



IN CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

WILLIAM CARROLL,	*	
	*	
Plaintiff,	*	
	*	
V.	*	Case No. CV-2025-902411
	*	
SAMANTHA INGRAM,	*	
	*	
Defendant.	*	

ORDER ON DEFENDANT'S MOTION TO DISMISS

This matter is before the Court on Defendant Samantha Ingram's Motion to Dismiss the Complaint filed by Plaintiff William Carroll, pursuant to Ala. R. Civ. P. 12(b)(6). Plaintiff responded in opposition, and a hearing was conducted on October 2, 2025. Thereafter, the parties filed multiple supplemental briefs.

Background

On June 17, 2025, Ingram executed the "Statement of Candidacy" affidavit required by Ala. Code § 11-46-25, certifying her citizenship in the city and county of Mobile; her residency within the City of Mobile for 90 days as of the date of the election; and her desire to become a candidate for City Council District 2.¹ (Doc. 21). The "Statement of Candidacy" provides the following reference at the bottom: "This affidavit is in accordance with Section 11-46-25."

In the City of Mobile municipal election conducted on August 26, 2025, Carroll, the incumbent District 2 council member, was defeated by Ingram. On September 2, 2025, Ingram was certified the winner of the District 2 council seat. On September 5, 2025, Carroll filed a Complaint and Statement of Election Contest in this Court.² Jurisdiction of an election contest is established in this Court pursuant to Ala. Code § 11-46-69, which states, in pertinent part:

- (a) The election of any person declared elected to any office of a city or town may be contested by any person who was at the time of the election a qualified elector of such city or town for any of the following causes:
- ...
- (2) The person whose election to office is contested was not eligible thereto at the time of such election;

¹ The Statement of Candidacy signed by Ingram, as well as every other candidate on the ballot, had not been updated to reflect a 2010 legislative amendment to the statement. The portion of outdated form language stated, "that I am duly qualified to hold said office if elected thereto," versus the new language: "that I am presently a qualified elector of the city (or town) of ____." (Acts 2010-687). The parties contend this discrepancy is not relevant to the issue presented. The Court agrees.

² It is not disputed that Carroll, as a qualified elector (voter) of the City of Mobile, has standing to file this election contest.

Ala. Code § 11-46-69(a)(2).

The sole basis of Carroll's complaint is the allegation that Ingram was not a resident of the City of Mobile for "at least one year prior to [the August 26, 2025] election" and, therefore, does not meet one of two residency requirements set out in Ala. Code § 11-44C-17, which states:

Councilmen shall be qualified electors of the city and, in the case of candidates for any district, they shall have been residents of the district which they represent for at least 90 days prior to their election, shall reside in the district during their terms of office and shall have attained the age of 21 years. No councilman shall hold any other public office except that of notary public or member of the national guard or naval or military reserve, and all shall have been residents of the city for at least one year prior to their election. If the councilman shall cease to possess any of these qualifications or shall be convicted of crime involving moral turpitude, his office shall immediately become vacant.

Ala. Code § 11-44C-17 (emphasis added).

Rule 12(b)(6) motions are designed to test the legal sufficiency of the pleadings. The Court is bound to accept the facts presented by Carroll and determine whether, on such facts, Carroll could possibly prevail. The parties agree this Court is presented solely with a legal issue: whether a candidate for city council in the City of Mobile must meet the two separate residency requirements set out in Ala. Code § 11-44C-17, or the single residency requirement of state law, outlined in Ala. Code §§ 11-46-22 and 11-46-25. Because the parties agree there are no disputed facts and the issue is solely one of statutory conflict, a motion to dismiss may be properly considered.

Pertinent Legislation

Elections in all cities and towns in Alabama are governed by Title 11, Chapter 46, Article 1. Those cities and towns with a mayor-council form of government are also subject to Article 2.³ The City of Mobile, as a Class 2 municipality, is governed not only by the provisions of Title 11, Chapter 46, Articles 1 and 2, but also the provisions of Title 11, Chapter 44C.

³ Article 1 is codified as Ala. Code §§ 11-46-1 through 11-46-10. Article 2 contains §§ 11-46-20 through 11-46-74. Article 2 was first adopted in 1961, establishing uniform laws for conducting municipal elections. (Act 61-663). In 1980, the Notice of Election (discussed *infra*) did not contain a residency qualification; however, the Statement of Candidacy certifying a 90-day city residency qualification was adopted. (Act 80-94, p. 143). In 1982, Article 2 was amended to mandate that all municipalities with a mayor-council form of government, except Class 1 (Birmingham), comply with Article 2. Ala. Code § 11-46-20 (Acts 82-458, p. 711); however, in 1982, Mobile was governed by a three-member commission and was not subject to Article 2.

Ala. Code § 11-44C-1 et seq., commonly referred to as “the Zoghby Act,” was enacted in 1985 as Act 85-229 and applies only to Class 2 municipalities. The City of Mobile is the only Class 2 municipality in Alabama. Pursuant to this legislation, Mobile adopted a mayor-council form of government and, thus, became subject to Article 2.

In 1985, Article 2 did not contain a district residency requirement for council candidates within their district; however, § 11-46-25(g) required candidates to be residents of the city for 90 days. (Act 80-94). In 2003, the Legislature adopted Act 2003-400, which, for the first time, mandated that the following 90-day district residency qualification be incorporated into the “Notice of Election of Municipal Officers” required by § 11-46-22(b):

Any qualified elector who has resided within the municipality, or if the municipality is districted, within the district from which he or she seeks election, for a period of 90 days on election day may qualify to run for office by filing the appropriate forms and paying any appropriate fees, as otherwise provided by law. (emphasis added).

Both Chapter 46 and Chapter 44C are general laws. “A general law is a law which in its terms and effect applies either to the whole state, or to one or more municipalities of the state less than the whole in a class.” Ala. Const. Art. IV, § 110; alternatively cited as Ala. Const. amend. 375 (1978); Ala. Const. amend 397 (1982). The Zoghby Act is neither a “local law” nor a “special law.”⁴

Pertinent statewide election laws include Ala. Code § 11-46-20, § 11-46-22, and § 11-46-25.

Ala. Code § 11-46-20 is titled “Cities and towns governed by article...” and provides:

(a) General and special elections in cities and towns of this state, in all municipalities except Class 1 municipalities and except cities and towns organized under a commission form of government, shall be held and conducted at the times and in the manner prescribed in this article,

⁴ Following the Alabama Supreme Court’s decision in *Peddycoart v. City of Birmingham*, 354 So. 2d 808 (Ala. 1978), the Legislature proposed Alabama Constitutional Amendments 375, 389, and 397. These amendments, adopted by the voters, did two things: first, they validated after the fact all general bills of local application passed before 1978 and made them applicable to the localities that were bracketed in 1978; second, they validated the Legislature’s creation of eight classes of municipalities and its right to enact general laws for each class. For discussion, see Jim Williams & Randolph Horn, Local Self Government in Alabama, 33 Cumb. L. Rev. 245, 263 (2003).

“A special or private law is one which applies to an individual, association or corporation. A local law is a law which is not a general law or a special or private law.” Ala. Const. Art. IV, § 110, alternatively cited as Ala. Const. amend. 375; Ala. Const. amend. 397.

In *Bandy v. City of Birmingham*, 73 So. 3d 1233 (Ala. 2011), our Supreme Court stated,

Section 11-46-20 is written in *mandatory* language, (excepting only “Class 1 municipalities and ... cities and towns organized under a commission form of government”). [It] *requires* that general and special elections in cities and towns other than those excepted *shall* be conducted in accordance with the terms set forth in Article 2.

Bandy, 73 So. 3d at 1246 (emphasis added and in original).

Ala. Code § 11-46-22 states, in pertinent part:

- (a) It shall be the duty of the mayor to give notice of all municipal elections by publishing notice thereof in a newspaper published in the city or town, and, if no newspaper is published in the city or town, by posting notices thereof in three public places in the city or town.
- (b) The notice of an election for municipal officers shall be substantially in the following form:

“Notice of Election of Municipal Officers

“Notice is hereby given that on (day of week), (date--month, day, and year) an election for the purpose of electing a mayor ... and the [city council by district number]... for the city (or town) of _____, Alabama, will be held, and that all registered and qualified electors of the state, who reside within the corporate limits of _____, Alabama, and have resided therein for 30 days or more immediately preceding the date of the election, and who are qualified to vote in the county precinct which embraces and covers that part of the corporate limits of the city (or town) in which the elector resides, will be authorized to participate in the election.
....

Any qualified elector who has resided within the municipality, or if the municipality is districted, within the district from which he or she seeks election, for a period of at least 90 days on election day may qualify to run for office by filing the appropriate forms and paying any appropriate fees, as otherwise provided by law.

Ala. Code § 11-46-22 (emphasis added).

Ala.Code § 11-46-25, regarding filing for candidacy under Article 2, states, in pertinent part:

(a) In all municipal elections on any subject which may be submitted by law to a vote of the people of the municipality and for any municipal officers, if paper ballots are used, the voting shall be by official ballot printed and distributed as provided in subsections (c) and (d), and no ballot shall be received or counted in any election unless it is provided as prescribed by law.

(b) There shall be but one form of ballot for all the candidates for municipal office and every ballot provided for use at any polling place in a municipal election shall contain the names of all candidates who have properly qualified and have not withdrawn, as provided in subsection (g), together with the title of the office for which they are candidates.

...

(g) Upon confirmation from the Alabama Ethics Commission that a candidate has complied with the filing requirements [of a statement of economic interests], the clerk shall cause to be printed on the ballots the name of any qualified elector who, by 5:00 P.M. on the fourth Tuesday in June preceding the date set for the election, has filed a statement of candidacy, accompanied by an affidavit taken and certified by an officer authorized to take acknowledgments in this state that the individual is duly qualified to hold the office for which the individual desires to become a candidate. The statement shall be substantially in the following form:

“State of Alabama, _____ County. I, the undersigned, being first duly sworn, depose and say that I am a citizen of the city (or town) of _____, in the county, and reside at _____, in the city (or town); that I have been or will have been on the date of the municipal election a resident of the city (or town) for a period of not less than 90 days; that I desire to become a candidate for the office of _____ in the city (or town) for the term of _____ years at the election for the office to be held on the _____ day of _____, 2____; that I am presently a qualified elector of the city (or town) of _____; and I hereby request that my name be printed upon the official ballot at the election.

“(Signed) _____

“Subscribed and sworn to before me by the _____ on this ____ day of ____, 2____

“(Style of Officer) _____”

(h) No names shall be printed upon the ballot as candidates for election except the names of individuals who have become candidates in the manner prescribed in subsection (g) ...

Ala. Code § 11-46-25 (emphasis added).

Examining pertinent statutes in Chapter 44C, to file for candidacy for district council in Class 2 municipalities, the Zoghby Act provides that a candidate must file the statement of candidacy as required by state law, referring to section 11-46-25(g). Section 11-44C-14 states:

Any person desiring to become a candidate in any election for the office of district council member may become such candidate by filing in the office of the city clerk, a statement in writing as required by the general municipal election laws. Said statement shall be accompanied by a qualifying fee in the amount of \$125.00, which fee shall be paid into the general fund of the city.

Ala. Code § 11-44C-14 (emphasis added). Three sections later, at § 11-44C-17, is the incongruous independent clause at the center of this election contest:

Councilmen shall be qualified electors of the city and, in the case of candidates for any district, they shall have been residents of the district which they represent for at least 90 days prior to their election, shall reside in the district during their terms of office and shall have attained the age of 21 years. No councilman shall hold any other public office except that of notary public or member of the national guard or naval or military reserve, **and all shall have been residents of the city for at least one year prior to their election**. If the councilman shall cease to possess any of these qualifications or shall be convicted of crime involving moral turpitude, his office shall immediately become vacant.

Ala. Code § 11-44C-17 ⁵ (emphasis added).

Lastly, as to pertinent legislation, Plaintiff relies upon the below-underlined language in Ala. Code § 11-46-1 for the proposition that Mobile's "more specific" one-year city residency requirement for council candidates is a proper exercise of the Legislature's governance of one class of municipality:

⁵ The Court observes that the Zoghby Act's age requirement for district council and mayoral candidates, 21 and 25, respectively, is also contrary to statewide election law; however, this Court is not presented with that issue.

Cities and towns may, except as otherwise provided by law, by ordinance provide for the election at any regular municipal election or for the appointment of such officers as are deemed needful or proper for the good government of the city or town and the due exercise of its corporate powers, fix their terms of office, fix their compensation and prescribe the duties of such officers, their liabilities and powers and require them to give bond in such sum and to be conditioned and approved as the council may prescribe.

Ala. Code § 11-46-1 (emphasis added).

Discussion

Plaintiff contends there is no “direct conflict” between statewide residency requirements for council candidates and the Zoghby Act, and that the Court must “harmonize” the provisions to give effect to both the statewide 90-day district residency requirement and the “stricter” or “more specific” one-year city residency qualification in the Zoghby Act. Plaintiff further cautions the Court that implied repeal of any law is generally disfavored. (Docs. 24, 36, 42).

Defendant argues that the one-year city residency requirement in the 1985 Zoghby Act has been impliedly repealed by subsequent enactment of statewide municipal election law and moves the Court to find the latter acts of the Legislature controlling. (Docs. 18, 32, 44, 48).

Addressing first Plaintiff’s argument that Ala. Code § 11-46-1’s “except as otherwise provided by law” phrase “expressly preserves stricter residency requirements,” the Court finds that a full and precise reading of the statute contradicts this argument. (Doc. 24, at 3). First, this statute authorizes cities to enact ordinances to create, fill (by election or appointment), compensate, and require bonding of “local need” offices. Second, these “local need” offices shall not be otherwise provided for by law. Examples from caselaw are chief of police (*See Beasley v. McCorkle*, 184 So. 904 (Ala. 1938)), and “escaped license and tax auditor and collector” (*See Chambers v. City of Montgomery*, 177 So. 155 (Ala. 1937)). It cannot be disputed that city council positions are not classified as “local need” and are “otherwise provided for by (statewide) law.” Therefore, the Court rejects this argument.

In *Bandy v. City of Birmingham*, 73 So. 3d 1233, 1242 (Ala. 2011), one of many municipal election cases dealing with change in election dates by ordinance, our Supreme Court discussed rules of statutory construction which courts should apply when presented with conflicting laws:

We are guided by well-established principles of statutory construction. First and foremost, matters of policy are for the Legislature and, whether wise or unwise, legislative policies are of no concern to the courts. It is not the duty of this Court to question the wisdom, or the lack thereof, used by the Legislature in enacting the laws of this State. This Court is not at

liberty to rewrite a statute or to substitute its judgment for that of the legislature.

Statutes must be construed *in pari materia* in light of their application to the same general subject matter.... Our obligation is to construe the provisions “in favor of each other to form one harmonious plan,” if it is possible to do so.

Bandy v. City of Birmingham, 73 So. 3d 1233, 1242 (Ala. 2011) (emphasis added) (internal citations omitted).

In interpreting statutes, the underlying consideration is to understand and effectuate the intent of the Legislature as expressed in the statutes.

If possible, the legislative intent must be derived from the expression in the statute. Where more than one statute is involved, however, they should be construed in harmony with other statutes in effect, so far as is practical. In construing a statute, the court must look not only to the language of the statute, however, but also to the purpose and object of the enactment, and its relation to other laws and conditions which may arise under its provisions.

Bandy, 73 So. 3d, at 1247-48 (quoting *Siegelman v. Folmar*, 432 So. 2d 1246, 1248-49 (Ala. 1983), which also analyzes conflicting laws on timing of municipal elections) (emphasis added) (internal citations omitted).

The Alabama Supreme Court recently addressed repeal by implication in *Ex parte Jones*, 373 So. 3d 264 (Ala. 2022). This Court acknowledges that the case involved conflicting criminal statutes; however, the law applies equally in civil matters.

Repeal by implication is not favored. It is only when two laws are so repugnant to or in conflict with each other that it must be presumed that the Legislature intended that the latter should repeal the former. Implied repeal is essentially a question of determining the legislative intent as expressed in the statutes. When the provisions of two statutes are directly repugnant and cannot be reconciled, it must be presumed that the legislature intended an implied repeal, and the later statute prevails as the last expression of the legislative will.

Ex parte Jones, 373 So. 3d at 269 (emphasis added).

Furthermore, where an amendment is made that changes the old law in its substantial provisions, it must, by a necessary implication, repeal the old law so far as they are in conflict. And where a new law, whether it be in the form of an amendment or otherwise, covers the whole subject-matter of the former, and is inconsistent with it, and evidently intended to supersede and take the place of it, it repeals the old law by implication.

Id. (emphasis added). In *Ex parte Fontaine Trailer Co.*, 854 So. 2d 71, 83 (Ala. 2003), our Supreme Court stated, “It is a familiar principle of statutory interpretation that the Legislature, in enacting new legislation, is presumed to know the existing law.” However, “in cases of conflicting statutes on the same subject, the latest expression of the legislature is the law [and] the last enactment must take precedence.” *Ex parte McCormick*, 932 So. 2d 124, 130 (Ala. 2005); *Baldwin County v. Jenkins*, 494 So. 2d 584, 588 (Ala. 1986).

Article VIII, § 177(c) of the Alabama Constitution of 2022 provides that, “The Legislature shall by law provide for the registration of voters, absentee voting, secrecy in voting, the administration of elections, and the nomination of candidates.” (emphasis added). In the still-valid Alabama Supreme Court case, *McCall v. Automatic Voting Mach. Corp.*, 180 So. 695, 696 (Ala. 1938), the Court discussed the Douglass Act of 1935, which authorized local governing bodies to adopt the use of voting machines, and its direct conflict with then Ala. Const. 1901 § 190, which mandated that laws governing elections must be set by the Legislature and uniform across all counties.⁶

Finding the Douglass Act’s grant of authority to local governments to be “repugnant” to the uniformity mandate of Section 190, the *McCall* Court held, “It is manifest, therefore, that all laws to be enacted by the Legislature governing or relating to elections, especially to the manner of holding same and ascertaining the result, shall be uniform throughout the state.” *McCall*, 180 So. at 696-97 (citing *State ex rel. Austin v. Black*, 139 So. 431, 434 (Ala. 1932)).

In its independent research to ascertain whether the Legislature intended to establish uniform residency requirements in all municipalities, this Court examined the official websites of the Alabama Legislature and Alabama Secretary of State.

Alabama courts obtain knowledge of law, both judicial and legislative, outside the proof process. The Alabama Supreme Court has characterized this practice as more in the nature of ‘judicial knowledge’ than ‘judicial notice.’ *Rayburn v. State*, 366 So. 2d 708 (Ala. 1979). This kind of judicial notice is not affected by Rule 201.” Ala. R. Evid. 201, Adv. Comm. Notes.

⁶ Ala. Const. 1901 § 190, alternatively cited as Ala. Const. amend. 41, was repealed by Act 95-443 and (omitting reference to other impertinent amendments) now exists as Ala. Const. 2022 Art. VIII, § 177.

The Court cites this information, not dispositively, but to advise of judicial knowledge obtained from current, reliable public information published by the branch of government and state agency explicitly charged with enactment and enforcement, respectively, of municipal election law in Alabama.

The following table (only pertinent qualifications included herein) is accessible at <https://www.sos.alabama.gov/alabamavotes/candidates/qualifications-public-office>.



Mayor 7, 22	18	90 days	1 day	yes	4	no limit
	Must be a resident of the city for 90 days prior to election.					
City Council 7, 23	18	90 days	1 day	yes	4	no limit
	Must be a resident of the city or district for 90 days prior to election.					

Footnotes referenced:

(1) All candidates participating in party primary elections must be a registered voter (§17-13-6)

(7) §17-3-30⁷, §36-2-1⁸

(23) §11-43-63⁹, §11-46-25 (quoted *supra*)

An identical table and footnotes are found in the election manual published by the Alabama Law Institute.¹⁰ See Alabama Law Institute, Alabama Election Handbook, p. 48, 21st edition, 2023-2024. <https://alison.legislature.state.al.us/Law-institute-finial-chapter-4>.

⁷ Ala. Code § 17-3-30 provides for the qualifications of voters.

⁸ Ala. Code § 36-2-1 describes those “ineligible and unqualified” to hold office as non-qualified voters and those who have not been “inhabitants of the state, county, district, or circuit for the period required by the constitution and laws of the state.”

⁹ Ala. Code § 11-43-63. Division of municipality into single-member districts.

¹⁰ “The purpose of the Alabama Law Institute is to clarify and simplify the laws of Alabama, to revise laws that are out-of-date and to fill in gaps in the law where there exists legal confusion.

The Alabama Law Institute was created by an act of the Legislature in 1967 and became the Law Revision Division of the Legislative Services Agency in 2017.” <https://alison.legislature.state.al.us/law-institute-services-sublanding>

The Court also acknowledges that, at the hearing, Plaintiff identified information published on the City of Mobile website, which lists the 90-day district and one-year city residency qualifications for city council under the Zoghby Act.

<https://www.cityofmobile.org/government/voting-and-elections/qualifications-to-run/>

As discussed *supra*, both Chapter 46 and Chapter 44C are general laws. The 1985 Zoghby Act is neither a local law, nor a specific law. Rejecting Plaintiff's argument, the Court finds that these general laws are in direct conflict as to residency qualifications for candidacy for district council in the City of Mobile. Therefore, this Court is bound to apply well-established rules of statutory construction to address the conflict. This Court is mindful of its obligation to defer to the wisdom of our equal branch of government to enact legislation. This Court is equally mindful of its duty to attempt to reconcile conflicting laws, so far as it is possible, and practical, to do so.

Plaintiff contends this Court should accept all other statewide election laws – “procedural framework, timeline, and affidavit requirements,” yet reject the singular 90-day district and city residency qualification of statewide election law. This Court finds that, while it is possible to reject all post-1985 acts providing for district council residency qualifications, to do so is neither practical nor consistent with rules of statutory construction.

The Alabama Supreme Court has consistently recognized that courts “must look not only to the language of the statute [in question], but also to the purpose and object of the enactment, and its relation to other laws and conditions which may arise under its provisions.” See Siegelman, 432 So. 2d at 1248-49. No “local need” rationale for the one-year city residency requirement has been presented to this Court. Nor has the Court's own extensive research uncovered a single legislative note or editorial comment advocating a “local need” or purpose for the one-year city residency law for a Class 2 municipal council candidate. The Court's research has, however, found persuasive affirmation of legislative intent published on the official Alabama Legislature website and the website of the Secretary of State. The Court must assume that, had the Legislature intended a different, additional, or more specific city residency qualification for Class 2 district council candidates, this intent would be referenced in a footnote to the table, cited *supra*.

Conclusion

The foregoing pertinent legislation and rules regarding a court's interpretation of conflicting statutes considered, the Court finds that the Zoghby Act's one-year city residency qualification and the statewide singular 90-day district and city residency qualification are “so repugnant to or in conflict with each other that it must be presumed that the legislature intended the latter should repeal the former.” Pursuant to this finding, the latest act of the Legislature must control.

Alabama Acts 2003-400 and 2010-687, codified at Ala. Code §§ 11-46-22 and 11-46-25, respectively, are the latest acts of the Legislature adopting (or affirming) residency requirements for district council candidates. Section 11-46-22 mandates 90-day residency within the district. Section 11-46-25 mandates 90-day residency within the city. The Court finds these statewide general-law statutes are the exclusive residency qualifications for district council candidates in municipal elections. To the extent Ala. Code § 11-44C-17 states a conflicting, or additional, qualification, specifically a one-year city residency requirement, this Court finds that Acts 2003-400 and 2010-687, the latest acts of the Legislature, impliedly repealed the one-year Zoghby Act city residency qualification.

It being undisputed that Ingram, as of the date of the election, was a qualified elector of the City of Mobile, and had been a resident of District 2 for a period of not less than 90 days, it is hereby ORDERED, ADJUDGED, and DECREED that, pursuant to Ala. R. Civ. P. 12(b)(6), the Court finds Plaintiff has failed to state a claim upon which relief may be granted, and the Complaint is due to be, and is hereby, DISMISSED. Costs are taxed as paid.

Done this 20th day of November, 2025.

BRANDY B. HAMBRIGHT
Circuit Court Judge