

1 HB555
2 182766-6
3 By Representative Bandy (N & P)
4 RFD: Local Legislation
5 First Read: 25-APR-17

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to the City of Phenix City in Russell
14 County and Lee County; to authorize a referendum in Phenix
15 City regarding the election of the Phenix City Board of
16 Education; to provide for the election and operation of the
17 board of education upon approval of the referendum; to provide
18 for the election of the members of the board in the same
19 manner and from the same districts or from the city at-large
20 as the members of the city governing body; to provide for the
21 terms of office, qualifications, and compensation of the
22 members; to prescribe procedures for electing the members and
23 for filling vacancies on the board; to provide certain
24 transitional provisions; and to repeal conflicting acts,
25 specifically Act 929, 1971 Regular Session (Acts 1971, p.
26 1688).

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. (a) Pursuant to Amendment 659 of the
2 Constitution of Alabama of 1901, now appearing as Section
3 104.01 of the Official Recompilation of the Constitution of
4 Alabama of 1901, the Phenix City Council shall call an
5 authorizing referendum election to be held in the city on
6 August 22, 2017, regarding changing the Phenix City Board of
7 Education from an appointed to an elected city board of
8 education.

9 (b) If a majority of the qualified electors of the
10 municipality voting in the authorizing referendum election
11 vote in favor of an elected city board of education, the board
12 shall be established as provided in this act, and the
13 Legislature, as provided in Amendment 659 of the Constitution
14 of Alabama of 1901, now appearing as Section 104.01 of the
15 Official Recompilation of the Constitution of Alabama of 1901,
16 from time to time, by local law may provide further for the
17 election of the Phenix City Board of Education. The local laws
18 may provide: for the termination of the terms of office of
19 members of the existing city board of education; the
20 composition of the city board of education; initial and
21 succeeding terms of office; election districts and at-large
22 membership; qualifications; powers, duties, and
23 responsibilities; vacancies; compensation; and any other
24 matter that the Legislature determines necessary for the
25 operation of the board.

26 (c) The question on the ballot shall read
27 substantially as follows:

1 "Do you favor changing the Phenix City Board of
2 Education from an appointed to an elected board?

3 "Yes (___) No (____)."

4 (d) If a majority of the qualified electors of the
5 municipality voting in the authorizing referendum vote against
6 an elected city board of education, the current board of
7 education shall continue to operate as provided by law and the
8 remaining portions of this act shall have no further effect.

9 (e) The official charged with conducting municipal
10 elections shall conduct this election. The city shall pay any
11 costs and expenses not otherwise reimbursed by a governmental
12 agency which are incidental to the election. The official
13 shall report the results of the election to the State Board of
14 Education as provided in Amendment 659 of the Constitution of
15 Alabama of 1901, now appearing as Section 104.01 of the
16 Official Recompilation of the Constitution of Alabama of 1901.

17 Section 2. If a majority of the qualified electors
18 voting pursuant to Section 1 vote in favor of changing to an
19 elected board, an elected board of education for Phenix City
20 shall be established. The board shall be called "The Phenix
21 City Board of Education." The board shall be composed of seven
22 members, with two members being elected from each of the three
23 city council districts by a majority of the qualified electors
24 voting who reside in the district, and one member being
25 elected from the city at-large.

26 Section 3. A member shall reside in the district in
27 which the member represents during the entire term of office.

1 If the boundaries of a city council district change, the
2 corresponding board of education district shall automatically
3 change accordingly for the next election of the city board of
4 education. If redistricting places an incumbent board member
5 outside of his or her district, the member shall nevertheless
6 continue to serve the remainder of the term to which he or she
7 was elected.

8 Section 4. A candidate for each place on the board
9 of education shall be at least 21 years of age, a resident of
10 the board of education district in which he or she seeks to
11 represent for at least 365 consecutive days immediately
12 preceding the deadline date for qualifying as a candidate, and
13 may not be an employee of the board or have a record of
14 conviction for any crime involving moral turpitude.

15 Section 5. (a) At the first meeting of the Phenix
16 City Council after the authorizing referendum, the city
17 council shall call a special election to be held on August 28,
18 2018, to elect the initial members of the board of education.
19 The city shall pay any costs and expenses not otherwise
20 reimbursed by a governmental agency which are incidental to
21 the election and any run-off election, if necessary.

22 (b) The initial election and the initial run-off
23 election, if necessary, and all subsequent elections held
24 pursuant to this act shall be conducted, the vote canvassed,
25 and the results declared in the same manner as provided for
26 the election of members of the city council, unless otherwise
27 required in this act.

1 (c) The initial elected members of the board of
2 education shall assume office immediately upon the
3 certification of the election results and shall serve until
4 the successor members of the board are elected at the next
5 municipal election to be held on August 25, 2020, and
6 subsequently take office.

7 (d) Thereafter, the terms of office of the members
8 of the city board of education shall be four years.

9 Section 6. (a) Upon the assumption of office of the
10 initial elected members of the board of education, the Phenix
11 City Board of Education shall be created as provided in this
12 act and the terms, powers, duties, responsibilities, and
13 compensation of the office of the prior members of the board
14 of education shall terminate.

15 (b) (1) Upon the assumption of office of the initial
16 elected members of the board of education, the initial elected
17 members shall have the powers, authority, duties, and
18 responsibilities as are otherwise provided by law for members
19 of city boards of education as set forth in Chapter 11,
20 commencing with Section 16-11-1, of Title 16 of the Code of
21 Alabama 1975.

22 (2) Upon the assumption of office of the initial
23 elected members of the board of education, the chair and vice
24 chair shall be elected by the initial elected members of the
25 board and the vice chair shall preside over meetings of the
26 board in the absence of the chair.

1 (3) All property, records, supplies, and equipment
2 of the prior board of education shall be vested in the board
3 created by this act.

4 (c) The establishment of the board of education as
5 provided in this act may not affect or impair any of the
6 following:

7 (1) Existing rights or privileges of employees of
8 the board including, but not limited to, employment,
9 personnel, salary, and retirement rights and privileges.

10 (2) Existing contractual obligations of the board of
11 education.

12 (3) Existing civil and criminal actions.

13 Section 7. A vacancy on the board of education shall
14 be filled by appointment by a majority of the remaining
15 members of the board of education for the unexpired term. A
16 member may not be appointed by the city council to fill the
17 vacancy on the board of education. If the vacancy is not
18 filled by the remaining members of the board of education
19 within 30 days, the city superintendent of education shall
20 notify the State Superintendent of Education, who shall fill
21 the vacancy by appointment. A person filling a vacancy on the
22 board shall reside in the district in which the vacating
23 member represented.

24 Section 8. The compensation for each member of the
25 board of education shall be five hundred dollars (\$500) per
26 month, payable from city school system funds.

1 Section 9. The Examiners of Public Accounts shall
2 conduct an annual audit of the financial records of the city
3 school system and of the board of education. The audit results
4 shall be made a matter of public record. All monies of the
5 school system shall be accounted for whether reserved for
6 capital outlay or held for any other purpose.

7 Section 10. Any member of the board of education who
8 fails to attend more than two regularly scheduled monthly
9 board meetings without an authorized excused absence, as
10 recognized by the board through written policy, shall receive
11 a written request from the chair of the board of education to
12 attend the meetings. If the board member persists in his or
13 her unexcused absence for two additional regularly scheduled
14 monthly board meetings, the position shall be declared vacant
15 by the chair of the board.

16 Section 11. The chair of the board shall have all of
17 the following duties:

18 (1) Preside over all board meetings.

19 (2) Set the meeting dates and times of all board
20 meetings consistent with state law. The chair shall endeavor
21 to set meeting times at 7:00 P.M. or at a similar time which
22 will afford citizens the best opportunity to attend.

23 (3) Set the agenda of the board meetings in
24 consultation with the city superintendent of education.

25 (4) Ensure proper and adequate notice to the public
26 for public hearings on the budget of the school system.

27 (5) Maintain order at all board meetings.

1 (6) Assist the superintendent in seeking public
2 input into the operations and support of the city school
3 system.

4 (7) Vote on all matters which come before the board.

5 (8) Ensure due process for the employees of the city
6 school system according to duly adopted written policies and
7 applicable state laws.

8 (9) Promote the city school system as authorized by
9 the board.

10 Section 12. All laws or parts of laws which conflict
11 with this act are repealed. Specifically, Act 929, 1971
12 Regular Session (Acts 1971, p. 1688), is repealed.

13 Section 13. This act shall become effective
14 immediately following its passage and approval by the
15 Governor, or its otherwise becoming law.