



**ALABAMA HOUSE BILL 555**

**RELATING to AUTHORIZING A REFERENDUM IN PHENIX CITY  
REGARDING THE ELECTION OF THE PHENIX CITY BOARD OF  
EDUCATION.**

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

9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
12

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.