

28 (1) Except as provided in Subsection (2), the mayor in a municipality operating under a
29 six-member council form of government or a five-member council form of government:

30 (a) is the chief executive officer of the municipality to whom all employees of the
31 municipality report;

32 (b) shall:

33 (i) keep the peace and enforce the laws of the municipality;

34 (ii) ensure that all applicable statutes and municipal ordinances and resolutions are
35 faithfully executed and observed;

36 (iii) if the mayor remits a fine or forfeiture under Subsection (1)(c)(ii), report the
37 remittance to the council at the council's next meeting after the remittance;

38 (iv) perform all duties prescribed by statute or municipal ordinance or resolution;

39 (v) report to the council the condition and needs of the municipality; and

40 (vi) report to the council any release granted under Subsection (1)(c)(iv); and

41 (c) may:

42 (i) recommend for council consideration any measure that the mayor considers to be in
43 the best interests of the municipality;

44 (ii) remit fines and forfeitures;

45 (iii) if necessary, call on residents of the municipality over the age of 21 years to assist
46 in enforcing the laws of the state and ordinances of the municipality;

47 (iv) release a person imprisoned for a violation of a municipal ordinance;

48 (v) with the council's advice and consent:

49 (A) assign or appoint a member of the council to administer one or more departments
50 of the municipality; and

51 (B) appoint a person to fill:

52 (I) a municipal office; or

53 (II) a vacancy on a commission or committee of the municipality; and

54 (vi) at any reasonable time, examine and inspect the official books, papers, records, or
55 documents of:

56 (A) the municipality; or

57 (B) any officer, employee, or agency of the municipality.

58 (2) The powers and duties in Subsection (1) are subject to:

59 (a) municipal ordinances in effect on May 4, 2008 modifying the powers and duties of
60 the mayor; and

61 (b) the council's authority to limit or expand the mayor's powers and duties under:

62 (i) Subsection 10-3b-303(2)(~~a~~), for a municipality operating under the six-member
63 council form of government; and

64 (ii) Subsection 10-3b-403(2)(~~a~~), for a municipality operating under the five-member
65 council form of government.

66 Section 2. Section 10-3b-303 is amended to read:

67 **10-3b-303. Council in six-member council form of government.**

68 (1) The council in a municipality operating under a six-member council form of
69 government:

70 (a) exercises any executive or administrative power and performs or supervises the
71 performance of any executive or administrative duty or function that:

72 (i) has not been given to the mayor under Section 10-3b-104; or

73 (ii) has been given to the mayor under Section 10-3b-104 but is removed from the
74 mayor under Subsection (1)(b)(i)(A);

75 (b) may:

76 (i) subject to Subsections (1)(c) and (2), adopt an ordinance:

77 (A) removing from the mayor any power, duty, or function of the mayor under Section
78 10-3b-104; or

79 (B) reinstating to the mayor any power, duty, or function previously removed under
80 Subsection (1)(b)(i)(A);

81 (ii) adopt an ordinance delegating to the mayor any executive or administrative power,
82 duty, or function that the council has under Subsection (1)(a);

83 (iii) subject to Subsection 10-3b-302(1)(b)(ii)(A):

84 (A) appoint, subject to Subsections (3) and (4), a manager to perform executive and
85 administrative duties or functions that the council by ordinance delegates to the manager,
86 subject to Subsection (1)(c); and

87 (B) dismiss a manager appointed under Subsection (1)(b)(iii)(A); and

88 (iv) assign any or all council members, including the mayor, to supervise one or more
89 administrative departments of the municipality; and

- 90 (c) may not remove from the mayor or delegate to a manager appointed by the council:
- 91 (i) any of the mayor's legislative or judicial powers or ceremonial functions;
- 92 (ii) the mayor's position as chair of the council; or
- 93 (iii) any ex officio position that the mayor holds.

94 (2) Adopting an ordinance under Subsection (1)(b)(i) [~~removing from or reinstating to~~
 95 ~~the mayor a power, duty, or function provided for in Section 10-3b-104~~] requires the
 96 affirmative vote of ~~[(a) the mayor and a majority of all other]~~ at least three-fourths of all
 97 council members ~~[; or]~~.

98 [~~(b) all council members except the mayor.~~]

99 (3) (a) As used in this Subsection (3), "interim vacancy period" means the period of
 100 time that:

- 101 (i) begins on the day on which a municipal general election described in Section
 102 10-3-201 is held to elect a council member; and
- 103 (ii) ends on the day on which the council member-elect begins the council member's
 104 term.

105 (b) (i) The council may not appoint a manager during an interim vacancy period.

106 (ii) Notwithstanding Subsection (3)(b)(i):

107 (A) the council may appoint an interim manager during an interim vacancy period; and

108 (B) the interim manager's term shall expire once a new manager is appointed by the
 109 new administration after the interim vacancy period has ended.

110 (c) Subsection (3)(b) does not apply if all the council members who held office on the
 111 day of the municipal general election whose term of office was vacant for the election are
 112 re-elected to the council for the following term.

113 (4) A council that appoints a manager in accordance with this section may not, on or
 114 after May 10, 2011, enter into an employment contract that contains an automatic renewal
 115 provision with the manager.

116 Section 3. Section 10-3b-403 is amended to read:

117 **10-3b-403. Council in a five-member council form of government.**

118 (1) The council in a municipality operating under a five-member council form of
 119 municipal government:

- 120 (a) exercises any executive or administrative power and performs or supervises the

121 performance of any executive or administrative duty or function that:

122 (i) has not been given to the mayor under Section 10-3b-104; or

123 (ii) has been given to the mayor under Section 10-3b-104 but is removed from the

124 mayor under Subsection (1)(b)(i)(A);

125 (b) may:

126 (i) subject to Subsections (1)(c) and (2), adopt an ordinance:

127 (A) removing from the mayor any power, duty, or function of the mayor under Section

128 10-3b-104; and

129 (B) reinstating to the mayor any power, duty, or function previously removed under

130 Subsection (1)(b)(i)(A);

131 (ii) adopt an ordinance delegating to the mayor any executive or administrative power,

132 duty, or function that the council has under Subsection (1)(a);

133 (iii) subject to Subsections (3) and (4), appoint a manager to perform executive and

134 administrative duties or functions that the council by ordinance delegates to the manager,

135 subject to Subsection (1)(c);

136 (iv) dismiss a manager appointed under Subsection (1)(b)(iii); and

137 (v) assign any or all council members, including the mayor, to supervise one or more

138 administrative departments of the municipality; and

139 (c) may not remove from the mayor or delegate to a manager appointed by the council:

140 (i) any of the mayor's legislative or judicial powers or ceremonial functions;

141 (ii) the mayor's position as chair of the council; or

142 (iii) any ex officio position that the mayor holds.

143 (2) Adopting an ordinance under Subsection (1)(b)(i) [~~removing from or reinstating to~~

144 ~~the mayor a power, duty, or function provided for in Section 10-3b-104~~] requires the

145 affirmative vote of [~~:(a) the mayor and a majority of all other~~] at least three-fourths of all

146 council members[~~;-or~~].

147 [~~(b) all council members except the mayor.~~]

148 (3) (a) As used in this Subsection (3), "interim vacancy period" means the period of

149 time that:

150 (i) begins on the day on which a municipal general election described in Section

151 10-3-201 is held to elect a council member; and

152 (ii) ends on the day on which the council member-elect begins the council member's
153 term.

154 (b) (i) The council may not appoint a manager during an interim vacancy period.

155 (ii) Notwithstanding Subsection (3)(b)(i):

156 (A) the council may appoint an interim manager during an interim vacancy period; and

157 (B) the interim manager's term shall expire once a new manager is appointed by the
158 new administration after the interim vacancy period has ended.

159 (c) Subsection (3)(b) does not apply if all the council members who held office on the
160 day of the municipal general election whose term of office was vacant for the election are
161 re-elected to the council for the following term.

162 (4) A council that appoints a manager in accordance with this section may not, on or
163 after May 10, 2011, enter into an employment contract that contains an automatic renewal
164 provision with the manager.

Legislative Review Note
Office of Legislative Research and General Counsel