

ACT #2017- 450

1 HB555  
2 184328-5  
3 By Representative Bandy (N & P)  
4 RFD: Local Legislation  
5 First Read: 25-APR-17

MAY 19 2017  
RECEIVED  
GOVERNOR'S OFFICE

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ENROLLED, An Act,

Relating to the City of Phenix City in Russell County and Lee County; to authorize a referendum in Phenix City regarding the election of the Phenix City Board of Education; to provide for the election and operation of the board of education upon approval of the referendum; to provide for the election of the members of the board in the same manner and from the same districts, or from the city at-large, as the members of the city governing body; to provide for the terms of office, qualifications, and compensation of the members; to prescribe procedures for electing the members and for filling vacancies on the board; to provide certain transitional provisions; and to repeal conflicting acts, specifically Act 929, 1971 Regular Session (Acts 1971, p. 1688).

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) Pursuant to Amendment 659 of the Constitution of Alabama of 1901, now appearing as Section 104.01 of the Official ReCompilation of the Constitution of Alabama of 1901, the Phenix City Council shall call an authorizing referendum election to be held on Tuesday, August 28, 2018, regarding changing the Phenix City Board of Education from a board appointed by the city council to a board elected by the residents of the city.

1 (b) (1) If a majority of the qualified electors of  
 2 the municipality voting in the authorizing referendum election  
 3 vote in favor of an elected city board of education, the board  
 4 shall be established as provided in this act, and the  
 5 Legislature, as provided in Amendment 659 of the Constitution  
 6 of Alabama of 1901, now appearing as Section 104.01 of the  
 7 Official Recompilation of the Constitution of Alabama of 1901,  
 8 from time to time, by local law may provide further for the  
 9 election of the Phenix City Board of Education.

10 (2) The local laws may provide for the termination  
 11 of the terms of office of members of the existing appointed  
 12 city board of education, the composition of the elected city  
 13 board of education, the terms of office of the members of the  
 14 elected board, including staggered terms, the election  
 15 districts and at-large membership, the qualifications, powers,  
 16 duties, and responsibilities of the board and its members, the  
 17 filling of vacancies, the compensation of the members of the  
 18 board, and any other matter that the Legislature determines  
 19 necessary for the operation of the board.

20 (c) The question on the ballot shall read  
 21 substantially as follows:

22 "Do you favor changing the Phenix City Board of  
 23 Education from a board appointed by the city council to a  
 24 board elected by the residents of the city?

25 "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 of  
4 education shall continue to operate as provided by law and the  
5 remaining 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 of the Constitution of  
12 Alabama of 1901, now appearing as Section 104.01 of the  
13 Official Recompilation of the Constitution of Alabama of 1901.

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

23           Section 3. A member shall reside in the district  
24 which the member was elected to represent during the entire  
25 term of office. If the boundaries of a city council district

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

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

14 Section 5. (a) The election to elect the members of  
15 the board of education shall be held at the same time as the  
16 citywide election to elect the members of the Phenix City  
17 Council in August 2020.

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

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

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

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

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

19           (2) Upon the assumption of office of the elected  
20 members of the board of education and at the first meeting of  
21 the board in each term thereafter, the chair and vice chair  
22 shall be elected by a majority vote of the members of the  
23 board and the vice chair shall preside over meetings of the  
24 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

1 month, including the reimbursement of any out of pocket  
2 expenses incurred while performing the duties of an elected  
3 member of the board, payable from city school system funds.

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

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

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

19 (1) Preside over all board meetings.

20 (2) Set the meeting dates and times of all board  
21 meetings consistent with state law. The chair shall endeavor  
22 to set meeting times which will afford residents of the city  
23 the best opportunity to attend.

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



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

3           (5) Maintain order at all board meetings.

4           (6) Assist the superintendent in seeking public  
5 input into the operations and support of the city school  
6 system.

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

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

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

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

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

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*Mac McClatchan*

Speaker of the House of Representatives

*Del Mah*

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 17-MAY-17, as amended.

Jeff Woodard  
Clerk

Senate

19-MAY-17

Passed

**APPROVED** 5/26/17

**TIME** 3:15 pm

*Kay Ivey*  
**GOVERNOR**

Alabama Secretary Of State

Act Num....: 2017-450  
Bill Num....: H-555

HOUSE ACTION

I HEREBY CERTIFY THAT THE RESOLUTION AS REQUIRED IN SECTION C OF ACT NO. 81-889 WAS ADOPTED AND IS ATTACHED TO THE BILL, H.B. 555  
 YEAS 36 NAYS 1  
 JEFF WOODARD, Clerk

I HEREBY CERTIFY THAT THE NOTICE & PROOF IS ATTACHED TO THE BILL, H.B. 555 AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.  
 JEFF WOODARD, Clerk

CONFERENCE COMMITTEE  
 House Conferees \_\_\_\_\_  
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SENATE ACTION

DATE: 5-17 2017  
 RD 1 RFD LL 1

This Bill was referred to the Standing Committee of the Senate on May 17, 2017 and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amend(s) — w/sub — by a vote of  
 yeas — nays — abstain —  
 this 18<sup>th</sup> day of May 2017  
RD, Chairperson

DATE: 5-18 2017  
 RF FN RD 2 CAL

DATE: \_\_\_\_\_ 20\_\_  
 RE-REFERRED  RE-COMMITTED   
 Committee \_\_\_\_\_

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill,  
 HB \_\_\_\_\_  
 YEAS \_\_\_\_\_ NAYS \_\_\_\_\_  
 PATRICK HARRIS,  
 Secretary