MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Faulkner To: Municipalities

HOUSE BILL NO. 443

AN ACT TO AMEND SECTION 21-3-5, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE GOVERNING AUTHORITIES OF CODE-CHARTER MUNICIPALITIES MAY DELEGATE THE POWER AND AUTHORITY TO HANDLE PERSONNEL ACTIONS TO THE MAYOR, CHIEF ADMINISTRATIVE OFFICER OR DEPARTMENT HEADS; TO BRING FORWARD SECTIONS 21-3-15 AND 21-3-25, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 21-3-5, Mississippi Code of 1972, is amended as follows:

21-3-5. (1) Except as provided in subsection (2) of this section, from and after the expiration of the terms of office of present municipal officers, the mayor and board of aldermen of all municipalities operating under this chapter shall have the power and authority to appoint a street commissioner, and such other officers and employees as may be necessary, and to prescribe the duties and fix the compensation of all such officers and employees. Except as provided in subsection (2) of this section, all officers and employees so appointed shall hold office at the pleasure of the governing authorities and may be discharged by

such governing authorities at any time, either with or without cause. The governing authorities of municipalities shall have the power and authority, in their discretion, to appoint the same person to any two (2) or more of the appointive offices, and in a municipality having a population of less than fifteen thousand (15,000), according to the latest * * * federal decennial census, a member of the board of aldermen may be appointed to the office of street commissioner. In municipalities not having depositories, the clerk shall serve as ex officio treasurer. The municipal governing authorities shall require all officers and employees handling or having the custody of any public funds of such city to give bond, with sufficient surety, to be payable, conditioned and approved as provided by law, in an amount to be determined by the governing authority (which shall be not less than Fifty Thousand Dollars ($50,000.00)), the premium on same to be paid from the municipal treasury. The terms of office or employment of all officers and employees so appointed shall expire at the expiration of the term of office of the governing authorities making the appointment, unless such officers or employees shall have been sooner discharged as * * * provided in this section. All officers and employees so appointed are authorized to serve until the appointment and qualification of their successors not exceeding the limitation period provided in Section 21-15-41.

(2) The governing authorities may delegate the duties to fire, demote, discipline and suspend municipal employees with or without pay to the mayor, department heads or the chief administrative officer. The delegation of these duties shall be by ordinance, and shall require a two-thirds (2/3) vote of the mayor and board of aldermen. The board of aldermen shall have the right to review any personnel decision made after the delegation of duties. Any action taken by the governing authorities to delegate such duties shall not be adopted within ninety (90) days prior to any regular general election for the election of municipal officers. The delegation of duties shall expire at the expiration of the term of office of the governing authorities adopting the ordinance.

SECTION 2. Section 21-3-15, Mississippi Code of 1972, is brought forward as follows:

21-3-15. (1) The mayor shall preside at all meetings of the board of aldermen, and in case there shall be an equal division, shall give the deciding vote. The executive power of the municipality shall be exercised by the mayor, and the mayor shall have the superintending control of all the officers and affairs of the municipality, and shall take care that the laws and ordinances are executed.

(2) (a) The legislative power of the municipality shall be exercised by the board of aldermen by a vote within a legally called meeting. No member of the board of aldermen shall give

orders to any employee or subordinate of a municipality other than the alderman's personal staff.

(b) Ordinances adopted by the board of aldermen shall be submitted to the mayor. The mayor shall, within ten (10) days after receiving any ordinance, either approve the ordinance by affixing his signature thereto, or return it to the board of aldermen by delivering it to the municipal clerk together with a written statement setting forth his objections thereto or to any item or part thereof. No ordinance or any item or part thereof shall take effect without the mayor's approval, unless the mayor fails to return an ordinance to the board of aldermen prior to the next meeting of the board, but no later than fifteen (15) days after it has been presented to him, or unless the board of aldermen, upon reconsideration thereof on or after the third day following its return by the mayor, shall, by a vote of two-thirds (2/3) of the members of the board, resolve to override the mayor's veto.

(3) The term "ordinance" as used in this section shall be deemed to include ordinances, resolutions and orders.

SECTION 3. Section 21-3-25, Mississippi Code of 1972, is brought forward as follows:

21-3-25. (1) Any municipality operating under a "Code Charter" as provided for in Chapter 3, Title 21, Mississippi Code of 1972, may through the mayor and board of aldermen, establish the position of chief administrative officer of the municipality.

(2) The establishment of the position of chief administrative officer shall be by ordinance, and shall require a two-thirds (2/3) vote of the mayor and board of aldermen. Any action taken by the governing authorities to establish such office shall not be adopted within ninety (90) days prior to any regular general election for the election of municipal officers. The chief administrative officer shall be a full time employee of the municipality and shall serve at the discretion of the mayor and board of aldermen. He shall receive such compensation as the mayor and board of aldermen may determine, and shall be chosen solely on the basis of experience and administrative qualifications. The chief administrative officer may hold one (1) or more other appointive positions in the municipality. No person elected to the board of aldermen shall be eligible for the office of chief administrative officer during the term for which such person was elected.

(3) The chief administrative officer shall have such administrative duties and functions as shall be delegated to him by the mayor and board of aldermen.

(4) Following the adoption of an ordinance pursuant to this section, the position of chief administrative officer shall not be established until after the next general municipal election, at which time the first chief administrative officer will be appointed.

(5) Members of the board of aldermen shall have no administrative powers or duties which are delegated by ordinance to the chief administrative officer.

SECTION 4. This act shall take effect and be in force from and after July 1, 2021.

ST: Code-charter municipality governing authorities; may delegate duties related to personnel actions.