

1 184328-3 : n : 05/16/2017 : Local Legislation / te

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3 HOUSE LOCAL LEGISLATION COMMITTEE SUBSTITUTE TO HB555

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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 on Tuesday, August
6 28, 2018, regarding changing the Phenix City Board of
7 Education from a board appointed by the city council to a
8 board elected by the residents of the city.

9 (b) (1) If a majority of the qualified electors of
10 the 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.

18 (2) The local laws may provide for the termination
19 of the terms of office of members of the existing appointed
20 city board of education, the composition of the elected city
21 board of education, the terms of office of the members of the
22 elected board, including staggered terms, the election
23 districts and at-large membership, the qualifications, powers,
24 duties, and responsibilities of the board and its members, the
25 filling of vacancies, the compensation of the members of the
26 board, and any other matter that the Legislature determines
27 necessary for the operation of the board.

1 (c) The question on the ballot shall read
2 substantially as follows:

3 "Do you favor changing the Phenix City Board of
4 Education from a board appointed by the city council to a
5 board elected by the residents of the city?

6 "Yes (___) No (___)."

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

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

20 Section 2. If a majority of the qualified electors
21 voting pursuant to Section 1 vote in favor of changing to an
22 elected board, an elected board of education for Phenix City
23 shall be established. The board shall be called The Phenix
24 City Board of Education. The board shall be composed of seven
25 members, with two members being elected from each of the three
26 city council districts by a majority of the qualified electors

1 voting who reside in the district, and one member being
2 elected from the city at-large.

3 Section 3. A member shall reside in the district
4 which the member was elected to represent during the entire
5 term of office. If the boundaries of a city council district
6 change, the corresponding board of education district shall
7 automatically change accordingly for the next election of the
8 city board of education. If redistricting places an incumbent
9 board member outside of his or her district, the member shall
10 nevertheless continue to serve the remainder of the term to
11 which he or she was elected.

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

19 Section 5. (a) The election to elect the members of
20 the board of education shall be held at the same time as the
21 citywide election to elect the members of the Phenix City
22 Council in August 2020.

23 (b) The election and the run-off election, if
24 necessary, and all subsequent elections held pursuant to this
25 act shall be conducted, the vote canvassed, and the results
26 declared in the same manner as provided for the election of

1 the members of the city council, unless otherwise required in
2 this act.

3 (c) The members of the board shall serve four-year
4 terms commencing on the same date as the commencement of the
5 terms of the city governing body.

6 (d) Subsequent elections of the members of the board
7 of education shall be called by the city in conformity with
8 the applicable state laws for the elections.

9 Section 6. (a) Upon the assumption of office of the
10 elected members of the board of education, the Phenix City
11 Board of Education shall be created as provided in this act
12 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 elected
16 members of the board of education, the elected members shall
17 have the powers, authority, duties, and responsibilities as
18 are otherwise provided by law for members of city boards of
19 education as set forth in Chapter 11, commencing with Section
20 16-11-1, of Title 16 of the Code of Alabama 1975.

21 (2) Upon the assumption of office of the elected
22 members of the board of education and at the first meeting of
23 the board in each term thereafter, the chair and vice chair
24 shall be elected by a majority vote of the 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, including the reimbursement of any out of pocket

1 expenses incurred while performing the duties of an elected
2 member of the board, payable from city school system funds.

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

10 Section 10. Any member of the board of education who
11 fails to attend more than two regularly scheduled monthly
12 board meetings without an authorized excused absence, as
13 recognized by the board through written policy, shall receive
14 a written request from the chair of the board of education to
15 attend the meetings.

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 which will afford residents of the city
22 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.