

1 SB19  
2 164033-2  
3 By Senator Ward  
4 RFD: Constitution, Ethics and Elections  
5 First Read: 03-MAR-15  
6 PFD: 02/03/2015

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 Relating to municipal elections conducted pursuant  
12 to Chapter 46 of Title 11, Code of Alabama 1975; to amend  
13 Section 11-46-32, Code of Alabama 1975, to change the deadline  
14 requirement for delivery of absentee election supplies from 21  
15 days to 35 days prior to the election date; to amend Section  
16 11-46-33, Code of Alabama 1975, to distinguish the term voting  
17 machines from electronic vote counting systems as defined in  
18 Title 17, Code of Alabama 1975; and to amend Section 11-46-55,  
19 Code of Alabama 1975, to provide the procedure to establish  
20 the winner of a municipal election in the event of a tie after  
21 the runoff election.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Sections 11-46-32, 11-46-33, and  
24 11-46-55, Code of Alabama 1975, are amended to read as  
25 follows:

26 "§11-46-32.

1           "(a) The mayor or other chief executive officer of  
2 the municipality shall at the expense of the municipality  
3 procure and superintend and insure the delivery to the  
4 election officers at each polling place within the corporate  
5 limits of the municipality of the necessary election supplies  
6 and shall also procure and deliver or cause to be delivered to  
7 the municipal clerk ~~not less than 21 days prior to the holding~~  
8 ~~of any election to which this article pertains~~ a sufficient  
9 number of the absentee ballots and the envelopes therefor  
10 prescribed by general laws and other supplies needed for the  
11 handling of absentee ballots in such election in the manner  
12 prescribed by general law. In the event the municipal clerk is  
13 a candidate in the election, he shall immediately upon receipt  
14 of the absentee ballots and other supplies deliver the same to  
15 the person appointed pursuant to Section 11-46-55 to act in  
16 his stead.

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

1 clear type and shall contain full instructions to electors as  
2 to what should be done, first, to obtain ballots for voting,  
3 second, to prepare the ballot for deposit in the ballot box,  
4 third, to obtain a new ballot in place of one accidentally  
5 spoiled and, fourth, to obtain a watcher for each candidate to  
6 be voted for; certificates of results; oaths; and any other  
7 stationery, blank forms, or supplies necessary in the conduct  
8 of the election.

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

19 "§11-46-33.

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

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

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

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

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

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

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

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

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

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

19           "§11-46-55.

20           "(a) Commencing at 12:00 noon on the first Tuesday  
21 next after the election, the municipal governing body shall  
22 proceed to open the envelopes addressed to the governing body  
23 which have been delivered by the several returning officers to  
24 the municipal clerk, canvass the returns, and ascertain and  
25 determine the number of votes received by each candidate and  
26 for and against each proposition submitted at the election. If  
27 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  
26 office in the election shall be ascertained by dividing the  
27 total vote cast for all candidates for the offices by the

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

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

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

1 is situated, and the judge shall file the certificate in the  
2 same manner that he or she files the declaration of the result  
3 of elections to county offices."

4 Section 2. This act shall become effective  
5 immediately following its passage and approval by the  
6 Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate  
committee on Constitution, Ethics and Elections .. 03-MAR-15

Read for the second time and placed on the calen-  
dar 1 amendment..... 05-MAR-15

Read for the third time and passed as amended .... 12-MAR-15

Yeas 26  
Nays 0

Patrick Harris  
Secretary