

## **GOVERNING BODIES**

### **When can the mayor vote?**

Whenever the mayor's vote is needed to pass an ordinance, bylaw, order or resolution. Ark. Code Ann. §§ 14-43-501 (first class cities); 14-44-107 (second class cities); 14-45-105 (incorporated town); see also *Gibson v. City of Trumann*, 311 Ark. 561, 845 S.W.2d 515 (1993). An obvious example is when the vote is tied, for example, three-to-three on a six-member council. The mayor could cast the fourth vote needed for passage.

A tie is not the only situation in which a mayor's vote might be needed to pass, however. For example, in question 2 we had a 3-1 vote on a six-member council. This could be the result of absence and/or abstention of two council members. We don't have a tie, but three votes is not enough for passage. The mayor may cast the fourth vote in order to pass the item.

Suppose the vote in the foregoing scenario is 2-2. The mayor cannot vote to "break the tie" because his vote would only create three in favor, again not enough on a six-member council.

There are two exceptions to the mayor's right to vote for passage of an item. The Arkansas Supreme Court has ruled that a mayor may not vote to amend or repeal an initiative measure enacted by a vote of the people. *Thompson v. Younts*, 282 Ark. 524, 669 S.W.2d 471 (1984). In addition, the mayor may not vote to enact an emergency clause. Ops. Atty. Gen. No. 96-155; 85-174.