

1 HB139
2 89736-5
3 By Representative Lindsey
4 RFD: County and Municipal Government
5 First Read: 06-MAR-07
6 PFD: 03/05/2007

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ENROLLED, An Act,

To amend Sections 11-1-8, 11-3-1, 11-3-2, 11-3-3, 11-3-7, 11-3-8, 11-3-18, 11-3-20, 11-3-21, 11-3-22, 11-8-3, 11-8-9, and 11-8-10, Code of Alabama 1975, relating to the creation and operation of county commissions to provide further for the election and appointment of county commissioners; to clarify existing provisions related to the term of office and first meeting of county commissions following an election; to establish a quorum for county commissions; to provide for the duties of the chair; to provide for the election and duties of a vice chair; to provide for the employment and duties of a chief administrative officer; to provide procedures for adopting the county budget; to make technical changes regarding the duties and procedures of county commissions; and to repeal Sections 11-3-6, 11-3-13, 11-3-19, 11-3-23, 11-3-24, 11-3-26, 11-8-7, 11-8-8, 11-8-13, and 11-8-14 of the Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 11-1-8, ~~11-1-9~~, 11-3-1, 11-3-2, 11-3-3, 11-3-7, 11-3-8, 11-3-18, 11-3-20, 11-3-21, 11-3-22, 11-8-3, 11-8-9, and 11-8-10, Code of Alabama 1975, are amended to read as follows:

"§11-1-8.

1 "The county commission of any county in the state of
 2 Alabama may by resolution ~~authorize~~ close the offices of the
 3 ~~officials of the county located in the county courthouse or~~
 4 ~~other county buildings to be closed all day one weekday or any~~
 5 ~~portion thereof of each week in addition to~~ on legal holidays
 6 set pursuant to Section 1-3-8, or for special circumstances
 7 deemed necessary or appropriate. ~~If such a resolution is~~
 8 ~~adopted, notice thereof~~ Notice of the closing shall be posted
 9 at the courthouse ~~door~~ and shall be published otherwise in
 10 ~~such~~ the manner as the county commission may direct. In the
 11 event that any documents required to be filed by a time
 12 certain deadline cannot be filed in a timely manner due to the
 13 closing of an office under this section, the deadline for
 14 filing shall be extended to the date that the office is
 15 reopened as provided in Section 1-1-4.

16 ~~"1-1-9.~~

17 ~~"(a) Any law to the contrary notwithstanding, the~~
 18 ~~county commission of any county of the state of Alabama may,~~
 19 ~~in its discretion, defray the costs of defending any lawsuit~~
 20 ~~brought against any county official when such lawsuit is based~~
 21 ~~upon and grows out of the performance by said the official of~~
 22 ~~any duty in connection with his or her office and does not~~
 23 ~~involve a willful or wanton personal tort or a criminal~~
 24 ~~offense committed by the official. The expenses of defending~~
 25 ~~such litigation may include witness fees, transportation, toll~~

1 ~~and ferry expenses of witnesses, attorney's fees, court costs,~~
 2 ~~and any other cost in connection with the defense of said the~~
 3 ~~litigation. The county commission shall not be responsible for~~
 4 ~~payment or reimbursement of any costs incurred by a public~~
 5 ~~official who brings an action against the county commission.~~

6 ~~"(b) If any county has expended money for the~~
 7 ~~purposes set out in subsection (a) of this section, such~~
 8 ~~expenditure is hereby validated and shall not be charged back~~
 9 ~~to the official making such payment nor shall the person who~~
 10 ~~received such payment be liable for any reimbursement of same.~~

11 ~~"§11-3-1.~~

12 ~~"(a) Any person who is a qualified elector of the~~
 13 ~~county and has resided in the county for at least one year~~
 14 ~~prior to the date upon which he or she would take office is~~
 15 ~~eligible to seek office as county commissioner. In counties~~
 16 ~~where the county commissioners represent a certain district,~~
 17 ~~any person seeking office as county commissioner shall be a~~
 18 ~~qualified elector of and reside within the district which he~~
 19 ~~or she seeks to represent upon election or appointment for at~~
 20 ~~least one year prior to the date that he or she would take~~
 21 ~~office. Notwithstanding the foregoing, the one-year residency~~
 22 ~~requirement provided above shall not apply to the first~~
 23 ~~election following any redistricting of county commission~~
 24 ~~districts in a county. Any person serving as county~~
 25 ~~commissioner, at all times while in office, shall meet the~~

1 qualified elector and residency requirements set out herein,
2 and in the case of a district commissioner shall reside in the
3 district as it existed at the time of his or her election.

4 "(b) Any Unless a local law authorizes a special
5 election, any vacancy on the county commission shall be filled
6 by appointment by the Governor. If the appointment occurs at
7 least 30 days before the closing of party qualifying as
8 provided in Section 17-16-11, the person appointed to the
9 vacated office shall only serve until seven days after the
10 next general election following the appointment as provided
11 herein. The person so appointed to fill the vacancy shall meet
12 the residency requirements in subsection (a), and shall hold
13 office from the date of appointment until the eighth day
14 following the next general election. If the original term in
15 which the vacancy occurred would not have expired on the
16 eighth day following the next general election after the
17 appointment, the person elected at the election required by
18 operation of this subsection shall serve for a period of time
19 equal to the remainder of the term in which the vacancy was
20 created. Thereafter, election for the county commission seat
21 shall be as otherwise provided by law.

22 "~~(a)~~(c) Unless otherwise provided by local law, by
23 court order, or governed by Section 11-80-12, and as otherwise
24 provided in subsection ~~(b)~~(d), there shall be in every county
25 a county commission, composed of the judge of probate, who

1 shall serve as chairman, and four commissioners, who shall be
2 elected at the time prescribed by law and shall hold office
3 for four years until their successors are elected and
4 qualified.

5 ~~"(b)(d) Beginning with the next term of office for~~
6 ~~each county commissioner, the term~~ Notwithstanding any other
7 provision of law related to election canvassing,
8 certification, or contest, the term of office for county
9 commissioner shall commence at 12:00 a.m. on the second
10 Wednesday following the general election at which he or she is
11 elected and shall expire at 11:59 p.m. on the first Monday
12 Tuesday following the day of the general election at which the
13 successor to that office is elected. Thereafter each county
14 commissioner shall hold office from 12:01 A.M. of the first
15 Tuesday following his or her election and until his or her
16 successor is elected and qualified. This subsection shall
17 apply to all counties and may not be altered by local law.

18 ~~"(c)(e) Any other provision of law to the contrary~~
19 ~~not withstanding, each~~ Each county commission shall meet on
20 the ~~first Tuesday~~ Wednesday following the election and
21 tabulation of provisional ballots pursuant to Section 17-10A-2
22 of any one of its number members whose term commences on that
23 day pursuant to ~~the provisions of~~ subsection ~~(b)(d), and at~~
24 this meeting, shall establish the regular meeting days for the
25 county commission as provided in Section 11-3-8. The meeting

1 shall be in lieu of any meeting of the county commission
2 required by law to be held within the same calendar week and
3 shall be in all respects and for all purposes a regular
4 meeting of the county commission. The county commission shall
5 not meet following the election of any one of its ~~number~~
6 members until the meeting provided by this subsection, unless
7 there is a declared emergency.

8 "An emergency may be declared for the purposes of
9 this subsection upon a unanimous vote of the entire membership
10 of the county commission.

11 "(f) Except as specifically provided in subsection
12 subsections (a) (b) and (c), this section applies in all
13 counties and may not be altered or amended by local law. Any
14 existing local law or portion thereof in conflict with this
15 section is specifically repealed to the extent of the conflict
16 effective with the next election following the effective date
17 of the act adding this subsection. It is the intent of the
18 forgoing that a portion of a local law in direct conflict with
19 this section shall be repealed, and any remaining portions of
20 the local law not in conflict shall remain in full force and
21 effect.

22 "§11-3-2.

23 "(a) Subject to the restrictions of Section 280 of
24 the Constitution of Alabama of 1901, and the laws of this
25 state, ~~one~~ any member of a county commission may be appointed

1 to and may serve on public boards, commissions, and
2 authorities within this state unless ~~authorized~~ otherwise
3 prohibited by law. Except where otherwise specifically
4 authorized or required by general state or federal law, only
5 one member from a particular county commission may serve on
6 any particular public board, commission, or authority.

7 Notwithstanding the foregoing, this subsection shall not be
8 interpreted to authorize a county commission to appoint a
9 member to serve on the board of any authority, corporation, or
10 association organized pursuant to Chapter 21 of Title 22
11 unless the appointment is authorized in the articles of
12 incorporation of the authority, corporation, or association.

13 "(b) All service on a board, commission, or
14 authority by a member of a county commission prior to ~~December~~
15 ~~7, 1999~~ the effective date of the act adding this language,
16 meeting the requirements of subsection (a) and all actions
17 taken by any member of a county commission acting in his or
18 her official capacity on the board, commission, or authority
19 are ratified and confirmed.

20 "(c) A member of a county commission shall not be
21 reimbursed for expenses by both the public board, commission,
22 authority, and the county commission on which he or she serves
23 ~~, however, the.~~ The member may elect to be reimbursed from
24 either the public board, commission, or authority, or the
25 county commission.

1 "§11-3-3.

2 "Each member of the county commission of each county
3 shall be required to give a bond as provided in Chapter 5 of
4 Title 36 and Chapter 2 of Title 11, in the sum of at least
5 ~~\$3,000.00~~ three thousand dollars (\$3,000) to be fixed by the
6 county commission and approved by the judge of the circuit
7 court of a circuit of which such county forms a part,~~and,~~
8 ~~where.~~ When there are two or more circuit judges in ~~said the~~
9 circuit, then ~~said the~~ bonds shall be fixed and approved by
10 the ~~senior~~ presiding judge of ~~said the~~ circuit.

11 "§11-3-7.

12 ~~"The meetings of the county commission may be held~~
13 ~~by the chairman of the county commission and two commissioners~~
14 ~~or by three commissioners without the chairman, unless~~
15 ~~otherwise provided by local law.~~ A majority of members serving
16 on a county commission shall constitute a quorum. A judge of
17 probate or chair elected countywide shall be considered a
18 member of the county commission for purposes of determining a
19 quorum. No ordinance, resolution, policy, or motion shall be
20 voted on and approved by a county commission unless a quorum
21 is present in the meeting chamber while the vote is taken and
22 the matter is approved by an affirmative vote of the majority
23 of the members present and voting, unless otherwise required
24 by Alabama law.

25 "§11-3-8.

1 "(a) At the first county commission meeting held
2 pursuant to Section 11-3-1 following each election of county
3 commissioners, the county commission shall establish the day
4 or days of each month on which regular meetings of the county
5 commission shall be held. ~~The~~ A county commission, by
6 resolution, may alter the regular meeting days as necessary.
7 The regular meeting days and the time and place where the
8 meetings will be held shall at all times be posted in a public
9 and conspicuous location in the courthouse and in other public
10 buildings determined appropriate by the county commission and
11 shall be forwarded to all local news media who have on file
12 with the county commission a written request for notification
13 of the schedule of regular meetings of the county commission.

14 "(b) ~~The~~ A county commission may schedule a special
15 meeting when determined necessary in writing by a majority of
16 the members of the commission, or in case of an emergency,
17 upon call of the chair. The purpose for and agenda of the
18 meeting shall be included in all public notices of the
19 meeting, and no other items shall be considered at the special
20 meeting. Upon scheduling, except in an emergency, at least
21 five days prior to the special meeting, notice of the meeting
22 time, place, and agenda shall be posted in a public and
23 conspicuous location in the courthouse and in other public
24 buildings determined appropriate by the county commission and
25 shall be forwarded to all local news media who have on file

1 with the county commission a written request for notification
2 of special meetings of the county commission.

3 "(c) When a regular meeting day of a county
4 commission falls on a legal public holiday, the county
5 commission may meet on any day of the following week instead
6 of on the holiday, or at another time determined by the county
7 commission, provided that at least five days prior to the
8 meeting, notice of the meeting time and place shall be posted
9 in a public and conspicuous location in the courthouse and in
10 other public buildings determined appropriate by the county
11 commission and shall be forwarded to all local news media who
12 have on file with the county commission a written request for
13 notification of the schedule of regular meetings of the county
14 commission.

15 "(d) All meetings scheduled and held as provided
16 herein shall be deemed to be in compliance with the notice
17 provisions of Chapter 25A of Title 36.

18 "§11-3-18.

19 "~~The chairman of the A county commission may employ~~
20 a chief administrative officer, who shall carry out the
21 administrative duties of the county and shall perform all of
22 the following duties: must record the proceedings at

23 "(1) Keep and record minutes of all meetings of the
24 county commission, make all necessary orders and issue all

1 ~~process necessary to sustain its jurisdiction or maintain its~~
2 ~~authority.~~

3 "(2) Have prepared and presented to the commission
4 chair for proper execution all appropriate documents, such as
5 resolutions, orders, contracts, or directives, as are
6 necessary to carry out the actions of the county commission.

7 "(3) Maintain at all times a detailed record of the
8 financial status of the county which shall be kept up to date
9 at all times and shall reflect the true status of all
10 outstanding obligations of the county and the estimated
11 revenue for the current fiscal year.

12 "(4) Perform any other duties with reference to
13 accounting, auditing claims, issuing warrants, and supplying
14 the county commission with information as the county
15 commission may deem necessary for the administration of the
16 financial affairs of the county.

17 "(5) Serve as signatory for the county on all
18 appropriate documents as authorized or directed by policy
19 adopted by resolution of the county commission.

20 "(6) Perform any other duties as may be assigned
21 from time to time and under procedures established by the
22 county commission.

23 "§11-3-20.

24 ~~"(a) Unless otherwise provided by local law, the~~
25 ~~chairman~~ The chair of the county commission shall preside over

1 county commission meetings, provided however, ~~the chairman may~~
2 ~~appoint another member of the county commission to preside in~~
3 ~~his absence unless the county commission directs otherwise. In~~
4 ~~all matters where the county commission is divided, the same~~
5 ~~must be determined by the chairman of the county commission~~
6 the county commission may elect or authorize the chair to
7 appoint a vice chair to serve in his or her absence. The chair
8 shall only vote on a matter in the event that the votes cast
9 by the other members of the commission are evenly divided on
10 the issue except, when the chair serves on the county
11 commission as a district commissioner, he or she may vote once
12 on all matters that come before the county commission.

13 "(b) In addition to presiding over all meetings set
14 out in subsection (a), the chair of a county commission, or in
15 his or her absence or at his or her request, the vice chair,
16 shall have the following duties:

17 "(1) To ensure that an accurate record of all
18 meetings is made and kept as required by Section 11-3-18.

19 "(2) Except where the chief administrative officer
20 has been directed to serve pursuant to Section 11-3-18(e), to
21 serve as signatory for the county commission on all
22 appropriate documents, such as resolutions, orders, contracts,
23 or directives, as are necessary to carry out the actions of
24 the county commission.

1 "(3) To oversee and supervise the upkeep of the
2 financial records of the county.

3 "(4) Except as provided in Section 11-8-9, to issue
4 and sign all warrants.

5 "(5) To perform other duties as required by law or
6 determined appropriate by the county commission pursuant to
7 resolution duly adopted by a majority of the members of the
8 county commission.

9 "§11-3-21.

10 ~~"The As soon as practical after closing the fiscal~~
11 ~~year, but no later than December 31 of each year, the county~~
12 ~~commission shall make a semiannual publication on April 1 and~~
13 ~~October 1 of each year have published in a newspaper of~~
14 ~~general circulation published in the county of an itemized~~
15 ~~report, showing the receipts and expenditures of money for the~~
16 ~~county, specifying particularly the sources from which~~
17 ~~received and the purposes for which expended. Said publication~~
18 ~~must also show the entire indebtedness of the county of~~
19 ~~whatever kind and character, specifying particularly the~~
20 ~~amount of bonds outstanding, their character and when due, the~~
21 ~~amount of the outstanding warrants whether interest-bearing or~~
22 ~~not and, if interest-bearing, the rate of interest for which~~
23 ~~said warrants were issued and when due and payable. The~~
24 ~~compensation to be paid for the publication provided for in~~
25 ~~this section shall not exceed one and one-half cents per word~~

1 ~~in counties of less than 40,000 population. a statement of the~~
 2 ~~county's financial status for the 12-month period ending on~~
 3 ~~September 30 of that year, which statement shall include at a~~
 4 ~~minimum all of the following: (1) ~~The~~ An itemized report of~~
 5 ~~the county's receipts by source and disbursements by functions~~
 6 ~~or purposes or both. (2) The outstanding indebtedness of the~~
 7 ~~county of any kind or character. (3) The schedule by years for~~
 8 ~~retiring indebtedness, separating funded indebtedness from~~
 9 ~~unfunded indebtedness. (4) The resources available to pay~~
 10 ~~unfunded indebtedness.~~

11 "§11-3-22.

12 "If the county commission ~~shall fail~~ fails to make
 13 the ~~said~~ publication ~~as~~ required by ~~section~~ Section 11-3-21,
 14 ~~each member composing said county commission who votes against~~
 15 ~~said publication is made subject to a penalty of \$50.00 to be~~
 16 ~~collected by civil action, and the district attorney shall~~ may
 17 bring ~~said~~ a civil action ~~and prosecute the same in the name~~
 18 ~~of the county as plaintiff~~ to compel compliance, and the court
 19 may assess all costs of court to the county.

20 "§11-8-3.

21 "(a) It shall be the duty of the county commission,
 22 at some meeting in September of each calendar year, but ~~or~~ not
 23 later than ~~its first meeting in~~ October 1 following, to
 24 prepare and adopt a budget for the fiscal year beginning on
 25 October 1 of the current calendar year which shall include all

1 of the following: (1) An an estimate of the income anticipated
 2 revenue of the county for the fiscal year beginning on October
 3 1 of the current calendar year for all public funds under its
 4 supervision and control including all unexpended balances as
 5 provided in Section 11-8-6, and to. (2) An estimate for the
 6 same fiscal year the expense of expenditures for county
 7 operations and to appropriate. (3) Appropriations for the
 8 various purposes the respective amounts that are to be used
 9 for each of such purposes; provided, that the.

10 "(b) The appropriations so made in the budget shall
 11 not exceed the estimated total income revenue of the county
 12 available for appropriations.

13 "(c) The budget adopted, at a minimum, shall include
 14 any revenue required to be included in the budget under the
 15 provisions of Alabama law and reasonable expenditures for the
 16 operation of the offices of the judge of probate, tax
 17 officials, sheriff, county treasurer, the county jail, the
 18 county courthouse, and other offices as required by law.

19 "(d) In order that such the budget adopted is based
 20 upon an estimate of income revenue and operating expenses may
 21 be expenditures as nearly correct as possible, at least 60
 22 days before the meeting of the county commission at which the
 23 county budget is adopted:

24 "(1) the county commission shall call upon any
 25 public official who handles any incoming moneys, Any public

1 official who receives public funds, including any official
2 entitled to ex officio fees, or who issues any kind of order
3 payable out of the county treasury without approval of such
4 county commission ~~to~~ shall furnish them to the county
5 commission in writing an estimate of ~~such income~~ the revenue
6 and of the ~~probable amount of orders~~ anticipated expenditures
7 ~~he~~ the official will be called upon to ~~issue~~ make during ~~such~~
8 the next fiscal year ~~and it shall be the duty of such official~~
9 ~~to furnish such estimates without delay.~~

10 "(2) The judge of probate, tax officials, sheriff,
11 county treasurer, and any other county official or employee
12 named by the county commission shall prepare and submit to the
13 county commission an itemized estimate of the amount the
14 official or employee believes to be necessary for personnel,
15 office supplies, and other expenditures during the following
16 fiscal year. Any official entitled to ex officio fees shall
17 include in his or her estimate the estimated amount of any ex
18 officio fees the official will receive during the following
19 fiscal year.

20 "(e) Based upon the estimated revenue and
21 expenditures set out in subsection (d), together with any
22 other financial information available to the county commission
23 regarding the anticipated revenue and expenditures for the
24 next fiscal year, the county commission shall approve a budget

1 which includes the expenditures it deems proper for the next
2 fiscal year.

3 "(f) Following the adoption of the budget, no
4 obligation incurred by any county official or office over and
5 above the amount or amounts approved and appropriated by the
6 county commission shall be an obligation of the county unless
7 the obligation is approved by an affirmative vote of a
8 majority of the members of the county commission.

9 "(g) The budget may be amended during the fiscal
10 year as determined necessary by affirmative vote of a majority
11 of the members of the county commission. No amendment may
12 authorize an expenditure which exceeds anticipated revenue of
13 the county except as otherwise specifically authorized by
14 general law.

15 "§11-8-9.

16 "No warrant shall be issued or check drawn on the
17 county treasury or county depository by any person except as
18 authorized by the chairman chair of the county commission or
19 such other officer as may be designated by such county
20 commission, unless otherwise provided by law, and officers who
21 are authorized to pay claims which have not been first
22 approved by the county commission shall issue orders for
23 warrants or checks ~~which must be presented to the officer so~~
24 ~~authorized to issue warrants payable out of the county~~

1 ~~treasury or county depository pursuant to procedures~~
2 ~~established by the county commission.~~

3 "§11-8-10.

4 "No warrant or order for the payment of money shall
5 be issued ~~in pursuance of~~ under authority of the county
6 commission until funds are available for its payment upon
7 presentation to the treasurer or depository pursuant to
8 procedures established by the county commission. ~~It shall be~~
9 ~~the duty of the county commission to provide and appropriate~~
10 ~~funds for paying warrants issued upon orders drawn by other~~
11 ~~county officials in pursuance of law, which orders are not~~
12 ~~required by law to be approved and authorized by such board."~~

13 Section 2. Sections 11-3-6, 11-3-13, 11-3-19,
14 11-3-23, 11-3-24, 11-3-26, 11-8-7, 11-8-8, 11-8-13, and
15 11-8-14 of the Code of Alabama 1975, are repealed.

16 Section 3. This act shall become effective on the
17 first day of the third month following its passage and
18 approval by the Governor, or its otherwise becoming law.

