the ballot
18 number in such manner that it will make it impossible to read
19 such number without removing the seal yet such seal may be
20 removed without obliterating the number; ballot boxes; blank
21 poll lists; three or more cards of instructions to voters for
22 each ward or voting district, which shall be printed in large
23 clear type and shall contain full instructions to electors as
24 to what should be done, first, to obtain ballots for voting,
25 second, to prepare the ballot for deposit in the ballot box,

1 third, to obtain a new ballot in place of one accidentally
2 spoiled and, fourth, to obtain a watcher for each candidate to
3 be voted for; certificates of results; oaths; and any other
4 stationery, blank forms, or supplies necessary in the conduct
5 of the election.

6 "(c) When voting machines are used, such supplies
7 shall consist of: Ballot labels; diagrams; blanks for keeping
8 a record of assisted voters; seals; blank forms for a
9 statement of canvass of the votes cast on each machine, such
10 forms to conform to the type of voting machine to be used and
11 the designating number and letter if the construction of the
12 machine is such as to require a designating number and letter
13 of each candidate (or proposition) to be printed next to the
14 candidate's name on the statement of canvass; and all other
15 necessary election supplies for use on voting machines.

16 "§11-46-33.

17 "(a) Whenever voting machines are to be used in any
18 municipal election the municipal clerk shall:

19 "(1) Cause the proper ballot labels to be placed on
20 the voting machines;

21 "(2) Cause the machines to be placed in proper
22 working order for voting;

23 "(3) Examine all voting machines in the presence of
24 authorized watchers for any interested persons before they are
25 sent out to the polling places;

1 "(4) See that all the registering counters are set
2 at zero;

3 "(5) Lock, in the presence of authorized watchers,
4 all voting machines so that the counting machinery cannot be
5 operated; and

6 "(6) Seal each one with a numbered seal, a list of
7 which numbered seals and the number on the protective
8 counters, together with the number of the voting place to
9 which it was sent shall be kept as a permanent record in such
10 clerk's office, open to any citizen.

11 "(b) The inspection and sealing of voting machines
12 shall begin not later than 9:00 A.M., of the Monday before any
13 election at which such machines are to be used and shall
14 continue until all machines are sealed. When all machines are
15 locked and sealed, the key to each machine shall be placed in
16 an envelope and sealed, the signature of the municipal clerk
17 and the signature of two watchers of opposed interest (if such
18 there shall be) shall be placed across the seal, and on the
19 envelope shall be written the number then on the protective
20 counter and the number on the seal of the voting machines.
21 This envelope shall be delivered to the election inspector who
22 will serve as an election officer at the polling place where
23 such machine is used.

24 "(c) It shall be the duty of the municipal clerk to
25 see that a voting machine or machines, together with an

1 instruction model for each machine showing a portion of the
2 face of such machine in use at such election, is delivered to
3 each and every polling place where machines are required by
4 law to be used at least one hour before the time set for
5 opening the polls in such ward. After the machine has been
6 delivered, the clerk shall cause such machine to be set up in
7 the proper manner and cause protection to be given so that
8 such machine shall be free from molestation and injury. The
9 protective curtains shall be examined to see that they
10 properly conceal the actions of the voter while such voter is
11 operating the machine. All poll lists and necessary supplies
12 shall be delivered to the inspector at the same time the key
13 or keys to the machine are delivered.

14 "(d) Except as otherwise provided by law, the term
15 voting machines, as used in this title, shall not include
16 electronic vote counting systems as defined in Title 17.

17 "§11-46-55.

18 "(a) Commencing at 12:00 noon on the first Tuesday
19 next after the election, the municipal governing body shall
20 proceed to open the envelopes addressed to the governing body
21 which have been delivered by the several returning officers to
22 the municipal clerk, canvass the returns, and ascertain and
23 determine the number of votes received by each candidate and
24 for and against each proposition submitted at the election. If
25 it appears that any candidate or any proposition in the

1 election has received a majority of the votes cast for that
2 office or on that question, the municipal governing body shall
3 declare the candidate elected to the office or the question
4 carried, and a certificate of election shall be given to the
5 persons by the municipal governing body or a majority of them,
6 which shall entitle the persons so certified to the possession
7 of their respective offices immediately upon the expiration of
8 the terms of their predecessors as provided by law. If the
9 certification results of provisional ballots cast at the
10 election have been received from the board of registrars prior
11 to the first Tuesday next after the election, or if no
12 provisional votes were cast in the election, the municipal
13 governing body, at any special or regular meeting, may canvas
14 the results before the first Tuesday next after the election.

15 "(b) If a single office is to be filled at the
16 election and there is more than one candidate therefor, then
17 the majority of the votes cast for the office in the election
18 shall be ascertained by dividing the total votes cast for all
19 candidates for the office by two, and any number of votes in
20 excess of one half of the total votes cast for all candidates
21 for the office shall be a majority within the meaning of
22 subsection (a).

23 "(c) If two or more offices constituting a group are
24 to be filled and there are more candidates for election than
25 there are offices, then the majority of the votes cast for the

1 office in the election shall be ascertained by dividing the
2 total vote cast for all candidates for the offices by the
3 number of positions to be filled and then dividing the result
4 by two. Any number of votes in excess of the number
5 ascertained by the last division shall be the majority
6 prescribed in subsection (a) as necessary for election. If in
7 ascertaining the result in this way it appears that more
8 candidates have obtained this majority than there are
9 positions to be filled, then those having the highest vote, if
10 beyond the majority just defined, shall be declared elected to
11 fill such positions.

12 "(d) If no candidate receives a majority of all the
13 votes cast in such election for any one office or offices for
14 the election to which there were more than two candidates,
15 then the municipal governing body shall order a second or
16 runoff election to be held on the sixth Tuesday next
17 thereafter following the regular election, at which election
18 the two candidates having received the most and the second
19 most votes, respectively, shall be candidates, and the person
20 receiving the highest number of votes for that office in the
21 runoff election shall be declared elected. If only two
22 candidates are standing for election for any one office or
23 offices and neither candidate receives a majority, then the
24 municipal governing body shall order a second or runoff
25 election to be held on the sixth Tuesday next thereafter

1 following the regular election, at which election the two
2 candidates shall be candidates, and the person receiving the
3 highest number of votes for that office in the runoff election
4 shall be declared elected. In the event one of the candidates
5 for a particular office in the runoff election withdraws, then
6 there need not be a second election to fill the office nor
7 shall the name of either the party so withdrawing or the
8 remaining candidate be printed on the ballot of any second
9 election held under this article. This second election shall
10 be held by the same election officers who held the first
11 election and at the same places the first election was held.
12 If there should be a tie vote cast at any runoff election,
13 then in that event the tie shall be decided by the municipal
14 governing body no later than 12:00 noon on the first Tuesday
15 following the second or runoff election. A vote for a
16 particular candidate by a majority of those members eligible
17 to vote of the governing body shall be necessary to decide the
18 election in his or her favor. If the municipal governing body
19 fails to break the tie, the elected candidate shall be decided
20 by lot by the judge of probate of the county no later than
21 5:00 P.M. on the first Tuesday following the second or runoff
22 election in the presence of the candidates and other electors
23 who choose to be present. No probate judge who openly
24 participated in the promotion of candidates in the election
25 which resulted in a tie shall decide the outcome of said

1 election and shall be disqualified to do so. The presiding
2 circuit court judge in the county in which the election was
3 held shall replace the disqualified probate judge and shall
4 conduct the duties required herein. The municipal clerk shall
5 file a copy of each certificate of election in the office of
6 the judge of probate of the county in which the city or town
7 is situated, and the judge shall file the certificate in the
8 same manner that he or she files the declaration of the result
9 of elections to county offices."

10 Section 2. This act shall become effective
11 immediately following its passage and approval by the
12 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB19

Senate 28-APR-15

I hereby certify that the within Act originated in and passed the Senate, as amended.

Senate 19-MAY-15

I hereby certify that the within Act originated in and passed the Senate, as amended by Conference Committee Report.

Patrick Harris
Secretary

House of Representatives

Passed: 21-APR-15, as amended

House of Representatives

Passed: 19-MAY-2015, as amended by Conference Committee Report.

By: Senator Ward