

1 HB424  
2 187322-2  
3 By Representative Butler (N & P)  
4 RFD: Local Legislation  
5 First Read: 15-FEB-18

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9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
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13 Relating to Etowah County; to provide for an  
14 authorizing referendum in the City of Gadsden regarding the  
15 election of the Gadsden City Board of Education; upon approval  
16 of the referendum providing for the election and operation of  
17 the board of education for the City of Gadsden, providing  
18 that, after the initial election, certain members of the board  
19 shall be elected at the same time, from the same districts,  
20 and in the same manner as members of the Gadsden City Council;  
21 providing for the selection of a chair and a vice chair;  
22 providing for the operation of the board; providing for the  
23 terms of office, qualifications, and compensation of the  
24 members; prescribing procedures for electing the members and  
25 for filling vacancies on the board; and providing certain  
26 transitional provisions.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1                   Section 1. (a) Pursuant to Amendment 659 to 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, as amended, the Gadsden City Council shall  
5                   call an authorizing referendum election regarding changing the  
6                   Gadsden City Board of Education to an elected city board of  
7                   education.

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

23                  (c) The question on the ballot shall read as  
24                  follows: "Do you favor changing the Gadsden City Board of  
25                  Education from an appointed to an elected board?

26                  "Yes (\_\_\_) No (\_\_\_\_)."

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

6 (e) The official charged with conducting municipal  
7 elections shall conduct this election. The city shall pay any  
8 costs and expenses not otherwise reimbursed by a governmental  
9 agency which are incidental to the election. The official  
10 shall report the results of the election to the State Board of  
11 Education as provided in Amendment 659.

12 Section 2. If the majority of electors voting  
13 pursuant to Section 1 vote in favor of changing to an elected  
14 board, an elected board of education for the City of Gadsden  
15 shall be established. The board shall be called the Gadsden  
16 City Board of Education. The board shall be composed of seven  
17 members. With the exception of the initial election, each  
18 member shall qualify and be elected in the same manner and at  
19 the same time as members of the Gadsden City Council are  
20 elected. Members shall be elected from the same districts as  
21 members of the Gadsden City Council are elected by the  
22 qualified electors of the applicable district voting at the  
23 election.

24 Section 3. A member shall reside in the City of  
25 Gadsden and in the district the member represents during the  
26 entire term of office. If the boundaries of a city council  
27 district change, the corresponding board of education district

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

6 Section 4. A candidate for each place on the board  
7 of education shall be at least 21 years of age, a resident of  
8 the respective district for at least one year immediately  
9 preceding the deadline date for qualifying as a candidate, and  
10 shall not have a record of conviction for any crime involving  
11 moral turpitude.

12 Section 5. (a) The election to elect the initial  
13 members of the board of education shall be held at a special  
14 election called by the Gadsden City Council as soon as  
15 practicable. The next election to elect the members of the  
16 board of education shall be held at the same time as the  
17 election to elect the members of the Gadsden City Council in  
18 2022, and every four years thereafter.

19 (b) The initial election and the initial runoff  
20 election, if necessary, and all subsequent elections held  
21 pursuant to this act shall be conducted, the vote canvassed,  
22 and the results declared in the same manner as provided for  
23 the election of members of the city council, unless otherwise  
24 required in this act. The city council may set a qualifying  
25 fee.

26 (c) The initial elected members of the board of  
27 education shall assume office immediately upon the

1 certification of the election results and shall serve initial  
2 terms of office corresponding in duration with the remaining  
3 portion of the terms of office of the members of the city  
4 council elected in 2018. The members elected to the board of  
5 education in 2022 shall assume office immediately upon the  
6 certification of the election results and shall serve terms of  
7 office that correspond in duration with the terms of office of  
8 the members of the city council elected in 2022. Thereafter,  
9 all members of the board shall be elected to serve terms of  
10 four years.

11 Section 6. (a) Upon the assumption of office of the  
12 initially elected members of the board of education, the  
13 Gadsden City Board of Education as provided in this act shall  
14 be constituted and the terms, powers, duties,  
15 responsibilities, and emoluments of office of the prior  
16 members of the board of education shall end.

17 (b) (1) Upon assumption of office of the initial  
18 elected members of the board of education, these members shall  
19 have the powers, authority, duties, and responsibilities as  
20 are otherwise provided by law for members of city boards of  
21 education as set forth in Chapter 11, commencing with Section  
22 16-11-1, of Title 16 of the Code of Alabama 1975, and as  
23 otherwise provided by law.

24 (2) At the first meeting after the board takes  
25 office, and every year thereafter, the board shall by majority  
26 vote of those voting, select a chair and a vice chair from

1 among its members. The vice chair shall preside over meetings  
2 of the board in the absence of the chair.

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

6 (c) The establishment of the board of education as  
7 provided in this act shall not affect or impair any of the  
8 following:

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

12 (2) Existing contractual obligations of the board of  
13 education.

14 (3) Existing civil and criminal actions.

15 Section 7. A vacancy on the board of education shall  
16 be filled by appointment by a majority of the remaining  
17 members of the board of education for the unexpired term. If  
18 the vacancy is not filled by the remaining members of the  
19 board of education within 60 days, the city council, or a  
20 designee of the city council, shall notify the State  
21 Superintendent of Education who shall fill the vacancy by  
22 appointment. A person filling a vacancy on the board shall be  
23 a resident of the City of Gadsden and the district the person  
24 is appointed to represent.

25 Section 8. The compensation for each member of the  
26 board of education, including the chair, shall be six hundred  
27 dollars (\$600) per month payable from city school system

1 funds. The board may adjust such compensation for succeeding  
2 terms of office.

3 Section 9. An annual audit of the financial records  
4 of the city school system and of the board of education shall  
5 be conducted by a reputable certified public accountant or  
6 auditing firm as selected by the board. The audit results  
7 shall be made a matter of public record. All monies of the  
8 school system shall be accounted for whether reserved for  
9 capital outlay or held for any other 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 a  
14 written request from the city superintendent of education to  
15 attend the meetings. If the board member persists in his or  
16 her unexcused absence for two additional regularly scheduled  
17 monthly board meetings, then the position shall be declared  
18 vacant by the chair of the board, subject to review and  
19 approval by the city council.

20 Section 11. The chair of the board shall have all of  
21 the following duties:

22 (1) To preside over all board meetings.

23 (2) To set the meeting dates and times of all board  
24 meetings consistent with state law. The chair shall endeavor  
25 to set meeting times at a time which will afford citizens the  
26 best opportunity to attend.



1                   (3) To set the agenda of the board meetings in  
2 consultation with the city superintendent of education.

3                   (4) To ensure proper and adequate notice to the  
4 public for public hearings on the budget of the school system.

5                   (5) To maintain order at all board meetings.

6                   (6) To assist the superintendent in seeking public  
7 input into the operations and support of the city school  
8 system.

9                   (7) To vote on all matters which come before the  
10 board if he or she so desires.

11                  (8) To ensure due process for the employees of the  
12 city school system according to duly adopted written policies  
13 and applicable state laws.

14                  (9) To promote the city school system as authorized  
15 by the board.

16                  Section 12. This act shall become effective  
17 immediately following its passage and approval by the  
18 Governor, or its otherwise becoming law.